

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

In the Matter of:)	CASE NO. C003868-18-010458
)	
SHINY DANIEL, RCP)	CONSENT AGREEMENT AND
Holder of License No. 010458)	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), Shiny Daniel, RCP ("Respondent"), holder of license number 010458 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 Nondisciplinary Order for Continuing Education and Civil Penalty ("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 C003868-18-010458, 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

1 that the Board does not approve this Consent Agreement, it is withdrawn and shall be of no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

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

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

10
11 DATED: May 1st, 2018

SIGNED: _____

Shiny Daniel
RCP Shiny Daniel, Respondent

13
14 **FINDINGS OF FACT**

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

19 2. Shiny Daniel, RCP, is the holder of License Number 010458, which enables her
20 to practice respiratory care in the State of Arizona.

21 3. Respondent was selected for a random Continuing Education Audit pursuant to
22 A.A.C. R4-45-208. Respondent submitted zero hours of approved Continuing Education Units to
23 the Board. Respondent acknowledged that she had not obtained the twenty units of approved
24 continuing education as required by law and has failed to demonstrate compliance with the
25 continuing education requirement mandated for Respondent's last renewal period.

26 4. Respondent did not timely file a request for a waiver of her Continuing Education

1 requirements at the time of her 2018 license renewal, pursuant to A.A.C. R4-45-212(A)(3)(a),
2 and acknowledged falsifying her renewal application by allowing an individual who was not her
3 to complete and submit the application, attesting under penalty of perjury that the document was
4 true and correct and that she had completed twenty hours of approved continuing education.

5 CONCLUSIONS OF LAW

6 1. The conduct described in the Findings of Fact constitute grounds for disciplinary
7 action pursuant to A.R.S. §§ 32-3552(A)(1) and (3) and violate the provisions of A.R.S. § 32-
8 3501(9)(i) which states, "Any conduct or practice which is contrary to recognized standards of
9 ethics of the respiratory therapy profession or any conduct or practice which does or might
10 constitute a danger to the health, welfare or safety of the patient or the public."

11 2. The conduct described in the Findings of Fact constitute grounds for disciplinary
12 action pursuant to A.R.S. §§ 32-3552(A)(1) and (3) and violate the provisions of A.R.S. § 32-
13 3501(9)(k), which states, "Violating or attempting to violate, directly or indirectly, or assisting in
14 or abetting the violation of or conspiring to violate a provision of this chapter."

15 3. The conduct described in the Findings of Fact constitute grounds for disciplinary
16 action pursuant to A.R.S. §§ 32-3552(A)(1) and (3) and violate the provisions of A.A.C. R4-45-
17 214 (2) which states, "Procuring or attempting to procure by fraud or misrepresentation a license
18 or renewal of a license to practice respiratory care."

19 4. The conduct described in the Findings of Fact constitute grounds for disciplinary
20 action pursuant to A.R.S. §§ 32-3552(A)(1) and (3) and violate the provisions of A.A.C. R4-45-
21 214 (5), which states, "Falsely claiming attendance at an approved continuing education to
22 meeting license renewal requirements."

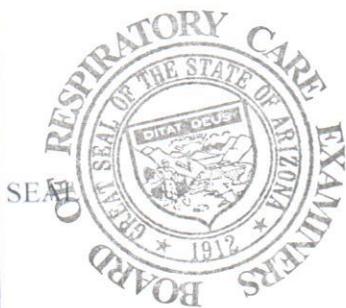
23 5. The conduct described in the Findings of Fact constitute grounds for disciplinary
24 action pursuant to A.R.S. §§ 32-3552(A)(1) and (3) and violate the provisions of A.A.C. R4-45-
25 214 (6), which states, "Endangering a patient's or the public's physical or emotional health or
26 safety or engaging in conduct or practice that may reasonably be expected to do so."

ORDER

1
2 **IT IS HEREBY ORDERED THAT** Shiny Daniel, RCP, holder of License No. 010458
3 shall be subject to the following:

4 1. Respondent shall pay a non-disciplinary **CIVIL PENALTY** for \$25.00 per
5 missing continuing education hour in the total amount of **FIVE HUNDRED AND 00/100**
6 **DOLLARS (\$500.00)** for failing to complete twenty continuing education hours within the
7 required renewal period. This Civil Penalty shall be paid to the Arizona State Board of
8 Respiratory Care Examiners by no later than **NINETY (90) DAYS** from the effective date of this
9 Order. If Respondent is experiencing a financial hardship that requires payment of the Civil
10 Penalty in 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 THIRTY (30)**
12 **DAYS** from the effective date of this Order.

13 2. Respondent shall submit **TWENTY (20) HOURS** of approved continuing
14 education no later than **NINETY (90) DAYS** from the effective date of this Order. All costs
15 associated with complying with the terms of this Order are to be paid by Respondent. These
16 continuing education units shall be in addition to the normal continuing education units required
17 for the current license renewal period
18



ARIZONA STATE BOARD OF RESPIRATORY CARE

25
26

Jack Confer, Executive Director

DATED THIS 2ND DAY OF MAY APRIL, 2018.

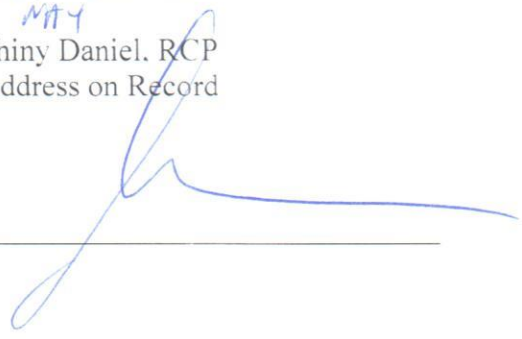
Original Consent Agreement for Findings
of Fact, Conclusions of Law and Non-
Disciplinary Order filed this
2ND day of April, 2018 with the:

MAY

1 Arizona Board of Respiratory Examiners
2 1740 West Adams Street, suite 3406
3 Phoenix, AZ 85007

4 Copy of the foregoing sent by electronic
5 and regular mail this 2nd day
6 of ~~April~~, 2018 to:

7 MAY
8 Shiny Daniel, RCP
9 Address on Record



A handwritten signature in blue ink is written over a horizontal line. The signature is cursive and appears to be 'Shiny Daniel'. The line is positioned between the text 'Address on Record' and the line number '9'.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26