

BEFORE THE ARIZONA STATE BOARD OF  
RESPIRATORY CARE EXAMINERS

In the Matter of: ) CASE NO. C003821-18-011993  
)  
CHARLES HOLLEY, RCP ) CONSENT AGREEMENT FOR  
Holder of License No. 011927 ) NON-DISCIPLINARY CIVIL  
) PENALTY  
Or the Practice of Respiratory Care )  
In the State of Arizona )

2017 FEB 23 PM 7:21

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), Charles Holley, RCP (“Respondent”), holder of license number 011993 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 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 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 numbers C003821-18-011993, 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 this Consent Agreement is a public record that may  
25 be publicly disseminated as a formal action of the Board.

26 8. Respondent understands that any violation of this Consent Agreement could be

1 grounds for further disciplinary action by the Board pursuant to A.A.C. R4-45-214(3).

2 **FINDINGS OF FACT**

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

6 2. Charles Holley, RCP (“Respondent”), is the holder of License Number 011993  
7 which enables him to practice respiratory care in the State of Arizona.

8 3. Respondent’s license to practice respiratory care was originally issued on August  
9 11, 2016 and currently expires on October 15, 2019.

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

12 5. Respondent allowed his license to expire on October 15, 2017. Respondent  
13 submitted a late renewal application on October 18, 2017. On his Affidavit submitted with his  
14 renewal application he self-disclosed that he had practiced respiratory care between October 12,  
15 2017 and October 20, 2017.

16 6. Respondent worked five (5) separate and mutually exclusive shifts without the  
17 benefit of holding an active and valid license issued by this Board.

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. § 32-3501(10)(i)  
21 which states, “Any conduct or practice which is contrary to recognized standards of ethics of the  
22 respiratory therapy profession or any conduct or practice which does or might constitute a danger  
23 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. § 32-3501(10)(k),  
26

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

3  
4  
5 DATED: Dec. 19, 2017

SIGNED Charles W. Holley  
Charles Holley, RCP

8 **ORDER**

9 **IT IS HEREBY ORDERED THAT** Charles Holley, RCP, holder of license number  
10 011993, shall be assessed a **CIVIL PENALTY** in the amount of **TWO HUNDRED AND FIFTY**  
11 **00/100 DOLLARS (\$250.00)**. This Civil Penalty shall be paid to the Arizona State Board of  
12 Respiratory Care Examiners by no later than **NINETY (90) DAYS** from the effective date of this  
13 Order.

14 If Respondent is experiencing a hardship that requires payment of the Civil Penalty in  
15 increments or an extension of the Civil Penalty due date, please contact the Board offices at (602)  
16 542-5995 to make alternative arrangements **NO LATER THAN THIRTY (30) DAYS** from the  
17 effective date of this Order.



ARIZONA STATE BOARD OF RESPIRATORY CARE

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Jack Confer, Executive Director

DATED THIS 30 DAY OF JANUARY 2018

Original Consent Agreement for  
Non-Disciplinary Civil Penalty  
filed this 30 day of JANUARY 2018 with the:

2018

1 Arizona Board of Respiratory Examiners  
2 1400 West Washington, #200  
3 Phoenix, AZ 85007

4 Copy of the foregoing sent by electronic.  
5 Regular and certified mail this 32  
6 day of JANUARY 2017 to:  
7 2018

8 Charles Holley, RCP  
9 Address on Record  
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