

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

In the Matter of:)	CASE NO. C003806-18-007113
)	
BRIAN C. SHELLEY, RCP)	
Holder of License No. 007113)	CONSENT AGREEMENT AND
)	DISCIPLINARY ORDER
For the Practice of Respiratory Care)	
In the State of Arizona)	
)	

CONSENT AGREEMENT

RECITALS

In the interest of a prompt and judicious settlement of the above-captioned matter before the Arizona State Board of Respiratory Care Examiners (“Board”) and in the interest of protecting the people of the State of Arizona, consistent with the statutory requirements and responsibilities of the Board pursuant to A.R.S. § 32-3501, *et seq.* and A.R.S. § 41-1092.07 (F)(5), Brian C. Shelley, RCP (“Respondent”), holder of license number 007113 to practice respiratory care in the State of Arizona, and the Board enter into the following Consent Agreement for Findings of Fact, Conclusions of Law, and Disciplinary Order for Decree of Censure (“Consent Agreement”) as the final disposition of this matter.

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

2. Respondent understands that he has a right to a public administrative hearing 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. Respondent

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

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

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

11 5. All admissions Respondent makes in this Consent Agreement are made solely for
12 the final disposition of case number C003806-18-007113, and any related administrative
13 proceedings or civil litigation involving the Board and Respondent. Respondent further
14 understands that acceptance of the Consent Agreement does not preclude any other agency,
15 subdivision, or officer of this state from instituting other civil or criminal proceedings with
16 respect to the conduct that is the subject of this Consent Agreement.

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

24 7. Respondent understands that a Decree of Censure constitutes disciplinary action.
25 Respondent further understands that any disciplinary action taken against a licensee by the Board
26 must be reported to the National Practitioner Data Bank, in accordance with federal regulations.

1 7. Respondent resigned from his position as Cardiopulmonary System Director,
2 effective August 15, 2017.

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)(3) and violate the provisions of A.R.S. § 32-3501(9)(g),
6 which states, "Immorality or misconduct that tends to discredit the respiratory therapy profession."

7 2. 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 3. 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."



23 *Brian C. Shelley*
24 Brian C. Shelley, Respondent

25 Dated: 1-16-2018

26 ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, **IT IS HEREBY ORDERED THAT** License No. 007113, held by Brian C. Shelley, RCP, shall be **CENSURED**. This Decree of Censure constitutes an official action against the license held by RCP Shelley.

ARIZONA STATE BOARD OF RESPIRATORY CARE

1 SEAL

2 

3 Jack Confer, Executive Director

4 DATED THIS 22nd DAY OF JANUARY, 2018.

5 Original Disciplinary Order for Decree of
6 Censure filed this 22nd day
7 of January 2018 with the:

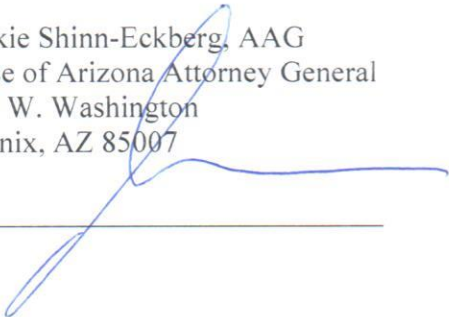
8 Arizona Board of Respiratory Examiners
9 1400 West Washington, #200
10 Phoenix, AZ 85007

11 Copy of the foregoing sent by
12 electronic, and regular mail this
13 22nd day of January 2018 to:

14 Brian C. Shelley, RCP
15 Address on Record

16 Copy of the foregoing sent by inter
17 agency and electronic mail this 22nd
18 day of January 2018 to:

19 Mary D. Williams, AAG
20 Office of Arizona Attorney General
21 1275 W. Washington
22 Phoenix, AZ 85007

23 Frankie Shinn-Eckberg, AAG
24 Office of Arizona Attorney General
25 1275 W. Washington
26 Phoenix, AZ 85007


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