

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF RESPIRATORY  
CARE

In the Matter of  
Jane Flannery

RT License No. 4778  
License Expired May 31, 2014

RECEIVED BY  
OCT 21 2015

Docket No. REP-2013-005

VOLUNTARY CONSENT AGREEMENT NOT TO PRACTICE  
DUE TO MEDICAL INCAPACITY

The Massachusetts Board of Respiratory Care (Board) and Jane Flannery (Licensee), a Respiratory Therapist (RT) licensed by the Board, License No. RT4778, do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the Licensee's record maintained by the Board:

1. The Licensee acknowledges that a complaint has been filed with the Board against her Massachusetts Respiratory Therapist license (license<sup>1</sup>) related to the conduct set forth in paragraph 2, identified as Docket No. REP-2013-005 (the Complaint).
2. The Licensee admits that if the Board prosecuted the Complaint at a hearing, the Board could find that while she was employed as a Respiratory Therapist at North Shore Medical Center (NSMC) in Salem, MA, on or about August 7, 2013, the Licensee reported to work impaired by some substance or condition. The Licensee acknowledges that if proved, her conduct would constitute failure to comply with the Board's Regulations at 261 Code of Massachusetts Regulations (CMR) 4.04 (5) and (7) and warrant disciplinary action by the Board under Massachusetts General Laws (G.L.) Chapter 112, section 23X and Board regulations at 261 CMR 4.00, Disciplinary Actions.
3. The Board and the Licensee acknowledge that there has been a change in Licensee's medical conditions since the time of the above incident (August 2013) as confirmed by medical and other records. Consequently, the Licensee cannot perform the duties required of a Respiratory Therapist. The Licensee agrees not to practice as a Respiratory Therapist commencing with the date on which the Board signs this Agreement (Effective Date).
4. The Licensee agrees that she shall comply with all of the following requirements to the Board's satisfaction:

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<sup>1</sup> The term "license" applies to both a current license and the right to renew an expired license.

- a. The Licensee will not practice as a Respiratory Therapist in Massachusetts after the Effective date of this Agreement.<sup>2</sup>
  - b. The Licensee will NOT renew her Respiratory Therapist license.
  - c. The Licensee will notify the Board in writing within ten (10) days of any change of her name and/or address.
5. The Board agrees that in return for the Licensee's execution of this Agreement, *a non-disciplinary action*, it will not take disciplinary action against her Respiratory Therapist license or prosecute the Complaint. The Board and the Licensee agree that her Massachusetts Respiratory Therapist (RT) license status shall appear on the Board's web page as "current – practice not authorized". After the Effective Date, the Licensee may petition the Board for the termination of this Agreement Not to Practice and the removal of "current – practice not authorized" categorization of her (RT) license status. The petition must be in writing and must include the following documentation of the Licensee's ability to practice as a Respiratory Therapist in a safe and competent manner, all to the Board's satisfaction:
- a. Written verification sent directly to the Board from each of the Licensee's medical care providers, prepared within thirty (30) days of the petition date, that the Licensee is medically able to resume the safe and competent practice of nursing. The verification must meet the requirements set forth in **ATTACHMENT B 1**.
  - b. A comprehensive addictionologist evaluation that meets the requirements set forth in **ATTACHMENT B3**.
  - c. Evidence of completion of all continuing education required by Board regulations for license renewal.
  - d. Authorization for the Board to obtain a Criminal Offender Record Information (CORI) report of the Licensee conducted by the Massachusetts Department of Criminal Justice Information Services.

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<sup>2</sup> Practice as a Respiratory Therapist includes, but is not limited to, seeking and/or accepting a paid or voluntary position as a Respiratory Therapist, or a paid or voluntary position requiring that the applicant hold a current Respiratory Therapist license. The Licensee further understands that if she accepts a voluntary or paid position as a Respiratory Therapist, or engages in any practice of respiratory care after the Effective Date and before the Board formally terminates this Agreement, evidence of such practice shall be grounds for the Board's referral of any such unlicensed practice to the appropriate law enforcement authorities for prosecution, as set forth in M.G.L.c. 112 §§ 23AA and 23X.

- e. Documentation that the Licensee has completed, at least one (1) year prior to the petition date, all requirements imposed upon her in connection with all criminal and/or administrative matter(s) arising from, or related to, the conduct identified in Paragraph 2<sup>3</sup>. Such documentation shall be certified and sent directly to the Board by the appropriate court or administrative body and shall include a description of the requirements and the disposition of each matter.
  - f. Certified documentation from the state board of Respiratory Therapists of each jurisdiction in which the Licensee has ever been licensed to practice as a RT, sent directly to the Massachusetts Board identifying her license status and discipline history, and verifying that her RT license is, or is eligible to be, in good standing and free of any restrictions or conditions.
6. The Board may choose to reinstate the Licensee's RT license if the Board determines that reinstatement is in the best interests of the public at large. Any reinstatement of the Licensee's RT license may be conditioned upon the Licensee entering into a consent agreement for the PROBATION of her license for a duration, and including requirements that the Board determines at the time of license reinstatement to be reasonably necessary in the best interests of the public health, safety and welfare.
  7. If the Board receives credible information that the Licensee has failed to comply with the requirements in Paragraph 4 of this Agreement, or if the Board receives a "Subsequent Complaint"<sup>4</sup>, the Board will immediately SUSPEND the Licensee's Massachusetts RT license, *a disciplinary action*, and give her written notification of such suspension.<sup>5</sup>
  8. Any suspension of the Licensee's RT license under Paragraph 7 above will continue for an indefinite time, commencing upon the date the Board sent the Licensee written notice of suspension as set forth in Paragraph 7 above.
  9. After the commencement of said Suspension Period and when the Licensee can complete to the Board's satisfaction of all the requirements set forth in Paragraph 5, the Licensee may petition the Board for reinstatement of her license. As noted in Paragraph 5 above, the petition must be in writing and must include all of the documentation delineated in Paragraph 5.

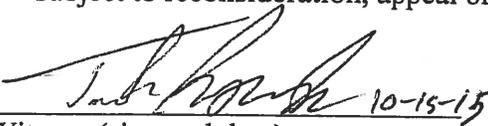
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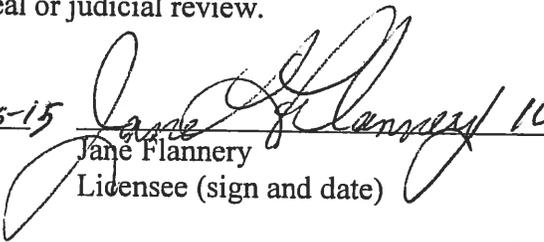
<sup>3</sup> If there have been no criminal or administrative matters against the Licensee arising from or in any way related to the conduct identified in Paragraph 2, the Licensee shall submit an affidavit so attesting.

<sup>4</sup> The term "Subsequent Complaint" applies to a complaint opened after the Effective date of this Agreement which (1) alleges that the Licensee engaged in conduct that violates Board statutes or regulations, and (2) is substantiated by evidence as determined following the complaint investigation, during which time the Licensee will have an opportunity to respond.

<sup>5</sup> In all instances where this Agreement specifies written notice to the Licensee from the Board, such notice shall be sent to the Licensee's address of record.

10. The Licensee understands that she has a right to formal adjudicatory hearing concerning the allegations against her and that during said adjudication she would possess the right 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, to appeal to the courts, and all other rights as set forth in the Massachusetts Administrative Procedures Act, G. L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 *et seq.* The Licensee further understands that by executing this Agreement she is knowingly and voluntarily waiving her right to a formal adjudication of the complaints.
11. The Licensee acknowledges that she has been at all times free to seek and use legal counsel in connection with the complaint and this Agreement.
12. The Licensee acknowledges that after the Effective Date, the Agreement constitutes a public record of non-disciplinary action by the Board. The Board may forward a copy of this Agreement to other licensing boards, law enforcement entities, and other individuals or entities as required or permitted by law.
13. The Licensee certifies that she has read this Agreement. The Licensee understands and agrees that entering into this Agreement is a final act and not subject to reconsideration, appeal or judicial review.

 10-15-15  
 Witness (sign and date)

 10-15-15  
 Jane Flannery  
 Licensee (sign and date)

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 Witness (print name)

  
 Ichelle Herbu.  
 Assistant Executive Director  
 Board of Respiratory Care

10/23/15  
 \_\_\_\_\_  
 Effective Date of Surrender Agreement

Fully Signed Agreement Sent to Licensee on 10/22/15 by Certified  
 Mail No. 7615 1520 0002 8254 7788