

**Devin W. O'Neill, R.C.P.**

Date: 12/15/2017

Arun Bhandari, M.D., Chair  
Disciplinary Panel A  
Maryland State Board of Physicians  
4201 Patterson Avenue, 4<sup>th</sup> Floor  
Baltimore, MD 21215-2299

Re: Surrender of License to Practice Respiratory Care  
R.C.P. License Number: L05223  
Case Number: 7718-0027A

Dear Dr. Bhandari and Members of the Disciplinary Panel A,

Please be advised that I have decided to **SURRENDER** my license to practice respiratory care in the State of Maryland, License Number L05223, effective immediately, for a minimum period of one (1) year. I understand that upon surrender of my license, I may not practice respiratory care in the State of Maryland as it is defined in the Maryland Respiratory Care Practitioners Act (the "Act"), Md. Code Ann., Health Occ. II §§ 14-5A-01 *et seq.* (2014 Repl. Vol. and 2016 Supp.) and other applicable laws. In other words, as of the effective date of this Letter of Surrender, I understand that the surrender of my license means that I am in the same position as an unlicensed individual in the State of Maryland.

I understand that this Letter of Surrender is a **PUBLIC DOCUMENT**, and upon Disciplinary Panel A's ("Panel A") acceptance, becomes a **FINAL ORDER** of Panel A of the Maryland State Board of Physicians (the "Board").

I acknowledge that in 2017, the Board initiated an investigation of my licensure after a Maryland health care facility reported that it had terminated my employment for actions that would constitute violations of the Act. Panel A subsequently voted to charge me with violating the Act.

Prior to the issuance of disciplinary charges, I entered into a Consent Order with Panel A, dated September 1, 2017 (the "Consent Order"), in which Panel A found as a matter of law that I violated the following provisions of the Act under Health Occ. II § 14-5A-17(a): (3) Is guilty of unprofessional conduct in the practice of respiratory care; (18) Fails to meet appropriate standards for the delivery of respiratory care performed in any inpatient or outpatient facility, office, hospital or related institution, domiciliary care facility, patient's home, or any other location in this State; and (27) Violates a supervisory order of a supervising physician.

Arun Bhandari, M.D. and Members of Disciplinary Panel A  
RE: Devin W. O'Neill, R.C.P.; License Number L05223  
Letter of Surrender  
Page 2

Pursuant to the Consent Order, Panel A reprimanded me and directed me to enroll in the Maryland Professional Rehabilitation Program ("MPRP") and "fully and timely cooperate and comply with all of MPRP's referrals, rules, and requirements, including but not limited to, the terms and conditions of the Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered into with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and toxicology screenings as directed by MPRP." **A copy of the Consent Order is attached hereto as Attachment One.**

On or about September 21, 2017, I enrolled in the MPRP and pursuant thereto, executed a Participant Rehabilitation Agreement where I agreed, *inter alia*, not to use illicit substances, consume controlled substances or mood-altering substances, obtained through prescription or otherwise, unless prescribed in an appropriate manner for a legitimate medical purpose; and to undergo random toxicology screens.

MPRP reported to the Board that on multiple occasions in October 2017, I underwent random toxicology screens and had positive test findings, in violation of my Participant Rehabilitation Agreement. MPRP also reported that I failed to undergo random toxicology screening on one occasion and also admitted to engaging in acts that violated this Participant Rehabilitation Agreement.

On October 26, 2017, MPRP notified the Board that based on the above findings, it discharged me for cause.

After receiving this information, Panel A, in an Order for Summary Suspension of License to Practice Respiratory Care (the "Order"), dated November 6, 2017, summarily suspended my license to practice respiratory care. **A copy of the Order is attached hereto as Attachment Two.**

In addition, the Board determined that I violated the terms and conditions of the Consent Order in that on multiple occasions in October 2017, I underwent random toxicology screens and had positive test findings, in violation of my Participant Rehabilitation Agreement, failed to undergo random toxicology screening on one occasion and also admitted to engaging in acts that violated his Participant Rehabilitation Agreement.

I have decided to surrender my license to practice respiratory care in the State of Maryland to avoid further investigation and prosecution of these allegations. I recognize that for all purposes relevant to respiratory care licensure

Arun Bhandari, M.D. and Members of Disciplinary Panel A

RE: Devin W. O'Neill, R.C.P.; License Number L05223

Letter of Surrender

Page 3

that these allegations shall be treated as proven and that these allegations support a conclusion that I violated the terms and conditions of the Consent Order, as noted above.

I wish to make it clear that I have voluntarily, knowingly and freely chosen to submit this Letter of Surrender to avoid the issuance of charges and prosecution of the aforementioned allegations. I do not wish to contest these allegations. I understand that by executing this Letter of Surrender I am waiving my right to contest any charges that would issue from Panel A's investigative findings in a formal evidentiary hearing at which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf and all other substantive and procedural protections provided by law, including the right to appeal to circuit court.

I understand that the Board will advise the Federation of State Medical Boards, the National Practitioner Data Bank, and the Healthcare Integrity and Protection Data Bank of this Letter of Surrender, and in response to any inquiry, that I have surrendered my license as if it were revoked. I also understand that in the event I would apply for licensure in any form in any other state or jurisdiction that this Letter of Surrender may be released or published by the Board to the same extent as a final order that would result from disciplinary action, pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014), and that this Letter of Surrender constitutes a disciplinary action by Panel A.

I affirm that as of the date of this Letter of Surrender, I will present to the Board my original Maryland respiratory care practitioner license, number L05223, any renewal wallet cards and wall certificate. I also affirm that I will provide access to and copies of patient medical records in compliance with Title 4, subtitle 3 of the Health General article.

I further recognize and agree that by submitting this Letter of Surrender, my license will remain surrendered for a minimum period of one (1) year, and unless and until the Board grants reinstatement. In the event that I apply for reinstatement of my Maryland License, I understand that Panel A or its successor has sole discretion to accept or deny my petition or deny my petition for reinstatement; and, if it does grant reinstatement, may impose any terms and conditions the disciplinary panel considers appropriate for public safety and the protection of the integrity and reputation of the profession. I further understand that if I ever file a petition for reinstatement, I will approach Panel A or its successor in the same position as an individual whose license has been revoked. I also understand that

Arun Bhandari, M.D. and Members of Disciplinary Panel A  
RE: Devin W. O'Neill, R.C.P.; License Number L05223  
Letter of Surrender

Page 4

if I apply for reinstatement, I bear the burden of demonstrating my professional competence and fitness to practice respiratory care to the satisfaction of Panel A or its successor.

I acknowledge that I may not rescind this Letter of Surrender in part or in its entirety for any reason whatsoever. Finally, I wish to make clear that I have been advised of my right to be represented by an attorney of my choice throughout proceedings before Panel A, including the right to counsel with an attorney prior to signing this Letter of Surrender. I have knowingly and willfully waived my right to be represented by an attorney before signing this letter surrendering my license to practice respiratory care in Maryland. I understand both the nature of Panel A's actions and this Letter of Surrender fully. I acknowledge that I understand and comprehend the language, meaning and terms and effect of this Letter of Surrender. I make this decision knowingly and voluntarily.

Very truly yours,

Devin W. O'Neill 12/13/17, R.C.P.

NOTARY

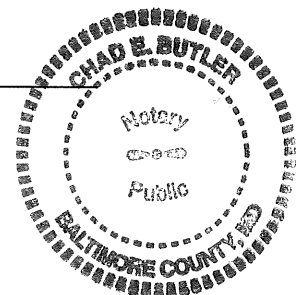
STATE OF Maryland  
CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 13<sup>th</sup> day of December, 2017 before me, a Notary Public of the City/County aforesaid, personally appeared Devin W. O'Neill, R.C.P., and declared and affirmed under the penalties of perjury that the signing of this Letter of Surrender was his voluntary act and deed.

AS WITNESSETH my hand and Notarial seal.

Chad E. Butler  
Notary Public

My commission expires: 2/8/2019

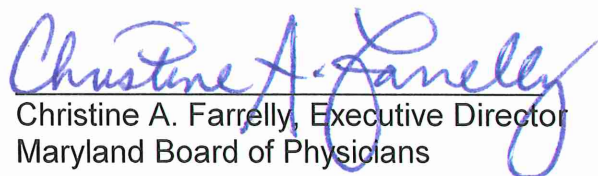


Arun Bhandari, M.D. and Members of Disciplinary Panel A  
RE: Devin W. O'Neill, R.C.P.; License Number L05223  
Letter of Surrender

Page 5

**ACCEPTANCE**

On behalf of Disciplinary Panel A, on this 15<sup>th</sup> day of December,  
2017, I, Christine A. Farrelly, accept Devin O'Neill, R.C.P.'s **PUBLIC**  
**SURRENDER** of his license to practice respiratory care in the State of Maryland.

  
Christine A. Farrelly, Executive Director  
Maryland Board of Physicians

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# ATTACHMENT 1

IN THE MATTER OF  
DEVIN W. O'NEILL, R.C.P.  
Respondent  
License Number: L05223

\* BEFORE THE  
\* MARYLAND STATE  
\* BOARD OF PHYSICIANS  
\* Case Number: 2217-0024A

\* \* \* \* \*

CONSENT ORDER

PROCEDURAL BACKGROUND

On August 9, 2017, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") voted to charge **DEVIN W. O'NEILL, R.C.P.** (the "Respondent"), License Number L05223, under the Maryland Respiratory Care Practitioners Act (the "Act"), Md. Code Ann., Health Occ. II ("Health Occ. II") §§ 14-5A-01 *et seq.* (2014 Repl. Vol.).

Panel A voted to charge the Respondent with violating the following provisions of the Act under Health Occ. II § 14-5A-17:

(a) *In general.* - Subject to the hearing provisions of §14-405 of this title, a disciplinary panel, . . . a disciplinary panel, on the affirmative vote of a majority of a quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the . . . licensee:

- (3) Is guilty of unprofessional or immoral conduct in the practice of respiratory care;
- (18) Fails to meet appropriate standards for the delivery of respiratory care performed in any inpatient or outpatient facility, office, hospital or related institution, domiciliary care facility, patient's home or any other location in this State; [and]
- (27) Fails to practice under the supervision of a physician or violates a supervisory order of a supervising physician[.]

Prior to the issuance of charges, the Respondent agreed to enter into this public Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order, Consent and Notary.

### **FINDINGS OF FACT**

Panel A of the Board makes the following Findings of Fact:

1. At all times relevant hereto, the Respondent was and is licensed as a respiratory care practitioner in the State of Maryland. The Respondent was initially licensed as a respiratory care practitioner in Maryland on July 8, 2009, under License Number L05223. The Respondent's Maryland respiratory care practitioner's license is current and active through May 30, 2018.

2. At all times relevant hereto, the Respondent was employed as a respiratory care practitioner at a health care facility (the "Facility")<sup>1</sup> that is located in Maryland.

3. On February 10, 2017, the Board received a Mandated 10-Day Report (the "Report") from the Facility, which stated that it terminated the Respondent's employment as a respiratory care practitioner, effective February 7, 2017, for "deliberate inattention to patient care, or engaging in any conduct detrimental to patient care, or the safety and security of patients, employees, or visitors." Specifically, the Facility stated that the Respondent violated Facility orders/policy in not checking and changing the tracheostomy tubes on two patients while on duty as a respiratory care practitioner on February 6, 2017.

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<sup>1</sup> For confidentiality reasons, the names of health care facilities, complainants, patients or individuals, other than the Respondent, have not been identified in this document. The Respondent is aware of the identity of all entities and individuals referenced herein.



4. After receiving the above Report, the Board initiated an investigation of the Respondent. The Board's investigation determined that the Respondent was on duty as a respiratory care practitioner at the Facility on February 6, 2017, and failed to check on, and change the tracheotomy tubes of two patients for whom he was responsible, despite supervisory/Facility orders that required him to change those tracheostomy tubes during his shift on that date. The Respondent was aware of his responsibility to change these tracheostomy tubes through oral report at shift change, orders in the electronic medical records, and documentation on his report sheet, and pursuant to supervisory orders/Facility policy.

5. The Board requested that the Respondent provide a written response to the allegations that were referenced in the Report. In a letter dated February 24, 2017, the Respondent acknowledged responsibility for his actions, stating that on February 6, 2017, he "failed to make rounds to a trach patients (sic) room to perform an assessment on them."

6. The Respondent's failure to change the tracheostomy tubes of two patients at the Facility on February 6, 2017, despite supervisory orders/Facility policy requiring him to do so, constitutes a violation of the following provisions of the Act under Health Occ. II § 14-5A-17(a): (3) Is guilty unprofessional conduct in the practice of respiratory care; (18) Fails to meet appropriate standards for the delivery of respiratory care performed in any inpatient or outpatient facility, office, hospital or related institution, domiciliary care facility, patient's home, or any other location in this State; and/or (27) Violates a supervisory order of a supervising physician.

### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent violated the following provisions of the Act under Health Occ. II § 14-5A-17(a): (3) Is guilty of unprofessional conduct in the practice of respiratory care; (18) Fails to meet appropriate standards for the delivery of respiratory care performed in any inpatient or outpatient facility, office, hospital or related institution, domiciliary care facility, patient's home, or any other location in this State; and (27) Violates a supervisory order of a supervising physician.

### ORDER

It is, on the affirmative vote of a majority of the quorum of Panel A, hereby:

**ORDERED** that the Respondent is **REPRIMANDED**; and it is further

**ORDERED** that the Respondent shall comply with the following terms and conditions:

1. The Respondent shall enroll in the Maryland Professional Rehabilitation Program ("MPRP"). Within **five (5) business days**, the Respondent shall contact MPRP to schedule an initial consultation for enrollment. Within **fifteen (15) business days**, the Respondent shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP. The Respondent shall fully and timely cooperate and comply with all of MPRP's referrals, rules, and requirements, including but not limited to, the terms and conditions of the Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered into with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and toxicology screenings as directed by MPRP;

2. The Respondent shall sign and update the written release/consent forms requested by the Board and MPRP. The Respondent shall sign the release/consent forms to authorize MPRP to make verbal and written disclosures to the Board, including disclosure of any and all MPRP records and files possessed by MPRP. The Respondent shall also sign any written release/consent forms to authorize MPRP to exchange with (i.e., disclose to and receive from) outside entities (including all of the Respondent's current therapists and treatment providers) verbal and written information concerning the Respondent and to ensure that MPRP is authorized to receive the medical records of the Respondent, including, but not limited to, mental health and drug or alcohol treatment records.

**AND IT IS FURTHER ORDERED** that if the Respondent allegedly fails to comply with any term or condition of this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If there is a genuine dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings. If there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before the Board or Panel A; and it is further

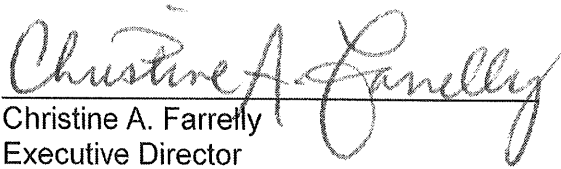
**ORDERED** that after the appropriate hearing, if the Board or Panel A determines that the Respondent has failed to comply with any term or condition of this Consent Order, the Board or Panel A may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to practice respiratory care therapy in Maryland. The Board or Panel A may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon the Respondent; and it is further

**ORDERED** that unless stated otherwise in the order, any time period prescribed in this order begins when the Consent Order goes into effect. The Consent Order goes into effect upon the signature of the Board's Executive Director, who signs on behalf of Panel A; and it is further

**ORDERED** that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

**ORDERED** that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions §§ 4-101 *et seq.* (2014).

09/01/2017  
Date

  
Christine A. Farrelly  
Executive Director  
Maryland State Board of Physicians

**CONSENT**


I, Devin W. O'Neill, R.C.P., acknowledge that I have been apprised of my right to counsel and have knowingly and voluntarily agreed to proceed without counsel before entering into this Consent Order. By this Consent, I agree and accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact, Conclusions of Law and Order.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of Panel A to initiate these proceedings and to issue and enforce this

Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of Disciplinary Panel B of the Board that might have followed after any such hearing.

I sign this Consent Order, voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

8/30/17  
Date

  
Devin W. O'Neill, R.C.P.  
Respondent

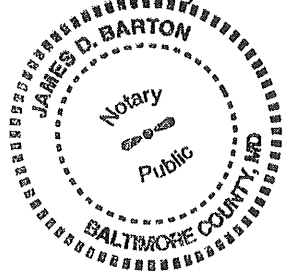
**NOTARY**

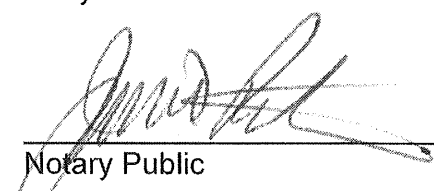
STATE OF MARYLAND

CITY/COUNTY OF BALTIMORE

I HEREBY CERTIFY that on this 30<sup>th</sup> day of AUGUST, 2017, before me, a Notary Public of the foregoing State and City/County personally appear Devin W. O'Neill, R.C.P. and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notary seal.



  
Notary Public

My commission expires: 11/15/2019

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# ATTACHMENT 2

IN THE MATTER OF  
DEVIN W. O'NEILL, R.C.P.  
Respondent  
License Number: L05223

\* BEFORE THE  
\* MARYLAND STATE  
\* BOARD OF PHYSICIANS  
\* Case Number: 7718-0027

\* \* \* \* \*

**ORDER FOR SUMMARY SUSPENSION OF LICENSE TO PRACTICE  
RESPIRATORY CARE**

Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") hereby **SUMMARILY SUSPENDS** the license of **DEVIN W. O'NEILL, R.C.P.** (the "Respondent"), License Number L05223, to practice respiratory care in the State of Maryland.

Panel A takes such action pursuant to its authority under Md. Code Ann., State Gov't II ("State Gov't II") § 10-226(c)(2) (2014 Repl. Vol. and 2016 Supp.) and Md. Code Regs. ("COMAR") 10.32.02.08B(7), concluding that the public health, safety or welfare imperatively requires emergency action.

**INVESTIGATIVE FINDINGS**

Based on information received by, and made known to Panel A, and the investigatory information obtained by, received by and made known to and available to Panel A, including the instances described below, Panel A has reason to believe that the following facts are true:<sup>1</sup>

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<sup>1</sup> The statements regarding the Respondent's conduct are intended to provide the Respondent with notice of the basis of the summary suspension. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

1. At all times relevant hereto, the Respondent was and is licensed to practice respiratory care in the State of Maryland. The Respondent was initially licensed as a respiratory care practitioner in Maryland on July 8, 2009, under License Number L05223. The Respondent's Maryland respiratory care practitioner's license is current and active through May 30, 2018.

2. In or around February 2017, the Board initiated an investigation of the Respondent under Case Number 2217-0024A after receiving a Mandated 10-Day Report (the "Report") from a health care facility (the "Facility")<sup>2</sup> where the Respondent was formerly employed, which stated that it terminated the Respondent's employment as a respiratory care practitioner, effective February 7, 2017, for "deliberate inattention to patient care, or engaging in any conduct detrimental to patient care, or the safety and security of patients, employees, or visitors." Specifically, the Facility stated that the Respondent violated Facility orders/policy in not checking and changing the tracheostomy tubes on two patients while on duty as a respiratory care practitioner on February 6, 2017.

3. After the Board conducted its investigation, Panel A voted to charge the Respondent with a series of violations of the Maryland Respiratory Care Practitioners Act (the "Act"), Md. Code Ann., Health Occ. II ("Health Occ. II") §§ 14-5A-01 *et seq.* (2014 Repl. Vol.).

4. Prior to the issuance of disciplinary charges, the Respondent agreed to enter into a Consent Order, effective September 1, 2017, in which Panel A found as a matter of law that the Respondent violated the following provisions of the Act under

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<sup>2</sup> For confidentiality reasons, the names of health care facilities will not be identified by name in this document. The Respondent may obtain the name of any health care facility referenced herein by contacting the assigned administrative prosecutor.



Health Occ. II § 14-5A-17(a): (3) Is guilty of unprofessional conduct in the practice of respiratory care; (18) Fails to meet appropriate standards for the delivery of respiratory care performed in any inpatient or outpatient facility, office, hospital or related institution, domiciliary care facility, patient's home, or any other location in this State; and (27) Violates a supervisory order of a supervising physician.

5. Pursuant to the Consent Order, Panel A reprimanded the Respondent and ordered him to enroll in the Maryland Professional Rehabilitation Program ("MPRP") and "fully and timely cooperate and comply with all of MPRP's referrals, rules, and requirements, including but not limited to, the terms and conditions of the Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered into with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and toxicology screenings as directed by MPRP."

6. On or about September 21, 2017, the Respondent enrolled in the MPRP and pursuant thereto, executed a Participant Rehabilitation Agreement where he agreed, *inter alia*, not to use illicit substances, consume controlled substances or mood-altering substances, obtained through prescription or otherwise, unless prescribed in an appropriate manner for a legitimate medical purpose; and to undergo random toxicology screens.

7. MPRP reported to the Board that on multiple occasions in October 2017, the Respondent underwent random toxicology screens and had positive test findings, in violation of his Participant Rehabilitation Agreement. MPRP also reported that the Respondent failed to undergo random toxicology screening on one occasion and also admitted to engaging in acts that violated his Participant Rehabilitation Agreement.

8. On October 26, 2017, MPRP notified the Board that based on the above findings, it discharged the Respondent for cause.

9. Based on the above investigative facts, the Respondent presents a substantial likelihood of a risk of serious harm to the public health, safety and welfare. The Respondent recently underwent toxicology testing in which on multiple occasions, he tested positive for substances that are detrimental to providing safe and competent care to patients.

### **CONCLUSIONS OF LAW**

Based upon the foregoing Investigative Findings, Panel A of the Board concludes that the public health, safety, or welfare imperatively requires emergency action, and that pursuant to State Gov't II § 10-226(c)(2) and COMAR 10.32.02.08B(7), the Respondent's license is immediately suspended.

### **ORDER**

**IT IS** thus by a vote of Panel A of the Board, hereby:

**ORDERED** that pursuant to the authority vested in Panel A by State Govt. II § 10-226(c)(2)(2014 Repl. Vol. and 2016 Supp.) and COMAR 10.32.02.08B(7), the Respondent's license to practice respiratory care in the State of Maryland is hereby **SUMMARILY SUSPENDED**; and it is further

**ORDERED** that in accordance with Md. Code Regs. 10.32.02.08B(7) and E, a post-deprivation initial hearing on the summary suspension will be held on **Wednesday, November 15, 2017, at 11:30 a.m.** at the Board's offices, located at 4201 Patterson Avenue, Baltimore, Maryland, 21215-0095; and it is further

**ORDERED** that after the **SUMMARY SUSPENSION** hearing before Panel A,

the Respondent, if dissatisfied with the result of the hearing, may request, within ten (10) days, an evidentiary hearing, such hearing to be set within thirty (30) days of the request, before an Administrative Law Judge at the Office of Administrative Hearings, Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301; and it is further

**ORDERED** that upon receipt of this Order, the Respondent **SHALL SURRENDER** to Board staff the following items:

- (1) his original Maryland license L05223; and
- (2) Any renewal, wallet card or wall certificate.

**AND IT IS FURTHER ORDERED** that a copy of the Order for Summary Suspension shall be filed with Panel A immediately in accordance with Health Occ. II § 14-407 (2014 Repl. Vol.); and it is further

**ORDERED** that this is an Order of Panel A, and as such, is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann. Gen Prov. §§ 4-101 *et seq.* (2014).

11/06/2017  
Date

Christine A. Farrelly  
Christine A. Farrelly, Executive Director  
Maryland State Board of Physicians