



**NORTH CAROLINA RESPIRATORY CARE BOARD**  
1100 Navaho Drive, Suite 242  
Raleigh, NC 27609  
(919) 878-5595  
FAX (919) 878-5565

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

July 20, 2006

Nichole L. Arnold  
110 SE Sycamore St.  
Faucett, MO 64448

**Re: Board Hearing and Findings**

Dear Ms. Arnold,

A hearing was held by the North Carolina Respiratory Care Board on July 13, 2006, regarding the matters described in the Notice of Hearing dated May 12, 2006. The Board sent that notice by certified mail, return receipt requested, to your last address of record.

Based on the Notice of Hearing, your case was called during the Board meeting, but you did not appear and no one else appeared on your behalf. The Board proceeded with the hearing.

The Board considered the testimony and exhibits that were submitted at the hearing. From its review of this evidence, the Board entered the Findings of Fact and Conclusions of Law that are set out in the attached decision. Based on the evidence presented at the hearing, the Board has determined that it should proceed with the disciplinary steps outlined to you after your interview with the Investigation and Informal Settlement Committee on April 12, 2006: permitting you to practice respiratory care on a probationary status for 12 months, and requiring you to: (1) complete a drug abuse assessment by a licensed psychologist or psychiatrist with a report to the Board before returning to the practice of respiratory care; (2) comply with any plan of treatment recommended by the licensed psychologist or psychiatrist; and (3) have your respiratory care supervisor to submit written quarterly performance reports to the Board. The Licensee will be responsible for all costs incurred in complying with the sanction imposed.

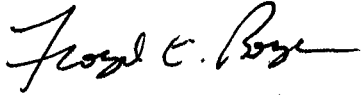
This letter and the attached decision serve as official notice of the Board's Findings of Fact, Conclusions of Law, and its decision, together with notice of your appeal rights under the North Carolina Administrative Procedure Act.

**Appeal Right** – You have the right to appeal the Board's decision by filing a petition in the Superior Court of Wake County, North Carolina within thirty (30) days of your receipt of this letter. To compute the thirty days, start counting on the day after this letter is signed for by you or anyone else, because the Board will use the date of signature on the signature card that we will get back to define the start of the 30-day period. Your appeal must be **FILED** in the Office of the Clerk of Court at the Wake County Courthouse in Raleigh, North Carolina, no later than 5 P.M. on the thirtieth day, unless that day falls on a weekend or a holiday recognized by North Carolina State Government, and please note that North Carolina does not share the same holiday schedule as other states or the Federal government. If the

thirtieth day falls on a weekend or recognized North Carolina state holiday, then you must file before 5 PM on the next business day. If you do not file an appeal within this thirty-day period, you lose your right to appeal.

Should you have any questions regarding any aspect of this letter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Floyd E. Boyer". The signature is written in a cursive style with a long horizontal flourish at the end.

Floyd E. Boyer, RRT, RCP  
Executive Director



## BEFORE THE NORTH CAROLINA RESPIRATORY CARE BOARD

IN THE MATTER OF THE LICENSE )  
OF NICHOLE L. ARNOLD TO )  
PRACTICE RESPIRATORY CARE )  
LICENSE NO. 4426 )

### FINAL BOARD DECISION

This hearing came before the North Carolina Respiratory Care Board on July 13, 2006, as part of the Board's regularly scheduled meeting on that date.

### PROCEDURAL HISTORY OF THIS CASE

The subject of this hearing is information that the Board received from High Point Regional Health System, where you applied for employment. A drug screen was performed on October 10, 2005 as a condition of employment and the results were positive for cocaine metabolites. This was reviewed in detail with you during an interview with the Board's Investigation and Informal Settlement Committee on April 12, 2006. After that interview, on April 13, 2006, you declined a sanction approved by the Board and requested a Board Hearing regarding the matter of your conduct.

At your request, the Board held a hearing on this matter on July 13, 2006. Although notice of the hearing was sent to you, you did not come to the hearing. The Board heard the evidence and determined that it should proceed with the disciplinary steps outlined in the telephone conversation with you after your interview with the Investigation and Informal Settlement Committee, permitting you to practice respiratory care on a probationary status for 12 months, and requiring you to: (1) complete a drug abuse assessment by a licensed psychologist or psychiatrist with a report to the Board before returning to the practice of respiratory care; (2) comply with any plan of treatment recommended by the licensed psychologist or psychiatrist; and (3) have your respiratory care supervisor to submit written quarterly performance reports to the Board. The Licensee will be responsible for all costs incurred in complying with the sanction imposed.

### APPEARANCES/WITNESSES

At the hearing, neither the Licensee, Nichole L. Arnold, nor any other person appeared on her behalf. The case for the Board was presented by its counsel, William R. Shenton. Mr. Shenton called Mr. Floyd Boyer, Executive Director of the Board, as the Board's witness.

### EVIDENCE/EXHIBITS

#### Board Evidence:

Mr. Boyer's testimonies and the following Exhibits were accepted into the record without objection.

Board Exhibit # 1- Notice of Hearing dated and mailed May 12, 2006 notifying Licensee of the July 13, 2006 Hearing. Included in Board Exhibit #1 is a copy of the certified mail receipt showing the mail was received and was signed for by Nichole Arnold on May 22, 2006.

Board Exhibit # 2- Copy of the Consent and Release of Liability for Drug Testing for High Point Regional Health System, signed by Nichole Arnold on October 10, 2005 and witnessed by Lou Reid, RN. Copy of the completed Change of Custody Form for the specimen. Copy of the Drug Test Report showing a positive result for Benzoylcegonine-Cocaine Metab.

Board Exhibit # 3- Copy of the handwritten letter sent to the Board stating that the Licensee would be in attendance at the April 12, 2006 meeting and signed by Nichole Arnold. Copy of the licensee's statement to the Board's Investigation and Settlement Committee.

Board Exhibit # 4- Copy of the Board's Investigation and Informal Settlement Committee notes from the interview held April 12, 2006 with a note that the licensee declined the sanction by telephone and requested a Board Hearing.

Board Exhibit # 5- Copy of a letter of reference from Tiffany Newsome, a Patient Sales Representative of Triad Respiratory Solutions, dated April 11, 2006.

Board Exhibit # 6- Copy of a letter of reference from Steve Poindexter, the office manager of Triad Respiratory Solutions, dated March 23, 2006.

Board Exhibit # 7- Copy of a letter of reference from Zeina Thompson, a nurse of Select Specialty Hospital, dated March 25, 2006.

Board Exhibit # 8- Copy of a subpoena dated March 1, 2006 to High Point Regional Health Systems to produce copies of drug screens and any counseling forms.

#### **Licensee Evidence:**

Neither the Licensee nor a representative appeared. Board Exhibit #5, 6 and 7 was presented and entered on behalf of the Licensee.

#### **FINDINGS OF FACT**

1. The Licensee tested positive for Benzoylcegonine-Cocaine Metabolites on a pre-employment drug screen performed at High Point Regional Health Systems .
2. The Licensee has not contacted the Board office to attempt to arrange different dates or times to appear, and did not appear for the hearing.

#### **CONCLUSIONS OF LAW**

Based upon the foregoing Finding of Fact, the Board enters the following Conclusions of Law:

1. The Licensee's testing positive for Benzoylcegonine-Cocaine Metabolites on a pre-employment drug screen performed at High Point regional Health Systems constitutes unprofessional conduct in the

delivery of respiratory care and therefore violates N.C. Gen. Stat. § 90-659(a)(1)(d) and 21 N.C.A.C. 61.0307(10).

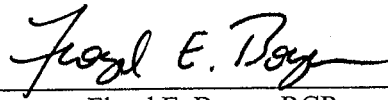
2. The Licensee's testing positive for Benzoylcegonine-Cocaine Metabolites on a pre-employment drug screen performed at High Point Regional Health Systems impedes the licensee's ability to deliver respiratory care services with reasonable skill and safety and therefore violates 21 N.C.A.C. 61.0307(14).

### FINAL DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board has determined that the license of Nichole L. Arnold to practice respiratory care in North Carolina shall be placed on a probationary status for 12 months effective July 13, 2006 and that the licensee must comply with the conditions outlined in this notice to maintain her respiratory care license.

#### IT IS SO ORDERED:

This the 13<sup>th</sup> day of July 2006



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Floyd E. Boyer, RCP  
Executive Director  
North Carolina Respiratory Care Board