

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

In the Matter of:)	CASE NO. C003841-18-012202
)	
BRIANNA R. KOCH, RCP)	
Holder of License No. 012202)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW, AND
For the Practice of Respiratory Care)	ORDER FOR STAYED REVOCATION
In the State of Arizona)	AND PROBATION
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Brianna R. Koch, RCP (“Respondent”), appeared before the Arizona State Board of Respiratory Care Examiners (“Board”) without counsel for a Formal Administrative Hearing on Thursday, October 17, 2019. Frankie Shinn-Eckberg, Assistant Attorney General, appeared on behalf of the State of Arizona. Mary Williams, Assistant Attorney General, appeared as independent counsel for the Board. Following the testimony of the witness and presentation of evidence, the Board voted to adopt the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

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

2. Brianna R. Koch, RCP, is the holder of License Number 012202 which enables her to practice respiratory care in the State of Arizona.

3. Respondent has been licensed to practice respiratory care in the State of Arizona since December 23, 2016 and Respondent’s license to practice respiratory care is active until July 28, 2020.

4. On or about December 6, 2017, the Board received information from Respondent’s employer, Banner Boswell in Sun City, Arizona, that Respondent had been terminated for “possible drug intemperance.”

1 5. On February 7, 2018, Respondent consented to entering into a non-disciplinary
2 Stipulated Confidential Rehabilitation Agreement (“Consent Agreement”) with the Board’s
3 Executive Director, pursuant to A.R.S. § 32-3506(C)(7).

4 6. On or about August 29, 2019, the Board ordered a mandatory and random drug
5 screen pursuant to Term C of the Consent Agreement. Respondent failed to comply with the
6 Board’s request.

7 7. On or about September 4, 2019, the Board made a second request for a mandatory
8 and random drug screen pursuant to Term C of the Consent Agreement. Respondent complied
9 and submitted to both a urine and hair follicle test. The urine drug screen was diluted but did not
10 return a positive result for any illicit substances. The hair follicle test returned a positive result
11 for cocaine.

12 8. To date, Respondent has failed to comply with several terms of the Consent
13 Agreement, specifically:

14 a. Term A. PARTICIPATION IN AA/NA – Respondent has not submitted any
15 evidence of court mandated education and/or counseling and has not attended any
16 AA/NA meetings since entering into the agreement.

17 b. Term B. ABSTAIN FROM ALCOHOL: UNAUTHORIZED DRUG
18 USE/PROOF OF PRESCRIPTION – Respondent tested positive for cocaine on
19 September 4, 2019 and did not disclose any prescription drug information to the
20 Board prior to September 12, 2019.

21 c. Term C. MANDATORY AND RANDOM DRUG TESTING – Respondent failed
22 to comply with the Board’s request on August 29, 2019 and submitted a diluted
23 sample in violation of this provision.

24 d. Term D. EMPLOYER NOTIFICATION – Respondent did not provide her
25 current employer with a copy of the Consent Agreement.

1 e. Term E. QUARTERLY REPORTS FROM EMPLOYER – Respondent has been
2 employed since February 2019 and has submitted zero quarterly reports from
3 employer.

4 f. Term H. CHANGE OF EMPLOYMENT: PERSONAL ADDRESS:
5 TELEPHONE NUMBER – Respondent did not disclose her change of
6 employment with the Board in February 2019.

7 g. Term J. OBEY ALL LAWS – Respondent admittedly ingested an illicit substance
8 in August of 2019, in violation of state and federal law and failed to obey the laws
9 and rules governing the practice of respiratory care in this state.

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

13 10. The Board discussed these allegations at a Special Board Meeting on September
14 12, 2019 and found that the protection of the public health, safety or welfare imperatively
15 required emergency action due to the egregious nature of Respondent’s conduct and the potential
16 harm to the public’s health, safety or welfare.

17 **CONCLUSIONS OF LAW**

18 1. The conduct described in the Findings of Fact constitutes grounds for disciplinary
19 action pursuant to A.R.S. §§ 32-3552(A) (3) and violates the provisions of A.R.S. § 32-
20 3501(9)(c) which states, “Illegal use of narcotic or hypnotic drugs or substances.”

21 2. The conduct described in the Findings of Fact constitutes grounds for disciplinary
22 action pursuant to A.R.S. §§ 32-3552(A) (3) and violates the provisions of A.R.S. § 32-
23 3501(9)(g) which states, “Immorality or misconduct that tends to discredit the respiratory
24 therapy profession.”

25 3. The conduct described in the Findings of Fact constitutes grounds for disciplinary
26 action pursuant to A.R.S. §§ 32-3552(A)(3) and violates the provisions of A.R.S. § 32-3501(9)(i)
which states, “Any conduct or practice which is contrary to recognized standards of ethics of the

1 respiratory therapy profession or any conduct or practice which does or might constitute a danger
2 to the health, welfare or safety of the patient or the public.”

3 4. The conduct described in the Findings of Fact constitutes grounds for disciplinary
4 action pursuant to A.R.S. §§ 32-3552(A)(3) and violates the provisions of A.R.S. § 32-3501(9)(j)
5 which states, “Any conduct, practice or condition which does or might impair the person’s ability
6 to safely and skillfully practice respiratory therapy.”

7 5. The conduct described in the Findings of Fact constitutes grounds for disciplinary
8 action pursuant to A.R.S. §§ 32-3552(A)(3) and violates the provisions of A.R.S. § 32-
9 3501(9)(k), which states, “Violating or attempting to violate, directly or indirectly, or assisting in
10 or abetting the violation of or conspiring to violate a provision of this chapter.”

11 6. The conduct described in the Findings of Fact constitutes grounds for disciplinary
12 action pursuant to A.R.S. §§ 32-3552(A)(3) and violates the provisions of A.R.S. § 32-3501(9)(l)
13 which states, “Failing to report to the board within ten calendar days an incident or incidents that
14 appear to show the existence of a cause for disciplinary action or that a licensed respiratory care
15 practitioner is or may be professionally incompetent or is or may be mentally or physically
16 unable to engage safely in the practice of respiratory care.”

17 7. The conduct described in the Findings of Fact constitutes grounds for disciplinary
18 action pursuant to A.R.S. §§ 32-3552(A)(3) and violates the provisions of A.A.C. R4-45-214 (1),
19 which states, “Engaging in the practice of respiratory care in a manner that harms or may harm a
20 patient or that the Board determines falls below the community standard.”

21 8. The conduct described in the Findings of Fact constitutes grounds for disciplinary
22 action pursuant to A.R.S. §§ 32-3552(A)(3) and violates the provisions of A.A.C. R4-45-214 (3),
23 which states, “Violating a formal order, condition of probation, or stipulation issued by the
24 Board, another regulatory entity of any state, or a court of law.”

25 9. The conduct described in the Findings of Fact constitutes grounds for disciplinary
26 action pursuant to A.R.S. §§ 32-3552(A)(3) and violates the provisions of A.A.C. R4-45-214 (6),

1 which states, “Endangering a patient’s or the public’s physical or emotional health or safety or
2 engaging in conduct or practice that may reasonably be expected to do so.”

3 **ORDER**

4 Based upon the foregoing Findings of Fact and Conclusions of Law, **IT IS HEREBY**
5 **ORDERED THAT** License No. 012202 issued to Brianna R. Koch shall be **REVOKED**.
6 However, the **REVOCATION** is **STAYED** and Respondent’s license shall be placed on
7 **PROBATION** for a period of **THREE (3) YEARS**, effective immediately. The terms and
8 conditions of Probation are as follows:

9 **1. Outpatient Program.** Respondent shall enroll in a Board approved outpatient
10 program for drug addiction within thirty (30) days of the effective date of this Order.
11 Respondent shall enter into an outpatient program and participate as recommended
12 by the program. Upon entry, Respondent shall execute the appropriate release of
13 information form allowing the program to provide records and inform the Board of
14 Respondent’s entry and progress. Respondent shall also request the program to
15 submit to the Board, in writing, evidence of satisfactory participation and progress in
16 counseling. Such reports are due on a quarterly basis from the date of entry into the
17 program for the remainder of the probationary period.

18 **Participation in AA/NA.** Within seven (7) days of the effective date of this Order,
19 and throughout the term of this Order, Respondent shall participate in at least two (2)
20 weekly meetings of Alcoholics Anonymous, Narcotics Anonymous, or an equivalent
21 program. The meetings must be physically attended in person on two (2) separate days
22 per week. Respondent shall submit to the Board, in writing, on Board approved forms,
23 quarterly reports with the following information:

- 24
- 25 a. Name of 12-Step Group
 - 26 b. Name or initials of another individual in attendance at each meeting

- c. Date and time of meeting
- d. Location and address of meeting place
- e. Name and phone number of organizing/administering person
- f. Name and phone number of sponsor

2. **Mandatory and Random Drug Testing.** Respondent shall comply immediately (within 2 hours) with telephonic, electronic, or in person requests from the Board, or its agents or designees, to submit to witnessed random biological fluid collection for mandatory and random drug testing. The Board may, at its discretion, request these tests at any time (not to exceed four requests per month) but shall request at least one mandatory and random drug screen each month throughout the term of this Order. These tests must be, at a minimum, a 10-Panel that includes ethylglucaronide alcohol screening. And Respondent shall authorize any person or organization conducting tests on these collected samples to provide testing results to the Board. Failure to provide and/or update contact information for mandatory testing is a violation of this order. In addition, any occurrence of the following conditions constitutes noncompliance with this Order: a positive drug test showing evidence of any drug other than an authorized drug; submission of a specimen where the integrity has been compromised, as indicated by the presence of adulterants; an abnormal result for low creatinine level; and submission of a urine sample that is below the acceptable volume or temperature to be tested. A positive drug test showing evidence of any drug other than an authorized drug may result in summary suspension of Respondent's license. Failure to submit to a drug test on a day when a test has been required by the Board, its agents or designees, or the laboratory may be considered a positive result and may also result in summary suspension of Respondent's license.

1 3. **Abstain from Alcohol; Unauthorized Drug Use/Proof of Prescription.**

2 Respondent shall not ingest or take any alcohol, or products containing alcohol.
3 Respondent shall not ingest or take any drugs or medications whatsoever (except for
4 plain aspirin and/or plain acetaminophen), whether controlled substances,
5 prescription-only drugs or over-the-counter preparations, unless such drug or
6 medication was prescribed for him/her by his/her treating physician. Respondent
7 must have a current prescription for any prescription-only drugs or over-the-counter
8 preparations taken. Respondent shall provide a copy of all mood-altering or
9 controlled substance prescriptions written for the Respondent **within 72 hours after**
10 **the prescription has been filed.** Further Respondent shall provide the Board office
11 with prescription information relating to dosage and frequency within 72 hours.

12
13 4. **Employer Notification.** Respondent shall inform current, and any future,
14 healthcare employer(s) of this Order. Respondent shall immediately provide current
15 healthcare employer(s) with a copy of this Order, and any future healthcare
16 employer(s) with a copy of this Order at time of application. Respondent shall cause
17 healthcare employer(s) to notify the Board, via email or facsimile, when the
18 employer(s) receive a copy of this Order.

19
20 5. **Quarterly Reports from Employer.** Respondent shall cause healthcare
21 employer(s) to file reports with the Board on work performance. These reports must
22 be received by the 15th day of: March, June, September and December.

23 6. **Release of Information Forms.** Respondent shall sign all release of information
24 forms as required by the Board or its designee and return them to the Board within
25 10 days of the Board's written request. If Respondent fails to execute the releases,
26 license holder may be subject to disciplinary action.

- 1 7. **Quarterly Interviews with the Board or Its Designee.** Respondent shall appear in
2 person or if residing out of state, telephonically for interviews with the Board or its
3 designee upon request and reasonable notice.
- 4 8. **Change of Employment; Personal Address; Telephone Number; Email**
5 **Address.** Respondent shall notify the Board, in writing, within ten (10) business
6 days, via facsimile, email, or personal delivery of letter, of any change in
7 employment, personal address, telephone number, or email address.
- 8 9. **Notification of Extended Absences.**
9 Respondent shall notify the Board, via facsimile or email, or any instance where
10 he/she makes plans to be away from his/her place of employment or home for more
11 than three (3) continuous days.
- 12 10. **Obey all Laws.** Respondent shall obey all federal, state and local laws, and all
13 laws/rules governing the practice of respiratory care in this state. Offenses or
14 convictions such as driving under the influence may subject Respondent to further
15 disciplinary action. Minor civil traffic violations are excluded.
- 16 11. **Costs.** Respondent shall bear all costs of complying with this Order.
- 17 12. **Renewal of License.** In the event the license is scheduled to expire during the
18 duration of this Order, Respondent shall apply for renewal of the license and pay the
19 applicable fee before the expiration date. Failure to renew within seven days of the
20 effective date of this Order, if it is expired; or failure to renew a license by the
21 scheduled expiration date; shall be considered as noncompliance and the terms and
22 conditions of this Order may be suspended until Respondent files an application for
23 late renewal or a new license. If the Board grants Respondent a late or new license,
24 the terms and conditions of this Order may be reinstated at that time.
- 25 13. **Duration.** This Order shall remain effective for three (3) years from the effective
26 date; and, after one (1) year, Respondent may apply to the Board to seek termination

1 or modification of the Probation upon showing satisfactory compliance with the
2 Order during the period of probation.

3 14. **Violation of Probation.** If Respondent is noncompliant with this Order in any
4 respect, the Board may lift the stay of the revocation and revoke Respondent's
5 license after affording Respondent notice and an opportunity to be heard. If a
6 complaint concerning noncompliance with this Order is filed against Respondent
7 during the period of Probation, the Board shall have continuing jurisdiction until the
8 matter is final and the period of Probation shall be extended until the matter is final.

9 15. **Voluntary Surrender of License.** Respondent may, at any time this Order is in
10 effect, voluntarily surrender her license with the understanding that the same will be
11 treated and considered as a Revocation of the license by the Board.

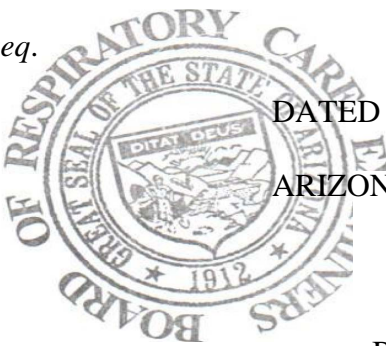
12 **IT IS FURTHER ORDERED** that should the license issued to Brianna R. Koch be
13 Revoked, Respondent may not apply to the Board for reinstatement of her license for at least
14 one calendar year from the issuance date of this Order, as specified in A.R.S. § 32-3554 (A) and
15 (B).


16 **NOTICE OF IMMEDIATE EFFECTIVENESS**

17 Pursuant to A.A.C. R4-45-302(I), the Board finds that the immediate effectiveness of
18 Probation is necessary for preservation of the public health, safety, or welfare and this Order
19 constitutes a final decision of the Board without an opportunity for rehearing or review. If an
20 application for judicial review of the decision is made, it shall be made under A.R.S. § 12-901, *et*
21 *seq.*

22 DATED THIS 22ND DAY OF OCTOBER, 2019.

23 ARIZONA STATE BOARD OF RESPIRATORY CARE EXAMINERS



24
25 By: 
26 Jack Confer, Executive Director

1 Original Findings of Fact, Conclusions
2 Of Law, and Order for Stayed Revocation and
3 Probation filed this 22nd day of October, 2019 with the:

3 Arizona Board of Respiratory Examiners
4 1740 West Adams Street, Suite 3406
5 Phoenix, Arizona 85007

5 Copy of the foregoing send by Electronic,
6 Certified and Regular mail this 22nd day
7 of October, 2019 to:

7 Brianna R. Koch
8 Address of Record

9 Copy of the foregoing sent by electronic
10 mail this 22nd day of October, 2019 to:

10 Frankie Shinn-Eckberg, Assistant Attorney General
11 Office of Arizona Attorney General
12 2005 North Central Avenue
13 Phoenix, AZ 85004

13 Mary D. Williams, Assistant Attorney General
14 Office of Arizona Attorney General
15 2005 North Central Avenue
16 Phoenix, AZ 85004

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