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9
10 **BEFORE THE**
RESPIRATORY CARE BOARD
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 **In the Matter of the Accusation Against:**
LINETTE LETA BALLEEN, R.C.P.,
14 **AKA Linette L. Ballen,**
AKA Linette Leta Larson
15 **1142 Country Club Lane**
Corona, CA 92880-1227
16

17 **Respiratory Care Practitioner License**
No. 25928,

18 **Respondent.**

Case No. 7002016000055

A C C U S A T I O N

19
20 Complainant alleges:

21 **PARTIES**

22 1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity
23 as the Executive Officer of the Respiratory Care Board of California, Department of Consumer
24 Affairs.

25 2. On or about January 17, 2007, the Respiratory Care Board issued Respiratory Care
26 Practitioner License No. 25928 to respondent Linette Leta Ballen, R.C.P. (Respondent).
27 Respiratory Care Practitioner License No. 25928 was in full force and effect at all times relevant
28 to the charges brought herein and will expire on November 30, 2015, unless renewed.

JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 3710 of the Code states:

“The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter.” [Chapter 8.3, the Respiratory Care Practice Act.]

5. Section 3718 of the Code states:

“The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

6. Section 3750 of the Code states:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“... ”

“(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

“... ”

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

“... ”

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1 “(j) The commission of any fraudulent, dishonest, or corrupt act which is
2 substantially related to the qualifications, functions, or duties of a respiratory care
3 practitioner.”

4 “...”

5 7. Section 3750.5 of the Code states, in pertinent part:

6 “In addition to any other grounds specified in this chapter, the board may deny,
7 suspend, or revoke the license of any applicant or license holder who has done any of
8 the following:

9 “(a) Obtained, possessed, used, or administered to himself or herself in
10 violation of law, or furnished or administered to another, any controlled substances as
11 defined in Division 10 (commencing with Section 11000) of the Health and Safety
12 Code, or any dangerous drug as defined in Article 2 (commencing with Section 4015)
13 of Chapter 9, except as directed by a licensed physician and surgeon, dentist,
14 podiatrist, or other authorized health care provider, or illegally possessed any
15 associated paraphernalia.

16 “...”

17 8. Section 3752 of the Code states:

18 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
19 made to a charge of any offense which substantially relates to the qualifications,
20 functions, or duties of a respiratory care practitioner is deemed to be a conviction
21 within the meaning of this article. The board shall order the license suspended or
22 revoked, or may decline to issue a license, when the time for appeal has elapsed, or
23 the judgment of conviction has been affirmed on appeal or when an order granting
24 probation is made suspending the imposition of sentence, irrespective of a subsequent
25 order under Section 1203.4 of the Penal Code allowing the person to withdraw his or
26 her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
27 guilty, or dismissing the accusation, information, or indictment.”

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1 9. Section 3752.5 of the Code states:

2 “For purposes of Division 1.5 (commencing with Section 475), and this chapter
3 [the Respiratory Care Practice Act], a crime involving bodily injury or attempted
4 bodily injury shall be considered a crime substantially related to the qualifications,
5 functions, or duties of a respiratory care practitioner.”

6 10. California Code of Regulations, title 16, section 1399.370, states, in pertinent part:

7 “For the purposes of denial, suspension, or revocation of a license, a crime or
8 act shall be considered to be substantially related to the qualifications, functions or
9 duties of a respiratory care practitioner, if it evidences present or potential unfitness
10 of a licensee to perform the functions authorized by his or her license or in a manner
11 inconsistent with the public health, safety, or welfare. Such crimes or acts include but
12 are not limited to those involving the following:

13 “(a) Violating or attempting to violate, directly or indirectly, or assisting or
14 abetting the violation of or conspiring to violate any provision or term of the Business
15 and Professions Code.

16 “... ”

17 “(h) Failure to comply with a court order.

18 “... ”

19 “(j) The commission of any fraudulent, dishonest or corrupt act which is
20 substantially related to the qualifications, functions or duties of a respiratory care
21 practitioner.

22 “... ”

23 **COST RECOVERY**

24 11. Section 3753.5, subdivision (a) of the Code states:

25 “In any order issued in resolution of a disciplinary proceeding before the board,
26 the board or the administrative law judge may direct any practitioner or applicant
27 found to have committed a violation or violations of law or any term and condition of
28 board probation to pay to the board a sum not to exceed the costs of the investigation

1 and prosecution of the case. A certified copy of the actual costs, or a good faith
2 estimate of costs where actual costs are not available, signed by the official custodian
3 of the record or his or her designated representative shall be prima facie evidence of
4 the actual costs of the investigation and prosecution of the case.”

5 12. Section 3753.7 of the Code states:

6 “For purposes of the Respiratory Care Practice Act, costs of prosecution shall
7 include attorney general or other prosecuting attorney fees, expert witness fees, and
8 other administrative, filing, and service fees.”

9 13. Section 3753.1 of the Code states, in pertinent part:

10 “(a) An administrative disciplinary decision imposing terms of probation may
11 include, among other things, a requirement that the licensee-probationer pay the
12 monetary costs associated with monitoring the probation.

13 “...”

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Conviction of a Crime Substantially Related to the Qualifications, Functions,
16 Or Duties of a Respiratory Care Practitioner)**

17 14. Respondent’s Respiratory Care Practitioner’s license is subject to disciplinary action
18 under section 3750, as defined by 3750, subdivision (d), 3752, and 3752.5, of the Code, and
19 section 1399.370, subdivisions (a), and (h), of title 16 of the California Code of Regulations, in
20 that she has been convicted of a crime substantially related to the qualifications, functions or
21 duties of a respiratory care practitioner, as more particularly alleged hereinafter:

22 15. On or about April 3, 2015, Respondent was issued Citation No. PL322300 for a
23 violation of Health and Safety Code section 11364, subdivision (a), possession of drug
24 paraphernalia, after Officer M. conducted an owner-permitted search of a parked vehicle
25 occupied by Respondent. In the vehicle, Officer M. located a box, containing a towel that
26 was wrapped around a glass type of smoking pipe with a bulbous end that showed burn
27 marks, with a credit card in Respondent’s name. Officer M. recognized the pipe as the type
28 used to smoke methamphetamine. Respondent was cited and released on her agreement to

1 appear on or before May 21, 2015, at 8:00 a.m., at the North Justice Center, in Fullerton,
2 California.

3 16. On or about May 15, 2015, in the case entitled, *The People of the State of California*
4 *v. Linette Leta Ballen, AKA Linette L. Ballen, AKA Linette Leta Larson*, Case No. 15NM06032, a
5 complaint superseding Citation No. PL322300 was filed against Respondent. In Case No.
6 15NM06032, Respondent was charged with Count 1: a violation of Health and Safety Code
7 section 11634, subdivision (a), possession of controlled substance paraphernalia, a misdemeanor.

8 17. On or about May 21, 2015, an arraignment was held in Case No. 15NM06032.
9 Respondent failed to appear, and Bench Warrant File No. 03751811 issued against
10 Respondent in the amount of five thousand five hundred dollars (\$5,500.00). The warrant
11 was served on Respondent on or about May 31, 2015. On or about June 8, 2015, the
12 warrant was ordered recalled and a new arraignment on Case No. 15NM06032 was set for
13 July 14, 2015.

14 18. On or about July 14, 2015, an arraignment was held in Case No. 15NM06032.
15 Respondent again failed to appear, and Bench Warrant File No. 03764521 issued against
16 Respondent in the amount of ten thousand dollars (\$10,000.00). The warrant was served on
17 Respondent on or about July 14, 2015.

18 19. On or about July 27, 2015, while Case No. 15NM06032 was still pending against
19 Respondent, Respondent was arrested for committing acts of domestic battery with corporal
20 injury upon her former spouse, John Doe, an adult, and for committing acts of abuse on a child,
21 willfully and unlawfully injuring John Doe, a child.

22 20. On or about July 28, 2015, in the case entitled, *The People of the State of California*
23 *v. Linette Leta Ballen*, Case No. 15NM10391, Respondent was charged with the following
24 violations:

25 (a) Count 1: Penal Code section 273.5, subdivision (a), domestic battery with
26 corporal injury, a misdemeanor; and

27 (b) Count 2: Penal Code section 273a, subdivision (b), child abuse, a
28 misdemeanor.

1 21. On or about July 28, 2015, Respondent was convicted on her plea of guilty to
2 Count 1, Penal Code section 273.5, subdivision (a), domestic battery with corporal injury, a
3 misdemeanor. Count 2 was dismissed on a motion of the People, and the People moved to
4 dismiss charges in Case No. 15NM06032, in exchange for Respondent's plea in case number
5 15NM10391.

6 22. On or about July 28, 2015, Respondent was sentenced to 3 years' probation with
7 terms and conditions, and among other terms of probation, was ordered to violate no laws; obey
8 all orders, rules, and regulations of the Court, Jail and Probation; serve two days in County Jail,
9 with credit for one day served; submit to search and seizure with or without a warrant, probable
10 cause, or reasonable suspicion; own no dangerous or deadly weapon for ten years; use true name
11 and date of birth; disclose terms of probation to law enforcement; payment of fines and fees and
12 restitution; eight hours community service; enroll in and complete of a Domestic Violence
13 Batter's Treatment Program; and comply with protective order requiring Respondent to stay 100
14 yards away from the victim, served upon her on July 28, 2015.

15 23. On or about August 5, 2015, Officers G. and T. of the Fullerton Police
16 Department were dispatched to a residence to investigate allegations of a criminal contempt
17 violation of the court order served on Respondent on July 28, 2015. Respondent had gone
18 to the victim's residence, and was found at the victim's residence. Office G. arrested
19 Respondent for violation of a court order. Respondent was transported to the Fullerton Jail,
20 where she was booked and released.

21 24. On or about August 7, 2015, a hearing was held in Case No. 15NM10391 for a
22 Probation Violation Arraignment. Respondent admitted a violation of probation as to
23 Count 1, and the Court found Respondent in violation of probation, revoked Respondent's
24 probation and reinstated it, with the same terms and conditions.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Possession of Paraphernalia Associated with Any Controlled Substance)**

3 25. Respondent's Respiratory Care Practitioner's license is further subject to disciplinary
4 action under section 3750.5, as defined by 3750.5, subdivision (a), of the Code in that she has
5 been in possession of paraphernalia associated with any controlled substance, as more particularly
6 alleged in paragraphs 14 through 24, above, which are hereby incorporated by reference and
7 reallaged as if fully set forth herein.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Commission of Fraudulent, Dishonest or Corrupt Acts Substantially Related to the**
10 **Qualifications, Functions and Duties of a Respiratory Care Practitioner)**

11 26. Respondent's Respiratory Care Practitioner's license is further subject to disciplinary
12 action under section 3750, as defined by 3750, subdivision (j), of the Code in that she failed to
13 comply with court orders, and thereby committed fraudulent, dishonest or corrupt acts
14 substantially related to the qualifications, functions and duties of a respiratory care practitioner, as
15 more particularly alleged in paragraphs 14 through 24, above, which are hereby incorporated by
16 reference and reallaged as if fully set forth herein.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Violation of a Provision or Provisions of the Respiratory Care Practice Act)**

19 27. Respondent's Respiratory Care Practitioner's license is further subject to disciplinary
20 action under section 3750, as defined by 3750, subdivision (g), of the Code, and section
21 1399.370, subdivision (a), of title 16 of the California Code of Regulations, in that she violated a
22 provision or provisions of the Respiratory Care Practice Act, as more particularly alleged in
23 paragraphs 14 through 26, above, which are hereby incorporated by reference and reallaged as if
24 fully set forth herein.

25 **DISCIPLINE CONSIDERATIONS**

26 28. To determine the degree of discipline, if any, to be imposed on Respondent,
27 Complainant alleges that on or about September 22, 2009, in a prior action, the Respiratory Care
28

1 Board of California issued Citation No. C-09-0073 and fined \$250.00, based on the following
2 events. On or about February 3, 2008, Respondent was arrested for violating Vehicle Code
3 section 23152, subdivisions (a) and (b), driving while having a 0.08% or greater blood alcohol
4 level. Respondent's preliminary alcohol screening test results were 0.102% and 0.098% blood
5 alcohol. On or about November 25, 2008, in Los Angeles Superior Court Case No. 8WA13634
6 was filed against Respondent. On or about February 4, 2009, Respondent was convicted by her
7 plea of *nolo contendere* of a violation of Vehicle Code section 23152, subdivision (b), was placed
8 on 3 years' summary probation, and ordered to comply with various terms of probation. The fine
9 ordered in Citation No. C-09-0073 has been paid and that citation is now final and is incorporated
10 by reference as if fully set forth.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Respiratory Care Board issue a decision:

- 14 1. Revoking or suspending Respiratory Care Practitioner License No. 25928, issued to
15 Respondent Linette Leta Ballen, R.C.P., AKA Linette L. Ballen, AKA Linette Leta Larson;
16 2. Ordering Respondent Linette Leta Ballen, R.C.P., AKA Linette L. Ballen, AKA
17 Linette Leta Larson, to pay the Respiratory Care Board the costs of the investigation and
18 enforcement of this case, and if placed on probation, the costs of probation monitoring;
19 3. Taking such other and further action as deemed necessary and proper.

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21
22 DATED: November 16, 2015

Original signed by Liane Freels for:

23 STEPHANIE NUNEZ
24 Executive Officer
25 Respiratory Care Board of California
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

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