

1 **BEFORE THE ARIZONA STATE BOARD OF**  
2 **RESPIRATORY CARE EXAMINERS**

3 In the Matter of: ) **CASE NO. 2019-RCE-0041**  
4 )  
4 **MELINDA LEYVA, RCP** ) **CONSENT AGREEMENT AND**  
Holder of License No. **008103** ) **NON-DISCIPLINARY ORDER**  
5 )  
For the Practice of Respiratory Care )  
6 In the State of Arizona )  
7 \_\_\_\_\_ )

8 **CONSENT AGREEMENT**

9 **RECITALS**

10 In the interest of a prompt and judicious settlement of the above-captioned matter before  
11 the Arizona State Board of Respiratory Care Examiners (“Board”), and in the interest of  
12 protecting the people of the State of Arizona, consistent with the statutory requirements and  
13 responsibilities of the Board pursuant to A.R.S. § 32-3501, *et seq.* and A.R.S. § 41-1092.07  
14 (F)(5), Melinda Leyva, RCP (“Respondent”), holder of license number 008103 to practice  
15 respiratory care in the State of Arizona, and the Board enter into the following Consent  
16 Agreement for Findings of Fact, Conclusions of Law, and Non-disciplinary Order for Civil  
17 Penalty (“Consent Agreement”) as the final disposition of this matter.

18 1. Respondent has the right to consult with an attorney prior to entering into this  
19 Consent Agreement. Respondent has read and understands this Consent Agreement as set forth  
20 herein, and has had the opportunity to discuss this Consent Agreement with an attorney or has  
21 waived the opportunity. Respondent voluntarily enters into this Consent Agreement for the  
22 purpose of avoiding the expense and uncertainty of an administrative hearing.

23 2. Respondent understands that she has a right to a public administrative hearing  
24 concerning each and every allegation set forth in the above-captioned matter, at which time  
25 Respondent could present evidence and cross-examine witnesses. By entering into this Consent  
26 Agreement, Respondent freely and voluntarily relinquishes all rights to such an administrative  
hearing, as well as all rights of rehearing, review, reconsideration, appeal, judicial review, or

1 any other administrative, and/or judicial action concerning the matters set forth herein.  
2 Respondent affirmatively agrees that this Consent Agreement shall be irrevocable and any  
3 modifications to this original document are ineffective and void unless mutually approved by  
4 the parties in writing.

5 3. Respondent agrees that the Board may adopt this Consent Agreement or any part  
6 of this agreement under A.R.S. §§ 32-3552 and 32-3553. Respondent understands that the  
7 Board may consider this Consent Agreement or any part of it in any future disciplinary action  
8 against her.

9 4. Respondent understands that this Consent Agreement does not constitute a  
10 dismissal or resolution of other matters currently pending before the Board, *if any*, and does not  
11 constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction  
12 regarding any other pending or future investigation, action, or proceeding.

13 5. All admissions Respondent makes in this Consent Agreement are made solely  
14 for the final disposition of case numbers 2019-RCE-0041, and any related administrative  
15 proceedings or civil litigation involving the Board and Respondent. Respondent further  
16 understands that acceptance of the Consent Agreement does not preclude any other agency,  
17 subdivision, or officer of this state from instituting other civil or criminal proceedings with  
18 respect to the conduct that is the subject of this Consent Agreement.

19 6. Respondent acknowledges that it is the Board's position that if this matter  
20 proceeded to formal hearing, the Board could likely establish sufficient evidence to support a  
21 conclusion that certain of Respondent's conduct constituted unprofessional conduct under  
22 A.R.S. § 32-3552 and A.A.C. R4-45-214. Therefore, Respondent has agreed to enter into this  
23 Consent Agreement as an economical and practical means of resolving the issues associated  
24 with the Board's investigation.

25 7. The Consent Agreement shall be subject to approval by the Board and shall be  
26 effective only when signed by the Executive Director and accepted by the Board. In the event  
that the Board does not approve this Consent Agreement, it is withdrawn and shall be of no

1 evidentiary value and shall not be relied upon nor introduced in any action by any party. The  
2 parties agree that if the Board rejects this Consent Agreement and this case proceeds to hearing,  
3 Respondent shall assert no claim that the Board was prejudiced by its review and discussion of  
4 this document or any other records relating thereto.

5 8. Respondent understands that this Consent Agreement is a public record that may  
6 be publicly disseminated as a formal action of the Board.

7 9. Respondent understands that any violation of this Consent Agreement could be  
8 grounds for further disciplinary action by the Board pursuant to A.A.C. R4-45-214(3).  
9

10  
11 DATED: 6-6-19

SIGNED: Melinda Leyva RRT-SI  
RCP Melinda Leyva, Respondent

12  
13 **FINDINGS OF FACT**

14 1. The Arizona State Board of Respiratory Care Examiners is the duly constituted  
15 agency for licensing and regulating of the practice of respiratory care in the State of Arizona and  
16 has jurisdiction over Respondent as a licensee of the Board and the subject matter pursuant to  
17 A.R.S. § 32-3501, *et seq.*

18 2. Melinda Leyva, RCP, is the holder of License Number 008103, which enables her  
19 to practice respiratory care in the State of Arizona.

20 3. Respondent has been licensed since December 20, 2007. Respondent's license to  
21 practice respiratory care was renewed timely and is effective until March 5, 2021.

22 4. On February 12, 2019, Respondent was selected for a random Continuing  
23 Education Audit pursuant to A.A.C. R4-45-208. Respondent complied with the Board's request  
24 for the random Continuing Education Audit on or before the date specified in the audit notice and  
25 submitted 27 hours of approved Continuing Education Units to the Board. However, Respondent  
26 was unable to produce documentation showing she had obtained two hours of ethics as required

1 by A.A.C. R4-45-208(B) and has failed to demonstrate compliance with the continuing education  
2 requirement mandated for Respondent's last renewal period.

3 **CONCLUSIONS OF LAW**

4 1. The conduct described in the Findings of Fact constitute grounds for disciplinary  
5 action pursuant to A.R.S. §§ 32-3552(A)(1) and (3) and violate the provisions of A.R.S. § 32-  
6 3501(9)(i) which states, "Any conduct or practice which is contrary to recognized standards of  
7 ethics of the respiratory therapy profession or any conduct or practice which does or might  
8 constitute a danger to the health, welfare or safety of the patient or the public."

9 2. The conduct described in the Findings of Fact constitute grounds for disciplinary  
10 action pursuant to A.R.S. §§ 32-3552(A)(1) and (3) and violate the provisions of A.R.S. § 32-  
11 3501(9)(k), which states, "Violating or attempting to violate, directly or indirectly, or assisting in  
12 or abetting the violation of or conspiring to violate a provision of this chapter."

13 3. The conduct described in the Findings of Fact constitute grounds for disciplinary  
14 action pursuant to A.R.S. §§ 32-3552(A)(1) and (3) and violate the provisions of A.A.C. R4-45-  
15 214 (2) which states, "Procuring or attempting to procure by fraud or misrepresentation a license  
16 or renewal of a license to practice respiratory care."

17 **ORDER**

18 **IT IS HEREBY ORDERED THAT** ~~Garry Sprout, RCP~~, holder of License No. ~~003841~~  
19 shall pay a non-disciplinary **CIVIL PENALTY** for \$25.00 per missing continuing education  
20 hour in the total amount of **FIFTY AND 00/100 DOLLARS (\$50.00)** for failing to complete  
21 two units of ethics continuing education units within the required renewal period. This Civil  
22 Penalty shall be paid to the Arizona State Board of Respiratory Care Examiners by no later than  
23 **NINETY (90) DAYS** from the effective date of this Order. If Respondent is experiencing a  
24 financial hardship that requires payment of the Civil Penalty in increments or an extension of the  
25 Civil Penalty due date, please contact the Board offices at (602) 542-5995 to make alternative  
26 arrangements **NO LATER THAN THIRTY (30) DAYS** from the effective date of this Order.

ARIZONA STATE BOARD OF RESPIRATORY CARE



\_\_\_\_\_  
Jack Confer, Executive Director

DATED THIS 7<sup>th</sup> DAY OF ~~MAY~~ <sup>JUNE</sup>, 2019.

Original Consent Agreement for Findings  
of Fact, Conclusions of Law and Non-  
Disciplinary Order filed this  
7<sup>th</sup> day of ~~May~~ <sup>JUNE</sup>, 2019 with the:

Arizona Board of Respiratory Examiners  
1740 West Adams Street, suite 3406  
Phoenix, AZ 85007

Copy of the foregoing sent by electronic  
and regular mail this 7<sup>th</sup> day  
of ~~May~~ <sup>JUNE</sup>, 2019 to:

Melinda Leyva, RCP  
Address on Record

\_\_\_\_\_