STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
RESPIRATORY CARE BOARD

IN THE MATTER OF:)
)
Elizabeth L. Winkler, RCP)
License Number – 5296)

CONSENT ORDER

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1. Jurisdiction

The North Carolina Respiratory Care Board (the Board) is an occupational licensing board of the State of North Carolina, organized under The Respiratory Care Practice Act ("the Act") codified at 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 Elizabeth L. Winkler (the "RCP"). Her mailing address is 17439 Grand Central Way, Cornelius, NC 28031. The RCP holds North Carolina Respiratory Care License Number 5296 (the "License"), first issued on August 8, 2007, and expiring on August 8, 2009.

3. Waiver of Rights

I, Elizabeth L. Winkler, the Respiratory Care Practitioner, understand that I have each of the following rights:

(Initials)

_____ The right to a hearing before the Board;

_____ The right to present evidence to disprove any or all of the charges against me;

_____ The right to present evidence to limit or reduce any sanction that could be imposed for a violation;

_____ The right to confront and cross-examine witnesses and to challenge evidence presented by the Board against me;

_____ The right to present legal arguments in a brief; and

_____ 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 each of 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 Respiratory Care Practitioner ("RCP") and the Board stipulate to the following facts:

A. The RCP 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 notice, from its Inspector, that the RCP practiced respiratory care with a lapsed licensed between 12:01 AM on August 9, 2008 and 9:30 AM on August 13, 2008 at Apria Healthcare in Charlotte, NC.

C. Board policy authorizes the Executive Director to offer the option of a Reprimand to a licensee practicing respiratory care with a lapsed license.

5. Stipulated Order

A. Stipulation to Sections of Law Violated:

I, Elizabeth L. Winkler, the RCP, admit that if it were proven at a hearing that I had practiced respiratory care with a lapsed licensed between August 9, 2008 and August 13, 2008 at Apria Healthcare in Charlotte, NC., this would constitute a violation of N.C. Gen. Stat. § 90-659 (a)(1)(c) and the rule codified at 21 N.C. Admin. Code § 61 .0307 (4).

B. Stipulation to Sanctions:

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 and agree to the following terms:

i) The RCP accepts and agrees to the issuance of a Board Reprimand;

ii) The RCP accepts and agrees to the assessment of 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 RCP shall remit this sum to the Board no later than ninety (90) days after execution of this order;

iii) The RCP accepts and agrees to the assessment of one hundred dollars ($100.00) in costs pursuant to N.C. Gen. Stat. § 90-666(d) and to remit this sum to the Board no later than ninety (90) days following the execution of this Consent Order. The RCP also assumes financial responsibility for any costs associated with fulfilling the terms of this Consent Order;

iv) The RCP agrees that this Consent Order is a public record, as defined by N.C. Gen. Stat. § 132-1, except that documents in the Board's investigative file are not public record;

v) The RCP acknowledges that this disciplinary action will be reported to appropriate entities as outlined in Board policy and as 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);

vi) Should circumstances arise that affect the RCP's ability to remain in compliance, the RCP agrees to notify the Board immediately in writing by return receipt mail, fully describing the situation, as well, as any attendant request for Board consideration;

vii) Based on the understandings and agreements by the RCP that are recited in this Order, the Board agrees not to proceed with any further sanctions, based upon the conduct described above. However, if the RCP fails to comply with any of the foregoing provisions of this Consent Order, while it is in effect, including the deadlines set forth in the Order, that is a violation of 21 N.C. Admin. Code § 61 .0307(3). In that event, the Board may schedule a show cause hearing for the RCP to appear and provide evidence regarding any alleged violations of the terms of the Order. If the Board determines that violations have occurred, then it may suspend or revoke the RCP's License, revoke any stay, and may take additional disciplinary action.

C. Compliance with the Act, Board Rules and Board Interpretations.

The RCP also agrees to continue to comply with the Act, the Board's Rules, and the Board's published interpretation of the Act and its Rules.

6. Effective Date/Modification of Order

All provisions of this Consent Order are effective on the date that the Executive Director of the Board signs this Order, and any modification of the terms of this Consent Order must be approved in writing by the Board before it may become effective.

CONSENT TO ISSUANCE OF ORDER BY RESPIRATORY CARE PRACTITIONER

I, Elizabeth L. Winkler, 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 as a condition of maintaining my license from the North Carolina Respiratory Care Board.

Elizabeth L. Winkler

STATE OF NORTH CAROLINA
COUNTY OF Mecklenburg

There personally appeared before me, a Notary Public in and for the County of Iredell, State of North Carolina, Elizabeth L. Winkler, 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 8 day of September, 2008.

Notary Public

My Commission Expires: June 27, 2012

MICHAEL C MARSHALL
NOTARY PUBLIC
My Comm. Expires June 27, 2012
IREDELL COUNTY, NC

(SEAL)

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

The foregoing Consent Order is entered at Raleigh, North Carolina, this 18th day of September, 2008.

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