

right to hearing and all attendant rights, including the right to seek judicial review, by freely and voluntarily agreeing to this Settlement Agreement and Final Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.

6. Respondent is freely and voluntarily entering into this Settlement Agreement and Final Order. Respondent agrees that the State's counsel may present this agreement to the Board and may have *ex parte* communications with the Board while presenting it.

7. This Settlement Agreement and Final Order is subject to approval by the Board. If the Board approves this Settlement Agreement and Final Order, it becomes the final disposition of this matter. If the Board fails to approve this Settlement Agreement and Final Order, it shall be of no force or effect to either party.

8. This Settlement Agreement and Final Order shall be part of Respondent's permanent record and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.

9. In the event Respondent violates or fails to comply with any of the terms of this Settlement Agreement and Final Order, the Board may initiate appropriate action to revoke or suspend Respondent's license or to impose other licensee discipline in accordance with Iowa Code section 272C.3(2)(a).

10. This Settlement Agreement and Final Order is a public record available for inspection and copying upon execution of this Settlement Agreement and Final Order in accordance with the requirements of Iowa Code chapters 22 and 272C. The Notice of Hearing is also a public record which became available for inspection and copying the date it was filed in accordance with the requirements of Iowa Code chapters 17A, 22, and 272C.

11. The Board's approval of this Settlement Agreement and Final Order shall constitute a **FINAL ORDER** of the Board.

IT IS THEREFORE ORDERED:

12. Respondent agrees to voluntarily surrender his license within ten (10) days from the date of this order, and agrees not to practice respiratory care in Iowa after that date.

13. Respondent agrees that should he decide to return to the practice of respiratory care, he will have to file an application for reinstatement, governed by the provisions of 645 IAC 11.31. Respondent understands reinstatement is at the sole discretion of the Board.

14. Respondent agrees that should he return to the practice of respiratory care, his license will be on probation for a period of one year. During his probation, Respondent shall:

a. Obtain board approval for another licensed respiratory care therapist to serve as his practice monitor. During the period of probation, the practice monitor shall periodically observe Respondent and randomly review selected patient records to ensure Respondent is following proper protocols and meeting applicable standards of care.

b. Submit quarterly written reports to the Board no later than March 1, June 1, September 1, and December 1 during the period of probation. The quarterly reports should include all information necessary to verify Respondent's compliance with the terms of probation, including:

- (1) The time period covered by report;
- (2) The name and address of any place Respondent is employed as a respiratory care practitioner and a description of his duties;
- (3) The name and license number of Respondent's practice monitor.

c. Complete eight hours of continuing education involving practice with critical care ventilator patients. These hours shall not count toward the continuing education required for licensure renewal.

d. Notify the Board in writing prior to any change in his practice address or status. Failure to notify the Board within fifteen days of a change in employment status shall constitute a violation of this agreement.

e. Ensure that the approved practice monitor submit a quarterly written report of the practice monitor's observations and findings. Respondent is responsible for ensuring the practice monitor reviews occur. Respondent shall be responsible for any costs associated with the practice monitor reviews and reports.

f. Respondent shall continue counseling and shall ensure that his counselor submit quarterly written reports regarding his observations and findings until such a time that the counselor submits verification that maximum benefits of treatment have been achieved and counseling is no longer necessary.

15. Upon request of the Board, Respondent shall appear before the Board to report on the status of his practice and to answer any questions or concerns the Board may have regarding his practice as a respiratory care practitioner. The Board shall provide Respondent with reasonable notice of time, date and place for any requested appearance. Respondent agrees that any such appearance is governed by 645 IAC 9.7 and waives any and all objections to the Board members both participating in the appearance and later participating in decision makers in a contested case hearing.

16. Upon full compliance with the terms and conditions of the probationary period, Respondent's license to practice as a respiratory care practitioner in the state of Iowa shall be restored to its full privilege, free and clear of all restrictions.

This settlement agreement and final order is approved by the board on November 9, 2009.