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

In the Matter of:) **CASE NO. C003836-18-002731**
)
4 **DALE SANDE, RCP**) **CONSENT AGREEMENT**
Holder of License No. **002731**) **AND NON-DISCIPLINARY ORDER**
)
For the Practice of Respiratory Care)
6 In the State of Arizona)
_____)

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CONSENT AGREEMENT

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RECITALS

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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), Dale Sande, RCP (“Respondent”), holder of license number 002731 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 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 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 him.

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 C003836-18-002731, 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).

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10 DATED: May 14, 2018 SIGNED: 
11 RCP Dale Sande, Respondent

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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. Dale Sande, RCP, is the holder of License Number 002731, which enables him to
19 practice respiratory care in the State of Arizona.

20 3. Respondent's license to practice respiratory care was originally issued in 1996
21 and expires on October 12, 2018.

22 4. On November 14, 2017, Respondent self-reported that he had been arrested for
23 four criminal counts, which were: Driving Under the Influence -- Liquor/Drugs/Vapor; DUI-
24 Liquor with BAC .08 or more; Failure to stop on Peace Officer Command; and Reckless
25 Driving.

26 5. Respondent's history with the Board includes several prior arrests and convictions
for DUI and drug related offenses dating back to his original application for licensure in 1993.

1 often. Upon entry, Respondent shall execute the appropriate release of information
2 form allowing the program to provide records and inform the Board of Respondent's
3 entry and progress. Respondent shall also request the program to submit to the
4 Board, in writing, evidence of satisfactory participation and progress in counseling.
5 Such reports are due on a quarterly basis from the date of entry into the program for
6 the remainder of the probationary period. If Respondent declines or discontinues
7 weekly counseling, Respondent must instead participate in Alcoholics Anonymous,
8 Narcotics Anonymous, or an equivalent program. If Respondent participates in
9 AA/NA, Respondent must participate in at least three (3) weekly meetings. The
10 meetings must be on three (3) separate days per week. If circumstances require,
11 Respondent may attend up to one (1) meeting per week on-line. Respondent shall
12 submit to the Board, in writing, on Board approved forms, quarterly reports with the
13 following information:

- 14 a. Name of 12-Step Group
- 15 b. Name or initials of another individual in attendance at each
16 meeting
- 17 c. Date and time of meeting
- 18 d. Location and address of meeting place
- 19 e. Name and phone number of organizing/administering person
- 20 f. Name and phone number of sponsor

21 2. **Mandatory and Random Drug Testing.** Respondent shall comply immediately
22 (within 2 hours) with telephonic, electronic, or in person requests from the Board, or
23 its agents or designees, to submit to witnessed random biological fluid collection for
24 mandatory and random drug testing. The Board may, at its discretion, request these
25 tests weekly (not to exceed four requests per month) during the first six (6) months
26 of this Order. These tests must be, at a minimum, a 10-Panel that includes

1 ethylglucaronide alcohol screening. And Respondent shall authorize any person or
2 organization conducting tests on these collected samples to provide testing results to
3 the Board. Failure to provide and/or update contact information for mandatory
4 testing is a violation of this order. In addition, any occurrence of the following
5 conditions constitutes noncompliance with this Consent Agreement: a positive drug
6 test showing evidence of any drug other than an authorized drug; submission of a
7 specimen where the integrity has been compromised, as indicated by the presence of
8 adulterants; an abnormal result for low creatinine level; and submission of a urine
9 sample that is below the acceptable volume or temperature to be tested. A positive
10 drug test showing evidence of any drug other than an authorized drug may result in
11 summary suspension of Respondent's license. Failure to submit to a drug test on a
12 day when a test has been required by the Board, its agents or designees, or the
13 laboratory may be considered a positive result and may also result in summary
14 suspension of Respondent's license.

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

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

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4. **Employer Notification.** Respondent shall inform current, and any future, employer(s) of this Order. Respondent shall immediately provide current employer(s) with a copy of this Order, and any future employer(s) with a copy of this Order at time of application. Respondent shall cause employer(s) to notify the Board, via email or facsimile, when the employer(s) receive a copy of this Order.
 5. **Quarterly Reports from Employer.** Respondent shall cause employer(s) to file reports with the Board on work performance. These reports must be received by the 15th day of: March, June, September and December
 6. **Release of Information Forms.** Respondent shall sign all release of information forms as required by the Board or its designee and return them to the Board within 10 days of the Board's written request. If Respondent fails to execute the releases, license holder may be subject to disciplinary action.
 7. **Quarterly Interviews with the Board or Its Designee.** Respondent shall appear in person or if residing out of state, telephonically for interviews with the Board or its designee upon request and reasonable notice.
 8. **Change of Employment; Personal Address; Telephone Number; Email Address.** Respondent shall notify the Board, in writing, immediately, via facsimile, email, or personal delivery of letter, of any change in employment, personal address, telephone number, or email address.
 9. **Notification of Extended Absences.**
Respondent shall notify the Board, via facsimile or email, or any instance where he/she makes plans to be away from his/her place of employment or home for more than three (3) continuous days.
 10. **Obey all Laws.** Respondent shall obey all federal, state and local laws, and all laws/rules governing the practice of respiratory care in this state. Offenses or

1 convictions such as driving under the influence may subject Respondent to further
2 disciplinary action. Minor civil traffic violations are excluded.

- 3 11. **Costs.** Respondent shall bear all costs of complying with this Order.
- 4 12. **Renewal of License.** In the event the license is scheduled to expire during the
5 duration of this Order, Respondent shall apply for renewal of the license and pay the
6 applicable fee before the expiration date. Failure to renew within seven days of the
7 effective date of this Order, if it is expired; or failure to renew a license by the
8 scheduled expiration date; shall be considered as noncompliance and may be subject
9 Respondent to further disciplinary action.
- 10 13. **Duration.** This Order shall remain effective for three (3) years from the effective
11 date; and, after one (1) year, Respondent may apply to the Board to seek
12 modification of the Probation upon showing satisfactory compliance with the Order
13 during the period of probation
- 14 14. **Violation of Probation.** If Respondent is noncompliant with this Consent
15 Agreement in any respect, the Board may revoke Probation and take further
16 disciplinary action after affording Respondent notice and an opportunity to be heard.
17 If a complaint concerning noncompliance with this Consent Agreement is filed
18 against Respondent during the period of Probation, the Board shall have continuing
19 jurisdiction until the matter is final and the period of Probation shall be extended
20 until the matter is final.
- 21 15. **Voluntary Surrender of License.** Respondent may, at any time this Consent
22 Agreement is in effect, voluntarily surrender her license with the understanding that
23 the same will be treated and considered as a revocation of the license by the Board.

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25 DATED THIS 21st DAY OF MAY 2018.

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ARIZONA STATE BOARD OF RESPIRATORY CARE

1 SEAL



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4 Jack Confer
Executive Director

5 Original Consent Agreement for
6 Findings of Fact, Conclusions of Law
7 And Non-Disciplinary Order filed this
8 21st day of MAY,
9 2018 with the:

10 Arizona Board of Respiratory Examiners
11 1740 West Adams Street, Suite 3406
12 Phoenix, AZ 85007

13 Copy of the foregoing sent by electronic,
14 regular and certified mail this 21st day
15 of MAY 2018 to:

16 Dale Sande, RCP
17 Address on Record