



# NORTH CAROLINA RESPIRATORY CARE BOARD

1100 Navaho Drive, Suite 242

Raleigh, NC 27609

## CONSENT ORDER

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**IN THE MATTER OF:  
JESSICA P. WHISNER  
RESPIRATORY CARE LICENSE #2534**

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WHEREAS the North Carolina Respiratory Care Board (the "Board") is charged with the administration of The Respiratory Care Practice Act, codified in the North Carolina General Statutes at G.S. 90-646 et. seq. (the "Act"); and

WHEREAS on or about September 16, 2002, the Board issued a license to practice respiratory care to Ms. Jessica P. Whisner ("Licensee"), license number 2534; and

WHEREAS the Board received a complaint on July 12, 2007 from Pitt County Memorial Hospital, informing the Board that the Licensee had been terminated from her position for sleeping while on duty and by failing a substance abuse test while on duty by testing positive for cocaine; and

WHEREAS the Board conducted an investigation pursuant to G.S. 90-652 (5) into the activities of the Licensee to determine if she has violated, is violating, or is about to violate any provisions of the Act; and

WHEREAS the Board's statute and its administrative rules establish standards that govern the conduct of anyone licensed by the Board while engaged in providing respiratory care; and

WHEREAS the Board's statute provides in N.C. Gen. Stat. § 90-659, that the Board shall take necessary action on a license when a licensee has engaged in health care practices that are determined to be hazardous to public health, safety or welfare; and

WHEREAS Licensee was invited to an informal interview on October 10, 2007 with the Board's Investigation and Informal Settlement Committee to discuss the alleged conduct; and

WHEREAS the Board met on October 11, 2007 and found the licensee in violation of Board rules 21 NCAC 61 .0307(10) and (14) and determined to issue a Consent Order to the Licensee for the violation; and

WHEREAS the Licensee agrees to the entry of this Consent Order, and voluntarily agrees to waive any rights to a hearing upon entry of this Consent Order, and waives the right to seek judicial review or otherwise challenge or contest the validity of this Consent Order;

AND WHEREAS upon the entry of this Consent Order, this matter will be resolved with the express understanding that the Licensee will comply with all of the terms contained herein.

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**NOW THEREFORE, IT IS HEREBY ORDERED THAT:**

The Licensee consents to being licensed to practice respiratory care on Probationary Status for a period of 12 months from the date of signature of this Consent Order.

The Licensee shall cause her immediate Respiratory Care supervisor to submit written quarterly reports to the Board, which shall be submitted by the 15<sup>th</sup> day of January, 2008, April, 2008, July 2008 and October, 2008. Each such written report shall document the Licensee's performance in the delivery of Respiratory Care, and detail any concerns of the supervisor about the Licensee's practice of Respiratory Care.

The Licensee shall agree to obtain a Substance Abuse Evaluation and follow any Plan of Treatment suggested by the Substance Abuse Counselor. Licensee shall sign a release of information form with her Substance Abuse Counselor allowing him/her to provide written reports to the Board during the 12 month probationary period. The first report is due no later than December 1, 2007.

The Licensee agrees to pay to the Board within 180 days of the signature date of this order, the sum of \$250.00 for Civil Penalties which are authorized by G.S. 90-666(a) and 21 NCAC 61.0309 (d)(1) and the sum of \$200.00 to pay the cost of disciplinary action as authorized by G.S. 90-666(d).

The Licensee agrees to permit the Board to conduct random drug testing of the Licensee during the time the Licensee is on Probationary Status. The costs of all drug testing will be paid by the Licensee. The Board will determine the laboratory where the testing would be performed and the manner in which the sample would be collected, and will instruct the Licensee regarding the details of how any drug test should occur.

The Licensee shall continue to comply with the Act, the Board's Rules, and the Board's published interpretation of those rules.

Entry of this Consent Order is without prejudice to the right of the Board to take any administrative or judicial action against Licensee to enforce this Consent Order if the Board determines that the Licensee is not fully complying with any term or condition stated herein.

This Consent Order shall become final when accepted by the Licensee and entered by the Board based on execution of the Consent Order by its Executive Director.

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**CONSENT TO ISSUANCE OF ORDER BY LICENSEE**

I, Jessica P. Whisner, state that I have read the foregoing Consent Order; and that I know and fully understand its contents. I understand and agree that it is being entered to allow me to continue to be licensed by the Board to practice respiratory care, while fulfilling the Board's responsibility to regulate the practice of respiratory care. I consent to the entry of this Consent Order and agree freely and without threat or coercion of any kind to comply with the terms and conditions stated herein, as a condition of maintaining my license from the North Carolina Respiratory Care Board.

Jessica P. Whisner  
Jessica P. Whisner

STATE OF NORTH CAROLINA )

COUNTY OF Pitt )

There personally appeared before me, a Notary Public in and for the County of Pitt, State of North Carolina, Jessica P. Whisner, who after having presented documentation of her identity that was satisfactory to me did acknowledge that she executed the foregoing Consent Order as her free and voluntary act.

This 26 day of October, 2007

Michelle J. Bock  
Michelle J. Bock  
Notary Public

SEAL

My Commission Expires: April 14, 2010

**ENTRY OF CONSENT ORDER ON BEHALF OF THE NORTH CAROLINA RESPIRATORY CARE BOARD:**

Based on the agreement of the Licensee and the authority previously conveyed by resolution of the Board, the foregoing Consent Order is entered at Raleigh, North Carolina

This 30<sup>th</sup> day of October 2007

Floyd E. Boyer  
Floyd E. Boyer, RRT, RCP  
Executive Director