



NORTH CAROLINA RESPIRATORY CARE BOARD

**1100 Navaho Drive, Suite 242
Raleigh, NC 27609**

CONSENT ORDER

IN THE MATTER OF: EMMANUEL CASTRO RESPIRATORY CARE LICENSE #2393

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 the Licensee was terminated from Nash General Hospital on August 22, 2003 for testing positive for cocaine while on duty at the hospital and that he informed the Board during his Investigation Interview that he does have a drug problem, in violation of G.S. 90.659(a)(1)(d), and Board Rules 21 NCAC 61 .0307 (1) and (14); and

WHEREAS the Licensee informed the Board during his Investigation Interview that he has sought the services of Substance Abuse Counselor; and

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

WHEREAS on September 22, 2003, the Investigation and Informal Settlement Committee of the Board, acting pursuant to 21 NCAC 61.0203, conducted an interview of the Licensee to determine the qualifications of the Licensee; and

WHEREAS the Board met on October 2, 2003 and determined to issue a Consent Order to the Licensee; 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.

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

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

Licensee shall cause his immediate Respiratory Care supervisor to submit written quarterly reports to the Board, which shall be submitted by the 15th day of January, April, July, and October, for the years 2004, 2005, and 2006. 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.

Licensee shall cause his Substance Abuse Counselor to submit written quarterly reports to the Board, which shall be submitted by the 15th day of January, April, July, and October, for the years 2004, 2005, and 2006. Each such written report shall document the Licensee's continued progress toward treatment and detail any concerns the Counselor may have. The Licensee shall sign a release of information form with his Counselor allowing the Counselor to provide the requested information. The Licensee shall cause his Substance Abuse Counselor to submit written session schedule for the upcoming quarter along with the quarterly reports.

Licensee shall provide the Board a schedule of pay periods for all employers he is currently working for and any future employers during the 3 year probationary period.

Licensee agrees that the Board may conduct criminal background checks of the Licensee during the next 3 years. The background checks may be performed at random at any time during the dates January 1, 2004 through December 31, 2006.

Licensee agrees to permit the Board to conduct random drug testing of the Licensee during the next 3 years. The drug testing may be performed at any time during the dates October 15, 2003 to October 15, 2006. 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.

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 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.

CONSENT TO ISSUANCE OF ORDER BY LICENSEE

I, Emmanuel Castro, 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 obtaining my license from the North Carolina Respiratory Care Board.

Emmanuel Castro
Emmanuel Castro

STATE OF NORTH CAROLINA)
COUNTY OF Wake)

There personally appeared before me, a Notary Public in and for the County of Wake, State of North Carolina, Emmanuel Castro, who after having presented documentation of his identity that was satisfactory to me did acknowledge that he executed the foregoing Consent Order as his free and voluntary act.

This 9th day of October, 200~~2~~³

Jane E. Carter
Notary Public

SEAL

My Commission Expires: 12-8-07

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 9th day of October, 200~~2~~³

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