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

| | | |
|--------------------------------------|---|-----------------------------------|
| In the Matter of: |) | CASE NO. C003853-18-012330 |
| |) | |
| AMY ALEX, RCP |) | CONSENT AGREEMENT |
| Holder of License No. 012330 |) | AND NON-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), Amy Alex, RCP ("Respondent"), holder of license number 012330 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 Non-Disciplinary Order for Rehabilitative Probation ("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 she 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

1 any other administrative, and/or judicial action concerning the matters set forth herein.
2 Respondent affirmatively agrees that this Consent Agreement shall be irrevocable and any
3 modifications to this original document are ineffective and void unless mutually approved by
4 the parties in writing.

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

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

13 5. All admissions Respondent makes in this Consent Agreement are made solely
14 for the final disposition of case numbers C003853-18-012330, and any related administrative
15 proceedings or civil litigation involving the Board and Respondent. Respondent further
16 understands that acceptance of the Consent Agreement does not preclude any other agency,
17 subdivision, or officer of this state from instituting other civil or criminal proceedings with
18 respect to the conduct that is the subject of this Consent Agreement.

19 6. Respondent acknowledges that it is the Board's position that if this matter
20 proceeded to formal hearing, the Board could likely establish sufficient evidence to support a
21 conclusion that certain of Respondent's conduct constituted unprofessional conduct under
22 A.R.S. § 32-3552 and A.A.C. R4-45-214. Therefore, Respondent has agreed to enter into this
23 Consent Agreement as an economical and practical means of resolving the issues associated
24 with the Board's investigation.

25 7. The Consent Agreement shall be subject to approval by the Board and shall be
26 effective only when signed by the Executive Director and accepted by the Board. In the event
that the Board does not approve this Consent Agreement, it is withdrawn and shall be of no

1 evidentiary value and shall not be relied upon nor introduced in any action by any party. The
2 parties agree that if the Board rejects this Consent Agreement and this case proceeds to hearing,
3 Respondent shall assert no claim that the Board was prejudiced by its review and discussion of
4 this document or any other records relating thereto.

5 8. Respondent understands that this Consent Agreement is a public record that may
6 be publicly disseminated as a formal action of the Board.

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

9
10 DATED: 04/03/2018 SIGNED: 
11 RCP Amy Alex, Respondent
12

13 **FINDINGS OF FACT**

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

18 2. Amy Alex, RCP, is the holder of License Number 012330, which enables her to
19 practice respiratory care in the State of Arizona.

20 3. Respondent's license to practice respiratory care was originally issued on May 25,
21 2017 and expires on July 27, 2018.

22 4. On January 18, 2018, Respondent self-reported that she had been arrested for
23 Driving Under the Influence on December 14, 2017.

24 5. Respondent self-reported the incident to the Board outside of the mandatory ten
25 (10) day reporting requirement prescribed by law.

26 6. Respondent's history with the Board includes a self-reported DUI from March 16,
2016 on her initial application for licensure in 2017.

1 ORDER

2 Based upon the foregoing Findings of Fact and Conclusions of Law, **IT IS HEREBY**
3 **ORDERED THAT** Amy Alex, RCP, holder of license number 012330, shall be subject to the
4 following:

5 1. Respondent shall be assessed a non-disciplinary **CIVIL PENALTY** in the amount of
6 **TWO HUNDRED FIFTY AND 00/100 DOLLARS (\$250.00)**. This Civil Penalty
7 shall be paid to the Arizona State Board of Respiratory Care Examiners by no later
8 than **NINETY (90) DAYS** from the effective date of this Order. If Respondent is
9 experiencing a financial hardship that requires payment of the Civil Penalty in
10 increments or an extension of the Civil Penalty due date, please contact the Board
11 offices at (602) 542-5995 to make alternative arrangements **NO LATER THAN**
12 **THIRTY (30) DAYS** from the effective date of this Order.

13 2. Respondent's license will be placed on **PROBATION** for a period of three (3)
14 years, subject to the following terms and conditions:

15 a. **Individual Counseling or Participation in AA/NA.** Respondent shall
16 enter into individual counseling. Respondent shall participate in individual
17 counseling at least weekly, or as recommended by a substance abuse
18 evaluator, whichever is more often. Upon entry, Respondent shall execute
19 the appropriate release of information form allowing the program to provide
20 records and inform the Board of Respondent's entry and progress.
21 Respondent shall also request the program to submit to the Board, in writing,
22 evidence of satisfactory participation and progress in counseling. Such
23 reports are due on a quarterly basis from the date of entry into the program
24 for the remainder of the probationary period. If Respondent declines or
25 discontinues weekly counseling, Respondent must instead participate in
26 Alcoholics Anonymous, Narcotics Anonymous, or an equivalent program. If

1 Respondent participates in AA/NA. Respondent must participate in at least
2 three (3) weekly meetings. The meetings must be on three (3) separate days
3 per week. If circumstances require, Respondent may attend up to one (1)
4 meeting per week on-line. Respondent shall submit to the Board, in writing,
5 on Board approved forms, quarterly reports with the following information:

- 6 a. Name of 12-Step Group
- 7 b. Name or initials of another individual in attendance at each
- 8 meeting
- 9 c. Date and time of meeting
- 10 d. Location and address of meeting place
- 11 e. Name and phone number of organizing/administering person
- 12 f. Name and phone number of sponsor

13
14 b. **Mandatory and Random Drug Testing.** Respondent shall comply
15 immediately (within 2 hours) with telephonic, electronic, or in person
16 requests from the Board, or its agents or designees, to submit to witnessed
17 random biological fluid collection for mandatory and random drug testing.
18 The Board may, at its discretion, request these tests weekly (not to exceed
19 four requests per month) during the first six (6) months of this Order. These
20 tests must be, at a minimum, a 10-Panel that includes ethylglucaronide
21 alcohol screening. And Respondent shall authorize any person or
22 organization conducting tests on these collected samples to provide testing
23 results to the Board. Failure to provide and/or update contact information for
24 mandatory testing is a violation of this order. In addition, any occurrence of
25 the following conditions constitutes noncompliance with this Consent
26

1 Agreement: a positive drug test showing evidence of any drug other than an
2 authorized drug; submission of a specimen where the integrity has been
3 compromised, as indicated by the presence of adulterants; an abnormal result
4 for low creatinine level; and submission of a urine sample that is below the
5 acceptable volume or temperature to be tested. A positive drug test showing
6 evidence of any drug other than an authorized drug may result in summary
7 suspension of Respondent's license. Failure to submit to a drug test on a day
8 when a test has been required by the Board, its agents or designees, or the
9 laboratory may be considered a positive result and may also result in
10 summary suspension of Respondent's license.

11
12 c. **Abstain from Alcohol; Unauthorized Drug Use/Proof of Prescription.**

13 Respondent shall not ingest or take any alcohol, or products containing
14 alcohol. Respondent shall not ingest or take any drugs or medications
15 whatsoever (except for plain aspirin and/or plain acetaminophen), whether
16 controlled substances, prescription-only drugs or over-the-counter
17 preparations, unless such drug or medication was prescribed for him/her by
18 his/her treating physician. Respondent must have a current prescription for
19 any prescription-only drugs or over-the-counter preparations taken.
20 Respondent shall provide a copy of all mood-altering or controlled substance
21 prescriptions written for the Respondent **within 72 hours after the**
22 **prescription has been filled.** Further Respondent shall provide the Board
23 office with prescription information relating to dosage and frequency within
24 72 hours.
25

26 d. **Employer Notification.** Respondent shall inform current, and any future,
employer(s) of this Order. Respondent shall immediately provide current

1 employer(s) with a copy of this Order, and any future employer(s) with a
2 copy of this Order at time of application. Respondent shall cause employer(s)
3 to notify the Board, via email or facsimile, when the employer(s) receive a
4 copy of this Order.

5 e. **Quarterly Reports from Employer.** Respondent shall cause employer(s) to
6 file reports with the Board on work performance. These reports must be
7 received by the 15th day of: March, June, September and December

8 f. **Release of Information Forms.** Respondent shall sign all release of
9 information forms as required by the Board or its designee and return them
10 to the Board within 10 days of the Board's written request. If Respondent
11 fails to execute the releases, license holder may be subject to disciplinary
12 action.

13
14 g. **Quarterly Interviews with the Board or Its Designee.** Respondent shall
15 appear in person or if residing out of state, telephonically for interviews with
16 the Board or its designee upon request and reasonable notice.

17 h. **Change of Employment; Personal Address; Telephone Number; Email**
18 **Address.** Respondent shall notify the Board, in writing, immediately, via
19 facsimile, email, or personal delivery of letter, of any change in employment,
20 personal address, telephone number, or email address.

21 i. **Notification of Extended Absences.**
22 Respondent shall notify the Board, via facsimile or email, or any instance
23 where he/she makes plans to be away from his/her place of employment or
24 home for more than three (3) continuous days.

25 j. **Obev all Laws.** Respondent shall obey all federal, state and local laws,
26 and all laws/rules governing the practice of respiratory care in this state.
Offenses or convictions such as driving under the influence may subject

1 Respondent to further disciplinary action. Minor civil traffic violations are
2 excluded.

3 k. **Costs.** Respondent shall bear all costs of complying with this Order.

4 l. **Renewal of License.** In the event the license is scheduled to expire during
5 the duration of this Order, Respondent shall apply for renewal of the license
6 and pay the applicable fee before the expiration date. Failure to renew
7 within seven days of the effective date of this Order, if it is expired; or
8 failure to renew a license by the scheduled expiration date; shall be
9 considered as noncompliance and may be subject Respondent to further
10 disciplinary action.

11 m. **Duration.** This Order shall remain effective for three (3) years from the
12 effective date; and, after one (1) year, Respondent may apply to the Board to
13 seek modification of the Probation upon showing satisfactory compliance
14 with the Order during the period of probation

15 n. **Violation of Probation.** If Respondent is noncompliant with this Consent
16 Agreement in any respect, the Board may revoke Probation and take further
17 disciplinary action after affording Respondent notice and an opportunity to
18 be heard. If a complaint concerning noncompliance with this Consent
19 Agreement is filed against Respondent during the period of Probation, the
20 Board shall have continuing jurisdiction until the matter is final and the
21 period of Probation shall be extended until the matter is final.

22 o. **Voluntary Surrender of License.** Respondent may, at any time this Consent
23 Agreement is in effect, voluntarily surrender her license with the
24 understanding that the same will be treated and considered as a revocation of
25 the license by the Board.

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1 DATED THIS 4TH DAY OF APRIL 2018.



ARIZONA STATE BOARD OF RESPIRATORY CARE

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Jack Confer
Executive Director

Original Consent Agreement for
Findings of Fact, Conclusions of Law
And Non-Disciplinary Order filed this
4TH day of APRIL,
2018 with the:

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

Copy of the foregoing sent by electronic,
regular and certified mail this 4TH day
of APRIL 2018 to:

Amy Alex, RCP
Address on Record

Troy M. Anderson, Esquire
The Law Offices of Shawn N. Hamp, P.C.
2249 Hualapai Mountain Road, #2
Kingman, AZ 86401

Copy of the foregoing sent via electronic
mail this 4TH day of APRIL 2018 to:

Frankie Shinn-Eckberg, AAG
Office of the Attorney General
SGD/LES
1275 West Washington
Phoenix, AZ 85007

Charlotte M. ...