

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

In the Matter of:) **CASE NO. 2019-RCE-0136**
)
RAYMOND HERNANDEZ, RCP)
Holder of License No. **002611**) **INTERIM ORDER FOR SUMMARY**
) **SUSPENSION OF LICENSE**
For the Practice of Respiratory Care)
In the State of Arizona)
_____)

In order to protect the public health, safety or welfare, the Arizona State Board of Respiratory Care Examiners (“Board”) enters the following Findings of Fact, Conclusions of Law, and Interim Order for Summary Suspension of License, setting forth the charges against Raymond Hernandez, RCP (“Respondent”).

FINDINGS OF FACT

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

2. Raymond Hernandez, RCP, is the holder of License Number 002611 which enables 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 September 1, 1993 and Respondent’s license to practice respiratory care was active until December 30, 2019 prior to this Order.

4. On June 5, 2019, the Board received information from Respondent’s employer, Preferred Homecare in Phoenix, Arizona, that Respondent was terminated for failing a random drug screen.

5. On May 23, 2019, Respondent submitted to a random and mandatory urine drug screen ordered by his employer. The drug screen returned a positive result for “Amphetamines –

1 Methamphetamine” and Respondent was terminated from employment on May 30, 2019 for
2 violating company policy.

3 6. Board Staff has been unable to make contact with Respondent, despite multiple
4 attempts, and Respondent has not provided a response to the allegations and has not cooperated
5 with the Board’s investigation.

6 7. Respondent’s previous disciplinary history with the Board includes an Order for
7 Probation issued on May 5, 1998 for failing to timely renew his license and continuing to work
8 on a lapsed license.

9 8. The Board reviewed the preliminary investigative materials and based on the
10 findings, the Board was concerned that Respondent’s continued practice as a respiratory therapist
11 at this time might endanger the public health, safety, or welfare.

12 9. The Board discussed these allegations at its Regular Board Meeting on June 20,
13 2019 and found that the protection of the public health, safety or welfare imperatively required
14 emergency action due to the egregious nature of Respondent’s pattern of conduct and the
15 potential harm to the public’s health, safety or welfare.

16 **CONCLUSIONS OF LAW**

17 1. The Board of Respiratory Care Examiners of the State of Arizona possesses
18 jurisdiction over this subject matter and Respondent pursuant to A.R.S. § 32-3501, *et seq.*

19 2. The Board has the authority to issue an Interim Order of Summary Suspension of
20 License and conduct an administrative hearing to determine whether Respondent’s license to
21 practice respiratory care should be disciplined pursuant to A.R.S. § 32-3553(E), in conjunction
22 with A.R.S. § 32-3552(A).

23 3. The Board has the statutory authority to enter this Interim Order for Summary
24 Suspension of License pursuant to A.R.S. §§ 41-1064(C) and 32-3553(E).

25 4. Based upon the evidence and information known to the Board regarding
26 allegations set forth above in the paragraphs above, the Board finds that to protect the public’s

1 health, welfare or safety, it is necessary to invoke the Board's authority, pursuant to A.R.S. § 32-
2 3553(E), to summarily suspend the license issued to Raymond Hernandez to practice respiratory
3 care in the State of Arizona.

4 5. Respondent's conduct as alleged, if subsequently established to be true after
5 formal hearing, constitutes grounds for disciplinary action pursuant to violations of:

- 6 a. A.R.S. § 32-3552(A)(3) Commits an act of unprofessional conduct.
- 7 b. A.R.S. § 32-3501(9)(c) Illegal use of narcotic or hypnotic drugs or
8 substances.
- 9 c. A.R.S. § 32-3501(9)(g) Immorality or misconduct that tends to discredit the
10 respiratory therapy profession.
- 11 d. A.R.S. § 32-3501(9)(i) Any conduct or practice which is contrary to
12 recognized standards of ethics of the respiratory therapy profession or any
13 conduct or practice which does or might constitute a danger to the health, welfare
14 or safety of the patient or the public.
- 15 e. A.R.S. § 32-3501(9)(j) Any conduct, practice or condition which does or
16 might impair the person's ability to safely and skillfully practice respiratory
17 therapy.
- 18 f. A.R.S. § 32-3501(9)(k) Violating or attempting to violate, directly or
19 indirectly, or assisting in or abetting the violation of or conspiring to violate a
20 provision of this chapter.
- 21 g. A.R.S. § 32-3501(9)(l) Failing to report to the board within ten calendar
22 days an incident or incidents that appear to show the existence of a cause for
23 disciplinary action or that a licensed respiratory care practitioner is or may be
24 professionally incompetent or is or may be mentally or physically unable to
25 engage safely in the practice of respiratory care.

1 h. A.A.C. R4-45-214 (1) Engaging in the practice of respiratory care in a
2 manner that harms or may harm a patient or that the Board determines falls below
3 the community standard.

4 i. A.A.C. R4-45-214 (6) Endangering a patient's or the public's physical or
5 emotional health or safety or engaging in conduct or practice that may be
6 reasonably expected to do so.

7 j. A.A.C. R4-45-214 (12) Using or being under the influence of alcohol,
8 illegal drugs or substances, or drugs or substances that impair judgment, while on
9 duty in any health care work location.

10 **ORDER**

11 **THEREFORE**, based upon the evidence and information known to the Board regarding
12 the allegations set forth above, the Board finds that in order to protect the public health, welfare
13 or safety, it is necessary to invoke the Board's authority, pursuant to A.R.S. § 32-3553 (E), to
14 summarily suspend Respondent's license to practice respiratory care.

15 **IT IS HEREBY ORDERED** that License Number 002611, issued to and held by
16 Raymond Hernandez is hereby **SUMMARILY SUSPENDED** from the **PRACTICE OF**
17 **RESPIRATORY CARE**, effective immediately upon issuance of this Order.

18 **NOTICE**

19 Pursuant to A.R.S. § 32-3553(E) the Respondent is entitled to a formal hearing before the
20 Board on the charges within sixty (60) days. The Respondent shall be served with a written
21 notice of complaint and formal hearing, setting forth the charges made against her as required by
22 the operative statute and rule.



ARIZONA STATE BOARD OF RESPIRATORY CARE

John Confer
Executive Director

DATED THIS 21st DAY OF JUNE, 2019.

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Original Interim for Summary
Suspension filed this 21st day of
June, 2019 with the:

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

Copies of the foregoing sent by certified,
regular and electronic mail this 21st day
of June, 2019 to:

Raymond Hernandez
Address on Record & Email

Copy of the foregoing sent by
electronic mail this 21st
day of June, 2019 to:

Frankie Shinn-Eckberg, AAG
Office of Arizona Attorney General
2005 N. Central Ave
Phoenix, AZ 85004


