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

11 In the Matter of the Statement of Issues
12 Against:

Case No. 1H 2010 829

STATEMENT OF ISSUES

13 SANDERSON GEDA BENASFRE
14 1231 West Denni Street
Wilmington, California 90744,

Applicant.

16 Complainant alleges:

17 PARTIES

18 1. Stephanie Nuñez (“Complainant”) brings this Statement of Issues solely in her
19 official capacity as the Executive Officer of the Respiratory Care Board of California,
20 Department of Consumer Affairs (“Board”).

21 2. On or about November 23, 2010, the Board received an application for a Respiratory
22 Care Practitioner License from Sanderson Geda Benasfre (“Applicant”). On or about November
23 8, 2010, Applicant certified under penalty of perjury to the truthfulness of all statements, answers,
24 and representations in the application. The Board denied the application on March 16, 2011.

25 JURISDICTION

26 3. This Statement of Issues is brought before the Board, under the authority of the
27 following laws. All section references are to the Business and Professions Code unless otherwise
28 indicated.

1 4. Section 3710 of the Code states: "The Respiratory Care Board of California, hereafter
2 referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory
3 Care Practice Act]."

4 5. Section 3718 of the Code states: "The board shall issue, deny, suspend, and revoke
5 licenses to practice respiratory care as provided in this chapter."

6 6. Section 3732 of the Code states:

7 "(a) The board shall investigate an applicant for a license, before a license is issued, in
8 order to determine whether or not the applicant has the qualifications required by this chapter.

9 "(b) The board may deny an application, or may order the issuance of a license with terms
10 and conditions, for any of the causes specified in this chapter for suspension or revocation of a
11 license, including, but not limited to, those causes specified in Sections 3750, 3750.5, 3752.5,
12 3752.6, 3755, 3757, 3760, and 3761."

13 7. Section 3750 of the Code states:

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

16 ". . .

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

20 ". . . "

21 "(m) Denial, suspension, or revocation of any license to practice by another agency, state,
22 or territory of the United States for any act or omission that would constitute grounds for the
23 denial, suspension, or revocation of a license in this state.

24 ". . . . "

25 8. Section 3750.5 of the Code states:

26 "In addition to any other grounds specified in this chapter, the board may deny, suspend,
27 place on probation, or revoke the license of any applicant or licenseholder who has done any of
28 the following:

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(b) Used any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with Section 4015) of Chapter 9 of this code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, or to others, or that impaired his or her ability to conduct with safety the practice authorized by his or her license.”

9. Section 3752 of the Code states:

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

10. Section 3752.5 of the Code states:

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

FIRST CAUSE FOR DENIAL OF APPLICATION

(Conviction of a Crime)

11. Applicant's application is subject to denial under section 3750, subdivision (d) and 3752.5, in that Applicant was convicted of a crime substantially related to the qualifications, functions and duties of a respiratory care practitioner. The circumstances are as follows:

a. On or about July 24, 2003 the Los Angeles Police Department responded to a domestic violence call at Applicant’s residence. The Applicant admitted to the arresting officers

1 that he had pushed his seven-month pregnant wife in the stomach, knocking her to the floor. He
2 further admitted that he had then pinned her on the ground in a chokehold, and choked her with
3 his hands and arms. The Applicant further admitted that he had been using methamphetamines
4 within the last two days, and had used them previously for an unstated period of time.

5 b. On or about September 3, 2003, in the matter entitled *People v. Sanderson*
6 *Geda Benasfre*, Los Angeles County Superior Court Case Number 3SP01917, Applicant was
7 convicted, upon his plea of nolo contendere, of a violation of Penal Code (PC) section 273.5,
8 subdivision (a), a misdemeanor, for infliction of corporal injury upon a spouse. Imposition of
9 sentence was suspended and Applicant was placed on formal probation for three years under the
10 following terms and conditions:

- 11 a. Serve three (3) days in the Los Angeles County Jail;
- 12 b. Pay a \$100 Alcohol and Drug Problem Assessment Fee;
- 13 c. Pay \$200 into the Domestic Violence Fund;
- 14 d. Pay a \$35 fee for installment payments;
- 15 e. Pay a \$20 court security fee;
- 16 f. Donate \$200 to a Battered Woman's Shelter;
- 17 g. Pay \$100 Restitution to the Court;
- 18 h. Perform 360 hours of "Cal Trans" service;
- 19 i. Not own, use, or possess any dangerous or deadly weapons, including any
20 firearms, knives or other concealable weapons;
- 21 j. Cooperate with the public health officer in a plan for a domestic violence
22 program, and report to the public health investigator;
- 23 k. Not harass, molest or annoy the victim;
- 24 l. Obey all laws and further Court orders, and;
- 25 m. Attend two (2) Narcotics Anonymous meetings per week for 52 weeks for a
26 total of 104 meetings.

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- j. Not harass, molest or annoy the victim; and,
- k. Obey all laws and further Court orders.

THIRD CAUSE FOR DENIAL OF APPLICATION

(Prior License Discipline)

13. Applicant's application is subject to denial under section 3750, subdivision (m) in that Applicant's Vocational Nurse License was revoked on or about November 20, 2005. The circumstances are as follows:

14. On or about October 30, 2002, while on duty as a licensed vocational nurse, Applicant was requested by his employer to submit to a random drug-screening test. The drug-screening test indicated "positive" results for amphetamine and methamphetamine. On May 19, 2003, during an interview with an investigator of the Division of Investigation of the California Department of Consumer Affairs, Applicant admitted smoking crystal methamphetamine in the Fall of 2001 and again smoking methamphetamine on May 16, 2003. Applicant voluntarily provided a urine sample to the investigator, which tested positive for amphetamine and methamphetamine. As a result of Applicant testing positive for amphetamine and methamphetamine and Applicant's admissions of smoking methamphetamine, an Accusation, Case Number 6806, was filed against Applicant's Vocational Nurse License, number VN 168227. Applicant's Vocational Nurse License number VN 168227 was revoked effective November 20, 2005.

FOURTH CAUSE FOR DENIAL OF APPLICATION

(Used a Controlled Substance in a Manner Dangerous or Injurious to Himself or Others)

15. Applicant's application is further subject to denial under section 3750.5, subdivision (b), of the Code, in that he used a controlled substance in a manner dangerous or injurious to himself or others, as more particularly described in paragraphs 11, 12, and 14 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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PRAYER

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

- 1. Denying the application of Sanderson Geda Benasfre for a Respiratory Care Practitioner License;
- 2. Directing Sanderson Geda Benasfre to pay the Respiratory Care Board of California the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;
- 3. Taking such other and further action as deemed necessary and proper.

DATED: June 29, 2011

Original Signed by Liane Freels for:

STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California

Complainant

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