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**SETTLEMENT AGREEMENT BETWEEN MISSOURI BOARD FOR RESPIRATORY CARE  
AND SUSAN LANDERS**

Come now Susan Landers ("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,<sup>1</sup> 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 2007027838 is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621 and Sections 334.800 through 334.930, RSMo.

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<sup>1</sup> 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, Susan Landers, is licensed by the Board as a respiratory care practitioner, license number 2007027838. Licensee's Missouri license is now current and active.

3. On or about August 24, 2013, the Board received a letter dated August 19, 2013 regarding Licensee. The letter, from Licensee's employer, stated that St. Luke's Hospital took final disciplinary/separation of employment action related to Licensee. The letter stated the discharge related to Licensee's violation of St. Luke's Drug Free Workplace Policy and violation of Return to Work Agreement of Drug Free Workplace Policy violation. The letter also included documentation regarding Licensee's termination. On or about August 13, 2013, Licensee tested positive for alcohol in the workplace. Licensee was tested at 8:20 p.m. and at 8:38 p.m. Licensee's test was positive on both occasions.

4. On or about October 11, 2013, the Board received Licensee's response to the August 19, 2103 letter. Licensee's response, dated October 4, 2013, stated that she was "currently under therapy and seeing a therapist." Licensee stated she is "also attending AA meetings one to two times a week." Further, Licensee stated "unfortunately it took losing my job to realize the damage I am causing to myself and to my family. I have a goal to remain alcohol free the rest of my life." She stated that her husband and children "greatly support" her. She stated "I do wish to continue my career in the respiratory care field."

5. Regulation 20 CSR 2255-5.020(1) states, in relevant part:

(1) Professional conduct in the practice of respiratory care shall not include:

(A) Committing any act which endangers patient health, safety or welfare;

...

(N) Failure to follow policies or procedures implemented in the practice situation to safeguard patient care; and

(S) Use of a controlled substance or alcoholic beverage to an extent that impairs one's ability to provide safe respiratory care services.

6. Licensee's conduct, as described in paragraphs 3 and 4 above, constitutes use of an alcoholic beverage to an extent that such use impairs a person's ability to perform the work of a respiratory care practitioner, for which the Board has cause to discipline Licensee's license.

7. Licensee's conduct, as described in paragraphs 3 and 4 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.

8. Licensee's conduct, as described in paragraphs 3 and 4 above, constitutes violation of lawful regulations adopted pursuant to sections 334.800 to 334.930, RSMo, which the Board has cause to discipline Licensee's license.

9. Licensee's conduct, as described in paragraphs 3 through 5 above, constitutes violation of a professional trust or confidence, for which the Board has cause to discipline Licensee's license.

10. Licensee's conduct, as described in paragraphs 3 and 4 above, constitutes committing an unethical act as defined in the ethical standards for respiratory care practitioners, for which the Board has cause to discipline Licensee's license.

11. Cause exists for the Board to take disciplinary action against Licensee's license under § 334.920.2(1), (5), (6), (12) and (14), 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:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of a respiratory care practitioner;

...

(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, or 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[.]

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. **SPECIFIC REQUIREMENTS**

- A. Licensee shall attend and complete a Board approved chemical dependency evaluation. Licensee shall be responsible for securing an appropriate entity to complete the evaluation and obtaining the Board's approval for that entity prior to completing the entity's evaluation program. Licensee shall arrange with the approved evaluation entity to complete the evaluation within the first eight weeks of this Order. Licensee shall follow all recommendations of the entity with regards to counseling, evaluations, any treatment deemed necessary by an evaluation, and any follow-up care. Failure to complete the evaluation and follow all recommendations shall constitute a violation of this Agreement. A copy of the completed evaluation will be due, in the Board's office, within 30 days of the date of the evaluation.
- B. The evaluation shall be sent to:
- Missouri Board for Respiratory Care  
P.O. Box 1335  
Jefferson City, Missouri 65102.
- C. Licensee shall cause an employment evaluation form from each and every respiratory care employer of Licensee's to be submitted to the board within six weeks of the effective date of this order. That evaluation shall include information as to Licensee's orientation and training and overall competency in practicing respiratory care therapies. Thereafter, employment evaluation forms will be due, in the Board's office, on the 1<sup>st</sup> days of February, May, August and November of every year that this order is in force. The evaluation form shall be completed by Licensee's supervisor within a four week period prior to the date it is due. If Licensee ends employment with a healthcare employer, Licensee shall, in addition, cause a final evaluation form from that supervisor to be submitted to the board within six weeks following the last day of employment. If Licensee is not employed as a respiratory care practitioner, Licensee shall submit a notarized letter stating that Licensee is not employed as a respiratory care practitioner and stating Licensee's current employment in lieu of the employment evaluation.
- D. The evaluation shall be sent by the supervisor to:

Missouri Board for Respiratory Care  
P.O. Box 1335  
Jefferson City, Missouri 65102.

## 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, 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.

## III. ADDITIONAL REQUIREMENTS

- A. Licensee shall not allow Licensee's license to lapse.
- B. Licensee shall notify, within 15 days of the effective date of this Settlement Agreement, all hospitals, nursing homes, out-patient centers, surgical centers, clinics, and all other facilities where Licensee practices or has privileges of Licensee's disciplinary status. Notification shall be in writing and Licensee shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Board for verification by the Board or its designated representative.

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**

Susan Landers  
Susan Landers

Date Jan. 4, 2014

**BOARD**

Vanessa Beauchamp  
Vanessa Beauchamp,  
Executive Director  
Missouri Board for Respiratory Care

Date 2-7-14