

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

3 In the Matter of:) **CASE NO. 2018-RCE-0013**
4)
5 **BRENDA L. MCGARTLAND, RCP**) **CONSENT AGREEMENT FOR**
6 Holder of License No. **011447**) **NON-DISCIPLINARY CIVIL**
7) **PENALTY**
8 Or the Practice of Respiratory Care)
9 In the State of Arizona)

021021K

10 **CONSENT AGREEMENT**

11 **RECITALS**

12 In the interest of a prompt and judicious settlement of the above-captioned matter before
13 the Arizona State Board of Respiratory Care Examiners ("Board") and in the interest of
14 protecting the people of the State of Arizona, consistent with the statutory requirements and
15 responsibilities of the Board pursuant to A.R.S. § 32-3501, *et seq.* and A.R.S. § 41-1092.07
16 (F)(5), Brenda L. McGartland, RCP ("Respondent"), holder of license number 011447 to
17 practice respiratory care in the State of Arizona, and the Board enter into the following Consent
18 Agreement for Non-Disciplinary Civil Penalty ("Consent Agreement") as the final disposition of
19 this matter.

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

25 2. Respondent understands that she has a right to a public administrative hearing
26 concerning each and every allegation set forth in the above-captioned matter, at which time
Respondent could present evidence and cross-examine witnesses. By entering into this Consent
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
any other administrative, and/or judicial action concerning the matters set forth herein.

1 Respondent affirmatively agrees that this Consent Agreement shall be irrevocable and
2 any modifications to this original document are ineffective and void unless mutually approved
3 by the parties in writing.

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

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

12 5. All admissions Respondent makes in this Consent Agreement are made solely
13 for the final disposition of case numbers 2019-RCE-0013, and any related administrative
14 proceedings or civil litigation involving the Board and Respondent. Respondent further
15 understands that acceptance of the Consent Agreement does not preclude any other agency,
16 subdivision, or officer of this state from instituting other civil or criminal proceedings with
17 respect to the conduct that is the subject of this Consent Agreement.

18 6. The Consent Agreement shall be subject to adoption by the Board and shall be
19 effective only when signed by the Chairperson of the Board or the Executive Director of the
20 Board, on behalf of the Chair. In the event that the Board does not adopt this Consent
21 Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor
22 introduced in any action by any party. The parties agree that if the Board rejects this Consent
23 Agreement and this case proceeds to hearing, Respondent shall assert no claim that the Board
24 was prejudiced by its review and discussion of this document or any other records relating
25 thereto.

26 7. Respondent understands that this Consent Agreement is a public record that may

1 be publicly disseminated as a formal action of the Board.

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

4 **FINDINGS OF FACT**

5 1. The Arizona State Board of Respiratory Care Examiners is the duly constituted
6 agency for licensing and regulating of the practice of respiratory care in the State of Arizona
7 pursuant to A.R.S. § 32-3501, *et seq.*

8 2. Brenda L. McGartland, RCP (“Respondent”), is the holder of License Number
9 011447 which enables her to practice respiratory care in the State of Arizona.

10 3. Respondent’s license to practice respiratory care was originally issued on June 8,
11 2016 and expires on February 4, 2021.

12 4. Under A.R.S. § 32-3501, *et seq.*, the Board possesses jurisdiction over the subject
13 matter and over Respondent as a licensee of the Board.

14 5. Respondent allowed her license to expire on February 4, 2019. Respondent
15 submitted a late renewal application on February 13, 2019. On her Affidavit Respondent self-
16 disclosed that she had practiced respiratory care without the benefit of holding an active and
17 valid license.

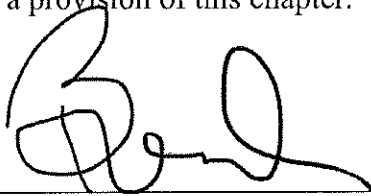
18 **CONCLUSIONS OF LAW**

19 1. The conduct described in the Findings of Fact constitute grounds for disciplinary
20 action pursuant to A.R.S. §§ 32-3552(A)(3) and violate the provisions of A.R.S. § 32-
21 3501(10)(i) which states, “Any conduct or practice which is contrary to recognized standards of
22 ethics of the respiratory therapy profession or any conduct or practice which does or might
23 constitute a danger to the health, welfare or safety of the patient or the public.”

24 2. 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-
26

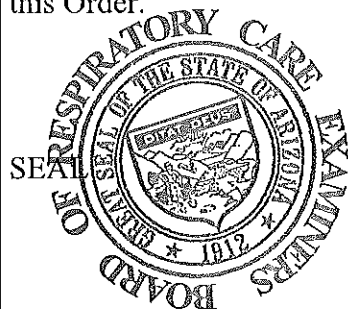
1 3501(10)(k), which states, "Violating or attempting to violate, directly or indirectly, or assisting
2 in or abetting the violation of or conspiring to violate a provision of this chapter."

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4
5 DATED: 06/24/19

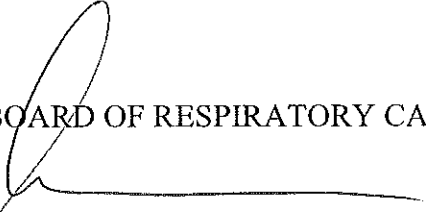
SIGNED: 
Brenda L. McGartland, RCP

6 **ORDER**

7 **IT IS HEREBY ORDERED THAT Annette M. Lindell, RCP, holder of license**
8 **number 0011447, shall be assessed a CIVIL PENALTY in the amount of ONE HUNDRED**
9 **AND 00/100 DOLLARS (\$100.00).** This Civil Penalty shall be paid to the Arizona State Board
10 of Respiratory Care Examiners by no later than **NINETY (90) DAYS** from the effective date of
11 this Order.



12 ARIZONA STATE BOARD OF RESPIRATORY CARE

13
14 
15 Jack Confer, Executive Director

DATED THIS 27th DAY OF JUNE 2019.

16 Original Consent Agreement for
17 Non-Disciplinary Civil Penalty
18 filed this 27th day of JUNE 2019 with the:

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

20 Copy of the foregoing sent by electronic,
21 Regular and certified mail this 27th
22 day of JUNE 2019 to:

23 Brenda L. McGartland, RCP
Address on Record
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