

**BEFORE THE ARIZONA STATE BOARD
RESPIRATORY CARE EXAMINERS**

In the Matter of:)	CASE NO. 2019-RCE-0086
)	
MELISSA ARTHUR, RCP)	
Holder of License No. 008808)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW, AND
For the Practice of Respiratory Care)	ORDER FOR REVOCATION
In the State of Arizona)	
_____)	

The Arizona State Board of Respiratory Care Examiners (“Board”) held a Formal Administrative Hearing on Wednesday, June 9, 2021 at 12:25 pm in the matter of Melissa Arthur, RCP. Seamus Monaghan, Assistant Attorney General, appeared on behalf of the State of Arizona. Michael Raine, Assistant Attorney General, appeared as independent advice counsel for the Board. The Respondent was noticed, but not present. 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 for Revocation of licensure.

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. Respondent was the holder of License Number 008808 which enabled her to practice respiratory care in the State of Arizona, prior to this Order.

3. Respondent did not timely renew her license and Respondent’s license to practice is currently on suspended status as of the date of the expiration of her license.

4. On September 8, 2020, the Board received information from Respondent’s employer, Preferred Homecare, that she had been terminated from employment on August 18, 2020, after failing a post-accident drug screen on August 13, 2020. Specifically, the drug screen

1 was positive for Amphetamine and Methamphetamine. The Respondent did not report this conduct
2 or the termination to the Board as required by law.

3 5. On September 15, 2020, the Board issued Respondent an Interim Order for Drug
4 Testing, mandating a 10-panel hair follicle and observed 10-panel expanded urine test to be
5 completed within 24 hours of receipt of the order.

6 6. On October 2, 2020, two weeks after the Interim Order for Drug testing, the
7 Respondent completed the drug testing at Any Lab Test Now in Mesa, Arizona. The hair follicle
8 test came back positive for Methamphetamine and Opiates.

9 7. Due to the factual allegations and the two positive drug screens, Respondent was
10 offered, and signed an interim consent agreement not to practice on October 13, 2020.

11 8. To date Respondent has provided the Board with a prescription for the failed opiate
12 screen, but has not provided a prescription or medical documentation to explain the presence of
13 methamphetamine and amphetamine that was detected during the drug screen.

14 9. Following the Formal Administrative Hearing held June 9, 2021, the Board issued
15 findings of fact, conclusions of law and an order for revocation of Respondent’s license to practice
16 respiratory therapy.

17 **CONCLUSIONS OF LAW**

18 1. The conduct described in the findings of fact constitute grounds for disciplinary
19 action pursuant to A.R.S. § 32-3552(A)(3) and violate the provisions of A.R.S. § 32-3501(9)(c)
20 which states, “Illegal use of narcotic or hypnotic drugs or substances.”

21 2. The conduct described in the findings of fact constitute grounds for disciplinary
22 action pursuant to A.R.S. § 32-3552(A)(3) and violate the provisions of A.R.S. § 32-3501(9)(g)
23 which states, “Immorality or misconduct that tends to discredit the respiratory therapy profession.”

24 3. The conduct described in the findings of fact constitute grounds for disciplinary
25 action pursuant to A.R.S. § 32-3552(A)(3) and violate the provisions of A.R.S. § 32-3501(9)(i)
26 which states, “Any conduct or practice which is contrary to recognized standards of ethics of the

1 respiratory therapy profession or any conduct or practice which does or might constitute a danger
2 to the health, welfare or safety of the patient or the public.”

3 4. The conduct described in the findings of fact constitute grounds for disciplinary
4 action pursuant to A.R.S. § 32-3552(A)(3) and violate the provisions of A.R.S. § 32-3501(9)(j)
5 which states, “Any conduct, practice, or condition that does or might impair the person’s ability to
6 safely and skillfully practice respiratory therapy.”

7 5. The conduct described in the findings of fact constitute grounds for disciplinary
8 action pursuant to A.R.S. § 32-3552(A)(3) and violate the provisions of A.R.S. § 32-3501(9)(k),
9 which states, “Violating or attempting to violate, directly or indirectly, or assisting in or abetting
10 the violation of or conspiring to violate a provision of this chapter.”

11 6. The conduct described in the findings of fact constitute grounds for disciplinary
12 action pursuant to A.R.S. § 32-3552(A)(3) and violate the provisions of A.R.S. § 32-3501(9)(l),
13 which states, “Failing to report to the Board an incident or incidents which appear to show the
14 existence of a cause for disciplinary action or that a licensed respiratory care practitioner is or may
15 be professionally incompetent or is or may be mentally or physically unable to engage safely in
16 the practice of respiratory care.”

17 7. The conduct described in the findings of fact constitute grounds for disciplinary
18 action pursuant to A.R.S. § 32-3552(A)(3) and violate the provisions of A.A.C. R4-45-214(6),
19 which states, “Endangering a patient’s or the public’s physical or emotional health or safety or
20 engaging in conduct or practice may reasonably be expected to do so.”

21 8. The conduct described in the findings of fact constitute grounds for disciplinary
22 action pursuant to A.R.S. § 32-3552(A)(3) and violate the provisions of A.A.C. R4-45-214(12),
23 which states, “Using or being under the influence of alcohol, illegal drugs or substances, or drugs
24 or substances that impair judgment, while on duty in any health care work location.”

25 **ORDER**

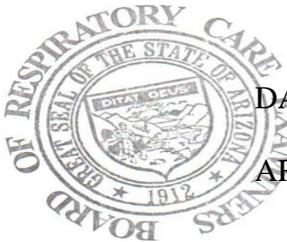
1 Based upon the foregoing Findings of Fact and Conclusions of Law, **IT IS HEREBY**
2 **ORDERED THAT** License No. 008808 issued to Respondent shall be **REVOKED** on the
3 effective date of this Order.

4 **IT IS FURTHER ORDERED** that Respondent June not apply to the Board for
5 reinstatement of her license for at least one calendar year from the issuance date of this Order, as
6 specified in A.R.S. § 32-3554 (A) and (B).

7 The effective date of this order is the date which it is signed by the Boards Executive
8 Director on behalf of the Board.

9 **NOTICE**

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



17
18 DATED THIS 14TH DAY OF JUNE, 2021.

19 ARIZONA STATE BOARD OF RESPIRATORY CARE EXAMINERS

20
21
22 By:  _____
Jack Confer, Executive Director

1 Original Findings of Fact, Conclusions
2 Of Law, and Order for Revocation of License to
3 Practice Respiratory Care filed
4 this 14th day of June, 2021 with the:

5 Arizona Board of Respiratory Examiners
6 1740 West Adams Street, Suite 3406
7 Phoenix, Arizona 85007

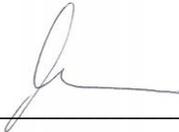
8 Copy of the foregoing sent by Electronic,
9 Certified and Regular mail
10 this 14th day of June, 2021 to:

11 Melissa Arthur, RCP
12 Address and Email of Record
13 Respondent

14 Copy of the foregoing sent by electronic
15 mail this 14th day of June, 2021 to:

16 Seamus Monaghan, Assistant Attorney General
17 Office of Arizona Attorney General
18 2005 North Central Avenue, SGD/LES
19 Phoenix, AZ 85004
20 Attorney for the Board

21 Michael Raine, Assistant Attorney General
22 Office of Arizona Attorney General
23 2005 North Central Avenue
24 Phoenix, AZ 85004
25 Independent Attorney Advisor

26 

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