

IN THE MATTER OF: )  
)  
)  
Brandy K. Jenkins, RCP )  
License Number – 1716 )

**CONSENT ORDER**

**1. Jurisdiction**

The North Carolina Respiratory Care Board (the Board) is an occupational licensing board of the State of North Carolina, organized under N.C. Gen. Stat. § 90-646, et seq. The Board has jurisdiction over this matter pursuant to N.C. Gen. Stat. § 90-652 and 21 N.C. Admin. Code § 61.0307.

**2. Identification of Licensee**

The Respiratory Care Practitioner is Brandy K. Jenkins (the "Licensee"). Her mailing address is 3439 Autumn Drive, Gastonia, NC 28056. The Licensee holds North Carolina Respiratory Care License number 1716 (the "License"), first issued on August 12, 2002, with an expiration date of August 12, 2009.

**3. Waiver of Rights**

I, Brandy K. Jenkins, the Licensee, understand that I have each of the following rights: (Note waiver of each right with Initials)

- BJ The right to a hearing before the Board;
- BJ The right to present evidence to disprove all or some of the charges against me;
- BJ The right to present evidence to limit or reduce any sanction that could be imposed for a violation;
- BJ The right to confront and cross-examine witnesses and to challenge evidence presented by the Board against me;
- BJ The right to present legal arguments in a brief; and
- BJ The right to appeal from any final decision adverse to my license to practice respiratory care.

As noted by my initials above, I hereby freely and knowingly waive these rights without further process and agree to the terms of this Consent Order regarding my license. In order to resolve this matter by a Consent Order, I also agree that the Board staff and counsel may discuss this Consent Order with the Board *ex parte* whether or not the Board accepts this Order as written.

#### **4. Stipulation to Facts**

The Licensee and the Board stipulate to the following facts:

A. The Licensee was engaged in the practice of respiratory care in North Carolina when the events occurred that led to the initiation of this complaint.

B. The Board received a complaint from Heather Neal, RCP at Presbyterian Hospital in Charlotte, NC, that the Licensee had tested positive for ETOH at her practice site. Licensee has been suspended and is to undergo the hospital's Employee Assistance Program (EAP).

C. On January 7, 2009, the Licensee appeared for an interview before the Board's Investigation and Informal Settlement Committee.

D. During her interview with the Committee, the Licensee stated that she reported to work on the morning of September 18, 2008 was tested at approximately 2:00 to 2:30 PM and found to have a 0.22 blood alcohol level. During her interview, the Licensee also stated that she had a slowed liver function for excessive drinking over the past 3 years.

E. During her interview with the Committee, the Licensee stated that she has been attending EAP and treatment providers and will continue to do so.

F. The Licensee also stated during the interview with the Board's Investigation and Informal Settlement Committee that she was participating in an AA Program.

#### **5. Stipulated Order**

##### **A. Stipulation to Sections of Law Violated:**

I, Brandy K. Jenkins, the RCP, admit that if the conduct described above was proven at a hearing, that would constitute violations of N.C. Gen. Stat. § 90-659 (a)(1)(d) and the regulations set forth in 21 N.C. Admin. Code § 61.0307 (10) and .0307 (14), and would provide a sufficient basis for the Board to permanently revoke my License.

##### **B. Stipulation to Interim Sanction:**

Under N.C. Gen. Stat. § 90-652, in lieu of proceeding to hearing, the Respiratory Care Practitioner and the Board hereby enter into this consent order whereby the Respiratory Care Practitioner and the Board agree to the following terms:

1. Being licensed to practice respiratory care on Probationary Status for a period of 12 months from the date of signature of this Consent Order.

2. 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 April 2009, July 2009, October

2009 and January 2010. 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.

3. Sign a release of information form with her EAP Counselor allowing him/her to provide written reports to the Board of all visits with her Counselor during the 12 month probationary period. The Licensee shall agree to follow any Plan of Treatment suggested by the Counselor.

4. 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.

5. Provide proof of attendance at AA meetings during the time the Licensee is on Probationary Status. The proof shall be provided to the Board, at a minimum of, quarterly and document the dates she was in attendance and shall be signed by her sponsor.

6. The Respiratory Care Practitioner is assessed a civil penalty of two hundred and fifty dollars (\$250.00) pursuant to N.C. Gen. Stat. § 90-666 and 21 N.C. Admin. Code § 61.0309. The Respiratory Care Practitioner shall remit this sum to the Board before the renewal of her license on August 12, 2009

7. To continue to comply with the Respiratory Care Practice Act, the Board's Rules, and the Board's published interpretation of those rules.

## **6. Public Record**

The parties agree that this Consent Order is public record, as required by N.C. Gen. Stat. § 132-1. Documents that are part of the investigative file are not public record.

## **7. Reporting**

This disciplinary action will be reported to the appropriate entities as outlined in Board policy and required by state and/or federal law or guidelines. Those entities include, but are not limited to, the National Databank maintained by the National Board for Respiratory Care and the Healthcare Integrity and Protection Data Bank (HIPDB).

## **8. Costs**

The Respiratory Care Practitioner assumes financial responsibility for any costs associated with fulfilling the terms of this Consent Order.

The Respiratory Care Practitioner is assessed two hundred and fifty dollars (\$250.00) in costs pursuant to N.C. Gen. Stat. § 90-666(d) and shall remit this sum to the Board before the renewal of her license on August 12, 2009

**9. Noncompliance with Interim Consent Order**

Failure by the RCP to comply with the terms of this Order, either in substance or in timing, is a violation of 21 N.C. Admin. Code § 61 .0307(3). If, during the term of this Interim Consent Order, the Board staff receives evidence that the RCP has violated any of the above conditions, the Board may schedule a show cause hearing for a determination of the violations. If the Board determines that such violations have occurred, then the Board may suspend or revoke the license, revoke any stay, or may impose additional disciplinary action.

All provisions of this Order are effective upon this Order's effective date. Fulfillment of time-specific elements intended to coincide with active practice (such as, but not limited to; probation, supervision or therapy) will only accrue during periods of active practice in which the RCP is compliant with the terms of this Order. Therefore, any period of noncompliance or inactive practice will not accrue towards fulfillment of those terms.

Should circumstances arise that affect the RCP's ability to remain in compliance, the RCP shall immediately notify the Board in writing by return receipt mail, fully describing the situation along with any attendant request for Board consideration.

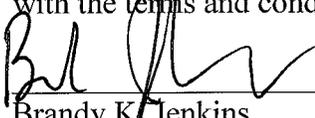
**10. Effective Date/Modification**

All provisions of this Consent Order are effective upon the date that the Executive Director of the Board signs this Order. Any modification of this Consent Order must be approved in writing by the Board before it becomes effective.

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**CONSENT TO ISSUANCE OF CONSENT ORDER BY RESPIRATORY CARE PRACTITIONER**

I, Brandy K. Jenkins, state that I have read the foregoing Consent Order; that I know and fully understand its contents; that I agree freely and without threat or coercion of any kind to comply with the terms and conditions stated herein; and that I consent to the entry of this Consent Order.

  
\_\_\_\_\_  
Brandy K. Jenkins

**STATE OF NORTH CAROLINA**  
**COUNTY OF Gaston**

There personally appeared before me, a Notary Public in and for the County of Gaston, State of North Carolina, Brandy K. Jenkins, 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 27 day of January 2009.

  
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Notary Public

(SEAL)

My Commission Expires: 4-15-2013

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

The foregoing Consent Order is entered at Raleigh, North Carolina, this 29<sup>th</sup> day of JANUARY, 2009.

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