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

In the Matter of:	)	<b>CASE NO. 2019-RCE-0098</b>
	)	
<b>JIM SOTELO, RCP</b>	)	<b>CONSENT AGREEMENT AND</b>
Holder of License No. <b>009644</b>	)	<b>NON-DISCIPLINARY ORDER</b>
	)	
For the Practice of Respiratory Care	)	
In the State of Arizona	)	

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**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), Jim Sotelo, RCP ("Respondent"), holder of license number 009644 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 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 he/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

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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 2019-RCE-0098, 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).

9  
10 DATED: 5-7-19

11 SIGNED: J. Sotelo  
12 RCP Jim Sotelo, Respondent

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. Jim Sotelo, RCP, is the holder of License Number 009644, which enables him/her  
19 to practice respiratory care in the State of Arizona.

20 3. Respondent was selected for a Continuing Education Audit pursuant to A.A.C.  
21 R4-45-208. Respondent did not comply with the Board's request for the random Continuing  
22 Education Audit on or before the date specified in the audit notice and submitted 23 hours of  
23 approved Continuing Education Units to the Board. Respondent was unable to produce  
24 documentation showing they had obtained two hours of ethics or five live approved continuing  
25 education as required by law and has failed to demonstrate compliance with the continuing  
26 education requirement mandated for Respondent's last renewal period.

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1 CONCLUSIONS OF LAW

2 1. The conduct described in the Findings of Fact constitute grounds for disciplinary  
3 action pursuant to A.R.S. §§ 32-3552(A)(1) and (3) and violate the provisions of A.R.S. § 32-  
4 3501(9)(i) which states, "Any conduct or practice which is contrary to recognized standards of  
5 ethics of the respiratory therapy profession or any conduct or practice which does or might  
6 constitute a danger to the health, welfare or safety of the patient or the public."

7 2. The conduct described in the Findings of Fact constitute grounds for disciplinary  
8 action pursuant to A.R.S. §§ 32-3552(A)(1) and (3) and violate 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 3. 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.A.C. R4-45-  
13 214 (2) which states, "Procuring or attempting to procure by fraud or misrepresentation a license  
14 or renewal of a license to practice respiratory care."

15 ORDER

16 **IT IS HEREBY ORDERED THAT** Jim Sotelo, RCP, holder of License No. 009644  
17 shall be subject to the following:

18 1. Respondent shall pay a non-disciplinary **CIVIL PENALTY** for \$25.00 per  
19 missing continuing education hour in the total amount of **ONE HUNDRED TWENTY FIVE**  
20 **AND 00/100 DOLLARS (\$125.00)** for failing to complete five (5) continuing education hours  
21 within the required renewal period. This Civil Penalty shall be paid to the Arizona State Board of  
22 Respiratory Care Examiners by no later than **NINETY (90) DAYS** from the effective date of this  
23 Order. If Respondent is experiencing a financial hardship that requires payment of the Civil  
24 Penalty in increments or an extension of the Civil Penalty due date, please contact the Board  
25 offices at (602) 542-5995 to make alternative arrangements **NO LATER THAN THIRTY (30)**  
26 **DAYS** from the effective date of this Order.

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1           2.       Respondent shall submit **FIVE (5) HOURS** of approved continuing education (at  
2 least 5 live and at least 2 ethics) no later than **NINETY (90) DAYS** from the effective date of  
3 this Order. All costs associated with complying with the terms of this Order are to be paid by  
4 Respondent. These continuing education units shall be in addition to the normal continuing  
5 education units required for the current license renewal period



ARIZONA STATE BOARD OF RESPIRATORY CARE

\_\_\_\_\_  
Jack Confer, Executive Director

DATED THIS 8<sup>th</sup> DAY OF MAY, 2019.

12 Original Consent Agreement for Findings  
13 of Fact, Conclusions of Law and Non-  
14 Disciplinary Order filed this  
8<sup>th</sup> day of MAY, 2019 with the:

15 Arizona Board of Respiratory Examiners  
16 1740 West Adams Street, Suite 3406  
17 Phoenix, AZ 85007

18 Copy of the foregoing sent by electronic  
19 and regular mail this 8<sup>th</sup> day  
20 of MAY, 2019 to:

21 Jim Sotelo, RCP  
22 Address on Record  
23  
24  
25  
26

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