

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. 2019-RCE-0174
)	
BILL E. MALLOY, RCP)	CONSENT AGREEMENT AND
Holder of License No. 011047)	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), Bill E. Malloy, RCP (“Respondent”), holder of license number 011047 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 Order for Non-Disciplinary 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

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

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

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

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

5. All admissions Respondent makes in this Consent Agreement are made solely for the final disposition of case numbers 2019-RCE-0174, and any related administrative proceedings or civil litigation involving the Board and Respondent. Respondent further understands that acceptance of the Consent Agreement does not preclude any other agency, subdivision, or officer of this state from instituting other civil or criminal proceedings with respect to the conduct that is the subject of this Consent Agreement.

6. The Consent Agreement shall be subject to adoption by the Board and shall be effective only when signed by the Chairperson of the Board or the Executive Director of the Board, on behalf of the Chair. In the event that the Board does not adopt this Consent Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any action by any party. The parties agree that if the Board rejects this Consent Agreement and this case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by its review and discussion of this document or any other records relating thereto.

1
2
3 7. Respondent understands that this Consent Agreement is a public record that may
4 be publicly disseminated as a formal action of the Board.

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

7
8 DATED: 9-24-19

SIGNED: Bill Malloy
RCP Bill E. Malloy, Respondent

9
10 **FINDINGS OF FACT**

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

14 2. Bill E. Malloy, RCP (“Respondent”), is the holder of License Number 011047
15 which enables him to practice respiratory care in the State of Arizona. Respondent’s license to
16 practice respiratory care was timely renewed in 2019 and expires on July 7, 2021.

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

19 4. In June of 2017, Respondent was charged with SPRAYING A WATERCRAFT
20 WITH A JET, A CLASS 1 MISDEMEANOR in Lake Havasu City Consolidated Court Case
21 Number MCR2017-00760. On August 29, 2019, Respondent pleaded guilty to DISORDERLY
22 CONDUCT, A CLASS 1 MISDEMEANOR in Lake Havasu City Municipal Court Case Number
23 MCR2019-00946 for a domestic incident that occurred in July. Both cases were resolved by the
24 courts but the charges were not reported to the Board within the mandatory ten (10) day
25 reporting requirement prescribed by law.

26 **CONCLUSIONS OF LAW**

The conduct described in the Findings of Fact constitutes grounds for disciplinary action pursuant to A.R.S. §§ 32-3552(A)(3) and violates the provisions of A.R.S. § 32-3208(A) which state, “A health professional who has been charged with a misdemeanor involving conduct that

1
2
3 may affect patient safety or a felony after receiving or renewing a license or certificate must
4 notify the health professional's regulatory board in writing within ten working days after the
5 charge is filed.”

6 **ORDER**

7 **IT IS HEREBY ORDERED THAT** Bill E. Malloy, RCP, holder of License Number
8 011047, shall be assessed a non-disciplinary **CIVIL PENALTY** in the amount of **TWO**
9 **HUNDRED FIFTY AND 00/100 DOLLARS (\$250.00)**. This Civil Penalty shall be paid to the
10 Arizona State Board of Respiratory Care Examiners by no later than **NINETY (90) DAYS** from
11 the effective date of this Order.

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



DATED THIS 30th DAY OF SEPTEMBER, 2019.
ARIZONA STATE BOARD OF RESPIRATORY CARE EXAMINERS

By: 

Jack Confer, Executive Director

20 Original Consent Agreement and
21 Nondisciplinary Order filed this
30th day September, 2019 with the:

22 Arizona Board of Respiratory Examiners
23 1740 West Adams Street, Suite 3406
Phoenix, Arizona 85007

24 Copy of the foregoing send by Electronic,
25 Certified and Regular mail this 30th day
of September, 2019 to:

26 Bill E. Malloy
Address of Record

