

**SETTLEMENT AGREEMENT BETWEEN MISSOURI BOARD FOR RESPIRATORY CARE
AND BRITTNEY JEFFERY**

Come now Brittney Jeffery ("Licensee") and the Missouri Board for Respiratory Care ("Board") and enter into this settlement agreement for the purpose of resolving the question of whether Licensee's license as a respiratory care practitioner will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline the Licensee's license, and, additionally, the right to a disciplinary hearing before the Board under § 621.110, RSMo.

Licensee acknowledges that Licensee understands the various rights and privileges afforded Licensee by law, including the right to a hearing of the charges against Licensee; the right to appear and be represented by legal counsel; the right to have all charges against Licensee proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Licensee; the right to present evidence on Licensee's own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against Licensee and, subsequently, the right to a disciplinary hearing before the Board at which time Licensee may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against Licensee's license. Being aware of these rights provided her by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this settlement agreement and agrees to abide by the terms of this document, as they pertain to Licensee.

Licensee acknowledges that Licensee has received a copy of the investigative report and/or other documents relied upon by the Board in determining there was cause to discipline Licensee's license, along with citations to law and/or regulations the Board believes was violated.

For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Board that Licensee's license, numbered 2010030126 is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621 and sections 334.800 through 334.930, RSMo.

¹ All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

Joint Stipulation of Fact and Conclusions of Law

1. The Missouri Board for Respiratory Care is an agency of the State of Missouri, created and established pursuant to § 334.830 RSMo., for the purpose of executing and enforcing the provisions of §§ 334.800 through 334.930, RSMo.

2. Licensee is licensed by the Board as a respiratory care practitioner, license number 2010030126. Licensee's Missouri license is now current and active.

3. On or about September 4, 2015, the Board received a complaint regarding Licensee. The complainant stated that Licensee had attempted to pass a forged prescription for Norco at the Walgreens Pharmacy located at 1955 S. National, Springfield, Missouri on August 20, 2015.

4. On or about September 8, 2015, Licensee was notified by letter that a complaint had been filed against her. Licensee was provided a copy of the complaint and given an opportunity to respond to the complaint. Licensee was sent notification letters, two on September 21, 2015 and a third on October 7, 2015. Each of the three letters were sent to three different addresses on file with the Board. The September correspondences were returned and the October correspondence was not immediately responded to by Licensee.

5. On November 6, 2015, Licensee submitted a written statement to the Board, in which she apologized for her actions; indicated she had learned her lesson; and asserted that she would no longer be abusing prescription medications.

6. On or about February 16, 2016, Division of Professional Registration, Central Investigative Unit Investigator Ron Hutcheson interviewed Licensee. During the interview, Licensee admitted that she attempted to pass the false prescription for Norco at Walgreens on August 21, 2015. Licensee stated that she obtained the blank prescription from the ICU at Mercy Hospital, 1235 E. Cherokee, Springfield, Missouri. Licensee identified the prescription form made out to Diane Sapp, as the prescription that Mercy Security caught her attempting to pass at the Walgreens. Licensee stated that she made up the name Diane Sapp and used Dr. Ken Larson's name because she knew his name from her work at Mercy. Licensee stated that she signed Dr. Larson's name without Dr. Larson's knowledge of her forging his name.

7. The Licensee stated that she was motivated to forge the prescription because of the pain she was experiencing from temporomandibular joint disorder (TMJ), which she was diagnosed as having in April of

2015. She noted that her doctor would not prescribe pain narcotic medication. Licensee informed Investigator Hutcheson that she has not participated in a rehabilitation program in order to avoid the narcotic. Licensee indicated that she was scared by the incident promised nothing like this would be happening with her again.

8. Regulation 20 CSR 2255-5.010 states, in relevant part:

(1) All respiratory care practitioners and permit holders shall—

(A) Demonstrate behavior that reflects integrity, supports objectivity, and fosters trust in the profession and its professionals;

(H) Refuse to participate in illegal or unethical acts, or conceal illegal, unethical or incompetent acts of others;

(J) Comply with state and federal laws[.]

(2) Failure of a respiratory care practitioner or permit holder to adhere to the code of ethics constitutes grounds for discipline of the license or permit.

9. Licensee's conduct, as described in paragraphs 3 through 8 above constitutes misconduct in the performance of the duties of a respiratory care practitioner for which the Board has cause to discipline Licensee's license.

10. Licensee's conduct, as described in paragraphs 3 through 8 above, constitutes incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions and duties of a respiratory care practitioner for which the Board has cause to discipline Licensee's license.

11. Licensee's conduct, as described in paragraphs 3 through 8 above, constitutes violation of, assisting, or enabling any person to violate, any provision of sections 334.800 to 334.930, RSMo., or any lawful rule or regulation adopted pursuant to sections 334.800 to 334.930, RSMo., for which the Board has cause to discipline Licensee's license.

12. Licensee's conduct, as described in paragraphs 3 through 8 above, constitutes violation of a professional trust or confidence, for which the Board has cause to discipline Licensee's license.

13. Cause exists for the Board to take disciplinary action against Licensee's license under § 334.920.2(5), (6), (12), (14) and (15) RSMo, which states in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of

any certificate of registration or authority, permit or license required by sections 334.800 to 334.930 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

- (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions and duties of a respiratory care practitioner;
- (6) Violation of, assisting, or enabling any person to violate, any provision of sections 334.800 to 334.930 or any lawful rule or regulation adopted pursuant to sections 334.800 to 334.930;
- (12) Violation of any professional trust or confidence;
- (14) Committing unethical conduct as defined in the ethical standards for respiratory care practitioners adopted by the division and filed with the secretary of state; or
- (15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government[.]

Joint Agreed Disciplinary Order

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of § 621.045.3, RSMo:

12. The terms of discipline shall include that the respiratory care practitioner license be placed on **PROBATION** for a period of two (2) years ("disciplinary period"). During Licensee's probation, Licensee shall be entitled to engage in the practice of respiratory care under sections 334.800 through 334.930, RSMo, provided Licensee adheres to all of the terms of this Settlement Agreement.

I. WELLNESS REQUIREMENT

- A. During the disciplinary period, Licensee shall, at Licensee's expense, submit to drug and/or alcohol screens as required by the Board. Licensee shall, upon demand and without delay, provide a biological sample to the Board's designated representative, including allowing the Board's designated representative to obtain witnessed biological fluid samples and shall cooperate fully and completely with the Board's designated representative in providing such samples. The presence of any controlled substance, any drug whatsoever in a drug screen for which Licensee does not hold a valid prescription or any alcohol shall constitute a violation of this Agreement.

II. GENERAL REQUIREMENTS

- A. Licensee shall meet with the Board or its representatives at such times and places as required by the Board after notification of a required meeting.

- B. Licensee shall submit reports to the Missouri Board for Respiratory Care, P.O. Box 1335, Jefferson City, Missouri 65102, stating truthfully whether Licensee has complied with all the terms and conditions of this Settlement Agreement by no later than January 1 and July 1 during each year of the disciplinary period.
- C. Licensee shall keep the Board apprised of Licensee's current home and work addresses and telephone numbers. Licensee shall inform the Board within ten days of any change of home or work address and home or work telephone number.
- D. Licensee shall comply with all provisions of the Respiratory Care Practice Act, Sections 334.800 through 334.930, RSMo; all applicable federal and state drug laws, rules, and regulations; and all federal and state criminal laws. "State" here includes the state of Missouri and all other states and territories of the United States.
- E. During the disciplinary period, Licensee shall timely renew Licensee's license and timely pay all fees required for licensing and comply with all other board requirements necessary to maintain Licensee's license in a current and active state.
- F. If at any time during the disciplinary period, Licensee removes Licensee from the state of Missouri, ceases to be currently licensed under provisions of Sections 334.800 through 334.930, RSMo., or fails to advise the Board of Licensee's current place of business and residence, the time of Licensee's absence, unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed in accordance with § 334.920.3, RSMo.
- G. During the disciplinary period, Licensee shall accept and comply with unannounced visits from the Board's representatives to monitor Licensee's compliance with the terms and conditions of this Settlement Agreement.
- H. If Licensee fails to comply with the terms of this Settlement Agreement, in any respect, the Board may impose such additional or other discipline that it deems appropriate, (including imposition of the revocation).
- I. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Sections 334.800 through 334.930, RSMo, by Licensee not specifically mentioned in this document.

13. The parties to this Agreement understand that the Missouri Board for Respiratory Care will maintain this Agreement as an open record of the Board as provided in Chapters 334, 610 and 324, RSMo.

14. The terms of this settlement agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither this settlement agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

15. Licensee, together with Licensee's heirs and assigns, and Licensee's attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any

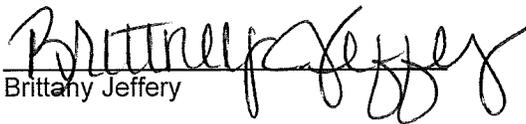
liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement, or from the negotiation or execution of this settlement agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement agreement in that it survives in perpetuity even in the event that any court of law deems this settlement agreement or any portion thereof to be void or unenforceable.

16. If no contested case has been filed against Licensee, Licensee has the right, either at the time the settlement agreement is signed by all parties or within fifteen days thereafter, to submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the settlement agreement constitute grounds for denying or disciplining the license of the licensee. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit this request to:

Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.

17. If Licensee has requested review, Licensee and Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's license and issue findings of fact and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Licensee's license. Effective the date the Administrative Hearing Commission determines that the agreement sets forth cause for disciplining Licensee's license, the agreed upon discipline set forth herein shall go into effect.

LICENSEE


Brittany Jeffery

Date 4/24/2014

BOARD


Vanessa Beauchamp,
Executive Director
Missouri Board for Respiratory Care

Date 4/28/16