

IN THE MATTER OF:)
)
Emmanuel Castro, RCP)
License Number – 2393)

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 before the Board in this matter is Emmanuel Castro (the “RCP”). His mailing address is 200-29 Rollins Drive, Greenville, NC 27834. The RCP formerly held North Carolina Respiratory Care License Number 2393 (the “License”), first issued on September 10, 2002, which was revoked effective July 5, 2005. The RCP has now requested that the Board reinstate the License.

3. Waiver of Rights

I, Emmanuel Castro, the RCP, hereby confirm that I understand that I have each of the following rights, and as noted by my initials below, 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:

(Initials)

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

4. Stipulation to Facts

The Licensee and the Board stipulate to the following facts:

A. The Board revoked the Licensee's RCP license on July 5, 2005 for a felony conviction for a sex offense to a minor.

B. The Board received a petition to reinstate his RCP license on October 1, 2012. The Board received documents from the Petitioner including court records showing he received a felony conviction and prison time for the conviction.

D. The Petitioner addressed the Board during its meeting on April 10, 2013 and provided the following documents:

- 1) A written statement related to the conviction
- 2) Documents in support of his petition for reinstatement
- 3) Copies of references
- 4) Copies of court records
- 5) Copies of phone calls between the petitioner and the individual that accused him of the crime.

E. The Board received a notification of polygraph results on April 23, 2015 indicating the Petitioner's truthfulness in regards to his assertion that the felony plea and subsequent conviction was due to his inability to afford legal counsel to defend his case. The polygraph was conducted by Mr. Stan Fulmer, who is a certified polygraph examiner. Mr. Fulmer focused his attention of the events involving the child, and her mother and any physical sexual activity with any of the children. All responses were "No". His examination report dated March 24, 2015 reflected Mr. Fulmer's expert opinion that "Mr. Emmanuel Castro was truthful to the relevant test questions. No deception was noted"

F. The Petitioner met with Investigative and Informal Settlement Committee during its meeting on June 9, 2015 and reviewed the following documents:

- 1) Letter from counselor
- 2) NBRC Reinstatement
- 3) CRT test results
- 4) Polygraph results
- 5) Refresher course certificate

G. The Board voted to reinstate the Petitioner's license #2393 on July 9, 2015.

5. Stipulated Order

A. Stipulation to Sections of Law Violated:

I, Emmanuel Castro, admit that the allegations against me constitute violations of N.C. Gen. Stat. § 90-659 (a)(1)(d) and 90-659 (a)(2) and the regulations set forth in 21 N.C. Admin. Code 61.0307 (10) and (24).

B. Stipulation to Sanction:

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

1. The Petitioner agrees to accept a license to practice respiratory care on Probationary Status for a minimum period of 36 months from the date of execution of this order; and as a specific condition of that Probationary Status the Petitioner agrees to all of the following terms and limitations.

2. If employed in Respiratory Care, the Petitioner shall cause his immediate supervisor to submit written quarterly reports to the Board during the time the Licensee is on Probation. 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. The Petitioner agrees to report change of employment as a Respiratory Care Practitioner and/or change of address in writing to the Board within five business days after such change.

4. During the entire time that the Petitioner holds a license on Probationary Status, the Petitioner agrees to permit the Board to conduct random drug testing of the Petitioner, and further agrees that the entire 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 will be collected, and will instruct the Petitioner regarding these and any other details of how any drug test should occur. The Board may accept drug screens performed by other state or federal agencies from those other agencies as proof of Petitioner's ongoing compliance.

5. The Petitioner agrees to an interview(s) with the Investigation and Informal Settlement Committee of the Board, the exact dates to be determined by the Board in its discretion in the future, to determine compliance with this Consent Order.

6. The Petitioner also assumes financial responsibility for any costs associated with fulfilling the terms of this Consent Order.

7. The RCP acknowledges and agrees that this Consent Order and the materials compiled by the Board are matters of public record under the North Carolina Public Records Law, N.C. Gen. Stat. § 132-1 *et seq.*; and that the contents of this Consent Order will be reported to the 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).

8. The RCP agrees that if circumstances arise which affect the RCP's ability to remain in compliance with any of the terms of this Consent Order, or to make continued progress on completing the requirements, the RCP shall immediately notify the Board in writing by return receipt mail, fully describing the situation and providing a specific request to modify its terms for Board consideration. However, no modification of this Consent Order shall be in effect until the Board confirms such a modification in writing to the RCP.

9. The RCP acknowledges and agrees that if he fails to comply with the terms of this Consent Order, either by completely failing to carry out one of his obligations, or failing to complete an obligation within a time specified, that will constitute a violation of 21 N.C. Admin. Code 61 .0307(3), and that as a result, the Board may suspend or revoke the License, or impose additional disciplinary sanctions or performance obligations on the RCP.

10. The RCP agrees to continue to comply with the Respiratory Care Practice Act, the Board's Rules, and the Board's published interpretation of those rules in his practice of Respiratory Care.

6. Effective Date/Modification

All provisions of this Consent Order are effective upon the date that the Executive Director of the Board signs it, and it shall remain in effect for the time period or periods specified, or until amended in writing by the Board.

The terms of this Consent Order shall remain in effect until the RCP completes each of the requirements listed above. However, the Licensee must continue to comply with the Respiratory Care Practice Act and the Board's Rules; and the RCP acknowledges that if other evidence of the RCP's non-compliance with the Act or the Rules that is not presented in the Stipulated Facts above should arise, then the Board may invoke other disciplinary measures against the RCP, based on that other evidence; and that in determining the appropriate action to take, the Board also may consider the conduct of the RCP which is presented in the Stipulated Facts in this Consent Order.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

CONSENT TO ISSUANCE OF ORDER BY RESPIRATORY CARE PRACTITIONER

I, Emmanuel Castro, 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.

Emmanuel Castro
Emmanuel Castro

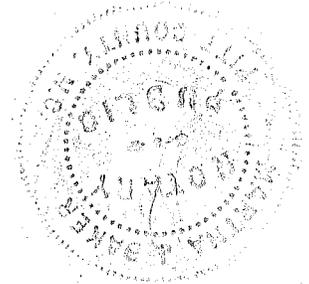
STATE OF NORTH CAROLINA
COUNTY OF Pitt

There personally appeared before me, a Notary Public in and for the County of Pitt, State of North Carolina, 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 7th day of August, 2015.

Martha J. Baker
Notary Public Martha J. Baker

(SEAL)



My Commission Expires: February 15, 2016

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

The foregoing Consent Order is entered at Raleigh, North Carolina, this ___ day of _____, 2015.

William L. Croft, PhD, RRT, RCP
William L. Croft, PhD, RRT, RCP
Executive Director, North Carolina Respiratory Care Board