# BEFORE THE ARIZONA STATE BOARD RESPIRATORY CARE EXAMINERS

REST HULLON	
In the Matter of:	) CASE NO. 2019-RCE-0044
	) 2019-RCE-0104
MARC C. MCBEE, RCP	
Holder of License No. 010031	) FINDINGS OF FACT,
	) CONCLUSIONS OF LAW, AND
For the Practice of Respiratory Care	ORDER FOR REVOCATION
In the State of Arizona	)
	Ú
Marc C. McBee, RCP ("Responden	"), did not appear before the Arizona State

Marc C. McBee, RCP ("Respondent"), did not appear before the Arizona State Board of Respiratory Care Examiners ("Board") for a Formal Administrative Hearing on Thursday, July 18, 2019. Frankie Shinn-Eckberg, Assistant Attorney General, appeared on behalf of the State of Arizona. Mary Williams, Assistant Attorney General, appeared as independent advice counsel for the Board. Following the presentation of the State's Motion to Deem the Allegations Admitted, pursuant to A.R.S. § 32-3553(K), the Board voted to grant the State's Motion and adopted the following Findings of Fact, Conclusions of Law, and Order.

## **FINDINGS OF FACT**

- 1. The Arizona State Board of Respiratory Care Examiners is the duly constituted agency for licensing and regulating of the practice of respiratory care in the State of Arizona and has jurisdiction over Respondent as a licensee of the Board and the subject matter pursuant to A.R.S. § 32-3501, et seq.
- 2. Marc C. McBee, RCP ("Respondent"), is the holder of License Number 010031 which enabled him to practice respiratory care in the State of Arizona.
- 3. Respondent has been licensed to practice respiratory care in the State of Arizona since June 16, 2011 and Respondent's license to practice respiratory care was active until February 23, 2021, prior to this Order.
- 4. On February 22, 2019, Respondent timely submitted an application for renewal of his respiratory care license.
- 5. As part of the renewal process, the Board conducts a mandatory Continuing Education Audit pursuant to A.A.C. R4-45-208.

- 7. On Respondent's application for renewal, Respondent falsely claimed he had obtained all twenty hours of continuing education required for renewal of his license.
- 8. The Board further reviewed the application and discovered that Respondent had failed to disclose criminal charges filed against him on January 29, 2019 after he was arrested by officers from Lake Havasu City Police Department.
- 9. On January 29, 2019, Respondent was indicted in Yuma County Superior Court for POSSESSION/USE OF DANGEROUS DRUGS and POSSESSION/USE OF DRUG PARAPHERNALIA. Respondent did not self-disclose the charges to the Board within ten days and did not self-disclose the arrest on his application for renewal.
- 10. On April 19, 2019, Respondent pleaded guilty to POSSESSION OF DRUG PARAPHERNALIA (METHAMPHETAMINE), a Class One Misdemeanor, and THREATENING AND INTIMIDATING BY DV, a Class One Misdemeanor. Respondent stipulated to a three year period of unsupervised probation, to include: a 25 day suspended jail sentence, fines and fees, mandatory counseling, and drug testing. In exchange, the State of Arizona agreed to dismiss the charge of POSSESSION OF DANGEROUS DRUGS.
- 11. Respondent's history with the Board includes a non-disciplinary order issued on November 28, 2017 for license number 010031 regarding a failure to report criminal charges for DISORDERLY CONDUCT DV and CRIMINAL DAMAGE DV on May 23, 2017 and THREATS DV and DISORDERLY CONDUCT DV on August 8, 2017.

12. The Board discussed the criminal allegations at its Regular Board Meeting on May 16, 2019 and summarily suspended Respondent's license after it found that the protection of the public health, safety or welfare imperatively required emergency action due to the egregious nature of Respondent's pattern of conduct and the potential harm to the public's health, safety or welfare.

### **CONCLUSIONS OF LAW**

- 1. The conduct described in the Findings of Fact constitutes grounds for disciplinary action pursuant to A.R.S. §§ 32-3552(A)(3) and violates the provisions of A.R.S. § 32-3208(A) which states, "A health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after receiving or renewing a license or certificate must notify the health professional's regulatory board in writing within ten working days after the charge is filed."
- 2. The conduct described in the Findings of Fact constitute grounds for disciplinary action pursuant to A.R.S. §§ 32-3552(A) (3) and violate the provisions of A.R.S. § 32-3501(9)(c) which states, "Illegal use of narcotic or hypnotic drugs or substances."
- 3. The conduct described in the Findings of Fact constitute grounds for disciplinary action pursuant to A.R.S. §§ 32-3552(A) (3) and violate the provisions of A.R.S. § 32-3501(9)(g) which states, "Immorality or misconduct that tends to discredit the respiratory therapy profession."
- 4. The conduct described in the Findings of Fact constitute grounds for disciplinary action pursuant to A.R.S. §§ 32-3552(A)(3) and violate the provisions of A.R.S. § 32-3501(9)(i) which states, "Any conduct or practice which is contrary to recognized standards of ethics of the respiratory therapy profession or any conduct or practice which does or might constitute a danger to the health, welfare or safety of the patient or the public."
- 5. The conduct described in the Findings of Fact constitute grounds for disciplinary action pursuant to A.R.S. §§ 32-3552(A)(3) and violate the provisions of A.R.S. § 32-3501(9)(j)

which states, "Any conduct, practice or condition which does or might impair the person's ability to safely and skillfully practice respiratory therapy."

- 6. The conduct described in the Findings of Fact constitute grounds for disciplinary action pursuant to A.R.S. §§ 32-3552(A)(3) and violate the provisions of A.R.S. § 32-3501(9)(k), which states, "Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate a provision of this chapter."
- 7. The conduct described in the Findings of Fact constitute grounds for disciplinary action pursuant to A.R.S. §§ 32-3552(A)(3) and violate the provisions of A.R.S. § 32-3501(9)(I) which states, "Failing to report to the board within ten calendar days an incident or incidents that appear to show the existence of a cause for disciplinary action or that a licensed respiratory care practitioner is or may be professionally incompetent or is or may be mentally or physically unable to engage safely in the practice of respiratory care."
- 8. The conduct described in the Findings of Fact constitute grounds for disciplinary action pursuant to A.R.S. §§ 32-3552(A)(3) and violate the provisions of A.A.C. R4-45-214 (2), which states, "Procuring or attempting to procure by fraud or misrepresentation a license or renewal of a license to practice respiratory care."
- 9. The conduct described in the Findings of Fact constitute grounds for disciplinary action pursuant to A.R.S. §§ 32-3552(A)(3) and violate the provisions of A.A.C. R4-45-214 (5), which states, "Falsely claiming attendance at an approved continuing education to meet license renewal requirements."
- 10. The conduct described in the Findings of Fact constitute grounds for disciplinary action pursuant to A.R.S. §§ 32-3552(A)(3) and violate the provisions of A.A.C. R4-45-214 (6), which states, "Endangering a patient's or the public's physical or emotional health or safety or engaging in conduct or practice that may reasonably be expected to do so."

#### **ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law, IT IS HEREBY

6

7

8

9

10

11

12

13

14

15

16

17

18

19

**ORDERED THAT** License No. 010031 issued to Marc C. McBee shall be **REVOKED** on the effective date of this Order.

IT IS FURTHER ORDERED that Marc C. McBee may not apply to the Board for reinstatement of his license for at least one calendar year from the issuance date of this Order, as specified in A.R.S. § 32-3554 (A) and (B).

### **NOTICE**

In order to be eligible for judicial review pursuant to Title 12, Chapter 7, Article 6, you are required to exhaust your administrative remedies by filing a motion for rehearing or review of the Board's decision within thirty-five days after these Findings of Fact, Conclusions of Law, and Order are mailed to you at your last known address, or thirty days after they are personally served upon you. Pursuant to A.R.S. § 41-1092.09(B), you are notified that failure to file a motion for rehearing or review in writing at the Board's office by that date has the effect of prohibiting you from seeking judicial review of the Board's decision.



DATED THIS 23<sup>RD</sup> DAY OF JULY, 2019.

ARIZONA STATE BOARD OF RESPIRATORY CARE EXAMINERS



20

21

Original Findings of Fact, Conclusions Of Law, and Order for Revocation of License to Practice Respiratory Care filed this 23<sup>rd</sup> day July, 2019 with the:

2223

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

25

26

24

Copy of the foregoing send by Electronic, Certified and Regular mail this 23<sup>rd</sup> day of July, 2019 to:

	I and the second
1	Marc C. McBee
2	Address of Record
3	Copy of the foregoing sent by electronic mail this 23 <sup>rd</sup> day of July, 2019 to:
4	Frankie Shinn-Eckberg, Assistant Attorney General
5	Office of Arizona Attorney General 2005 North Central Avenue
6	Phoenix, AZ 85004
7	Mary D. Williams, Assistant Attorney General
8	Office of Arizona Attorney General 2005 North Central Avenue
9	Phoenix, AZ 85004
10	4
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	