

Before the

**N.H. Respiratory Care Practitioners Governing Board
Office of Allied Health Professionals
Concord, New Hampshire 03301**

**In the Matter of:
Barbara Caruso, RCP**

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of respiratory care therapy, the New Hampshire Board of Respiratory Care Practitioners ("the Board") and Barbara Caruso, RCP ("the Respondent") agree to settle certain allegations of professional misconduct now pending before the Board in accordance with the following terms and conditions:

1. The Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by respiratory care therapists who are its licensees pursuant to RSA 328-F: 23, I, 328-F: 24 and 328-F: 25, I. The Board may dispose of any such allegations by settlement and without commencing or completing a disciplinary hearing pursuant to RSA 328-F: 25, III and Ahp 214.01.
2. The Board first granted Respondent a license to practice respiratory care therapy in the State of New Hampshire on July 1, 1992. Respondent holds license number 0324. Respondent had been practicing respiratory at Catholic Medical Center in Manchester, New Hampshire.
3. On or about April 13, 2010, the Board received an anonymous complaint that addressed concerns with Ms. Caruso's mental health.
4. Respondent neither admits nor denies the allegations herein, but stipulates that if a disciplinary hearing were to take place, Hearing Counsel would present evidence upon

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which the Board could conclude that Respondent engaged in professional misconduct, in violation of RSA 328-F:23, II (a) and (f) and Resp 402.04 (m) (5), by the following facts:

- A. On or about April 1, 2010, Respondent suffered a significant adverse reaction to medication. Although Respondent was not at work at the time of this reaction, she returned to work four days later.
- B. Respondent returned to work before being able to schedule an appointment with her primary care physician to address the issues surrounding her adverse reaction to medication referenced above. Respondent's supervisor mandated that she take a personal leave of absence and that she notify employee health as well as the Employee Assistance Program.
- C. Respondent had taken a previous medical leave in 2007. This medical leave was based on Respondent's stress and anxiety level existing at the time. According to the paperwork submitted for this leave, Respondent was unable to perform work of any kind at that time.
- D. Respondent completed her license renewal application on November 26, 2007. Despite the medical leave she had taken several months earlier, Respondent denied having "any physical, mental or emotional condition, or any alcohol or substance abuse problem, which could negatively affect your ability to practice the profession for which you seek licensure." At the time she completed the renewal application, Respondent believed that her previous condition requiring medical leave was resolved.

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- E. Prior to this anonymous complaint, there were no respiratory care performance complaints in Respondent's employment file. She had been employed in a supervisory capacity for over nine years at the time of this conduct. This investigation did not reveal any evidence of compromised patient care.
- F. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct Respondent violated RSA 328-F:23, II (a) and (f) and Resp 402.04 (m) (5).
5. Respondent acknowledges that this conduct constitutes grounds for the Board to impose disciplinary sanctions against Respondent's license to practice as an respiratory care therapist in the State of New Hampshire.
6. Respondent consents to the following disciplinary action by the Board pursuant to RSA 328-F: 23, V:
- A. Respondent shall refrain from practicing as a respiratory care ~~therapist~~ ^{practitioner} until she has completed a 5-week therapy treatment plan called Transcranial Magnetic Stimulation (TMS) Therapy. Absent any concern from the TMS Therapy provider regarding Respondent's fitness to practice, and upon submission to the Board of proof of completion of the TMS Therapy, Respondent shall be allowed to continue to practice as a respiratory care ~~therapist~~ ^{practitioner}.

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- B. Respondent shall comply with the recommendations made in Eric Mart, Ph.D., ABPP's Psychological Report. A copy of this report shall be filed with the Board, under seal.
- C. Respondent shall continue individual therapy to address the underlying issues that led to the April 2010 incident. Respondent shall meet with her therapist as often as the therapist feels necessary. The therapist shall file monthly updates with the Board no later than the second Wednesday of each month. These updates shall be filed under seal. The updates shall include, but not be limited to, the following:
1. The therapist's opinion on the frequency of sessions;
 2. Respondent's attendance at all scheduled sessions;
 3. The therapist's opinion on Respondent's motivation and engagement in those areas that are being worked on in therapy. The specific areas do not need to be enumerated;
 4. A statement of any concerns regarding Respondent's fitness to practice.
- D. Respondent shall work with a psychiatrist to address her underlying mental health issues and devise an appropriate regimen for dealing with these issues. Respondent shall meet with this psychiatrist as often as the psychiatrist feels is necessary. The psychiatrist shall file monthly updates with the Board. These updates shall be filed under seal. The updates shall include, but not be limited to, the following:

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1. The psychiatrist's opinion on the frequency of sessions;
 2. Respondent's attendance at all scheduled sessions;
 3. A summary of the areas that are being addressed in sessions, including Respondent's gains as well as areas that need work;
 4. A summary of the regimen that has been developed to assist the Respondent in dealing with on-going depression and anxiety.
- E. The psychiatrist and therapist shall review the following documents within thirty (30) days of the issuance of this Settlement Agreement:
1. Complaint filed with the Board;
 2. Respondent's complete medical record from Willowbend Family Practice;
 3. Respondent's complete medical record from Jeffrey R. Greenfield, D.O.;
 4. Respondent's complete treatment record from Kathleen Albert, Ph.D;
 5. Respondent shall sign any and all releases necessary for provision of the above-listed records. Respondent shall also give all of her health care providers written permission to speak with her psychiatrist and individual therapist. Respondent shall

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also sign any and all releases allowing all of her providers listed above to communicate with each other as necessary.

- F. For twelve (12) months from the effective date of this Settlement Agreement, Respondent's practice is restricted inasmuch as Respondent shall not be employed as a supervisor and at least one licensed respiratory care practitioner must be on duty during all shifts where the Respondent is practicing as a respiratory care practitioner.
- G. In the event that Respondent obtains employment at a healthcare facility that only employs one respiratory care practitioner during a shift, she shall notify the Board in writing, prior to commencing employment. Under such circumstances, Respondent shall have her supervisor file a monthly update with the Board, regarding Respondent's work performance. These reports shall be filed under seal.
- H. Respondent shall receive all psychiatric medications, if any, from a single psychiatric provider. She shall sign any and all releases allowing her prescribing physician to verify Respondent's compliance with her medication regimen. Respondent shall inform the psychiatrist of all supplements that she is taking.
- I. The Board may evaluate and investigate information contained in any of the therapist's or psychiatrist's reports which calls into question Respondent's fitness to practice. Such information will be treated as a matter independent and separate from this Settlement Agreement, and may, as a result of such

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an evaluation and investigation, commence appropriate proceedings to take other appropriate action.

J. Respondent shall be responsible for ensuring that all reports required by the terms of this Settlement Agreement are filed in a timely manner with the Board. If a report is submitted beyond the deadline, the Board will take into account extenuating circumstances.

K. Within ten (10) days of the effective date of this agreement, as defined further below, Respondent shall furnish a copy of this Settlement Agreement to any current employer for whom Respondent performs services as respiratory care ~~therapist~~ practitioner or work which requires specialized training in respiratory care therapy or a respiratory care ~~therapy~~ practitioner license, or which directly or indirectly involves patient care and to any agency or authority which licenses, certifies or credentials respiratory care ~~therapists~~ practitioner with which Respondent is presently affiliated.

L. For a continuing period of twelve (12) months from the effective date of this agreement, Respondent shall furnish a copy of this Settlement Agreement to any employer to which Respondent may apply for work as a respiratory care ~~therapist~~ practitioner or for work in any capacity which requires respiratory care training, or license or directly or indirectly involves patient care and to any agency or authority that licenses, certifies or credentials respiratory care ~~therapists~~ practitioner to which Respondent may apply for any such professional privileges or recognition.

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- M. If at any time after six (6) months from the effective date of the Settlement Agreement Respondent can show proof to the Board that the notification requirements of paragraph K and L have become an impediment to her securing employment as Respiratory Care Practitioner, then Respondent may request a hearing at which she will have the opportunity to show cause why this particular reporting requirement should be lifted.
7. Respondent's breach of any terms or conditions of this Settlement Agreement shall constitute unprofessional conduct pursuant to RSA 328-F: 23, IV (d) and a separate and sufficient basis for further disciplinary action.
 8. Except as provided herein, this Settlement Agreement shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future. Any future discipline by the Board could include license suspension or revocation.
 9. This Settlement Agreement shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
 10. Respondent voluntarily enters into and signs this Settlement Agreement and states that no promises or representations have been made to her other than those terms and conditions expressly stated herein.

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11. The Board agrees that in return for Respondent executing this agreement, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
12. Respondent understands that her action in entering into this agreement is a final act and not subject to reconsideration or judicial review or appeal.
13. Respondent has had the opportunity to seek and obtain the advice of an attorney of her choosing in connection with her decision to enter into this agreement.
14. Respondent understands that the Board must review and accept the terms of this agreement. If the Board rejects any portion, the entire agreement shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this agreement have prejudiced her right to a fair and impartial hearing in the future if the Board does not accept this agreement.
15. Respondent is not under the influence of any drugs or alcohol at the time she signs this agreement.
16. Respondent certifies that she has read this document entitled Settlement Agreement. Respondent understands that she has the right to a formal adjudicatory hearing concerning the matters stated herein and that at said hearing she would possess the rights to confront and cross examine witnesses, to call witnesses, to present evidence, to testify on her own behalf, to contest the allegations to present oral argument and to appeal to the courts. Further, Respondent fully understands the nature, qualities and dimensions of these rights. Respondent understands that by signing this agreement she waives these rights as they pertain to the misconduct described herein.

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17. This Settlement Agreement shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

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FOR THE RESPONDENT

Date: 11-17-10

Barbara Caruso

Barbara Caruso, RCP
Respondent

Date: 11-17-10

Kristin Clouser

Kristin Clouser, Esq.
Counsel for Respondent

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

FOR THE BOARD/*

Date: December 14, 2010

Tina M Kelley
(Signature)

TINA M Kelley
(Print or Type Name)
Authorized Representative of the
New Hampshire Respiratory Care
Practitioners Governing Board

/* Board Member, recused:

