

IN THE MATTER OF: )

)

**CONSENT ORDER**

Walter Cales, III, RCP )

License Number – 6513 )

**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 Walter Cales, III (the "Licensee"). His mailing address is 123 Riverton Drive, Statesville, NC 28625. The Respiratory Care Practitioner holds North Carolina Respiratory Care License number 6513 (the "License"), first issued on June 6, 2011, with an expiration date of June 30, 2014.

**3. Waiver of Rights**

I, Walter Cales, III, the Respiratory Care Practitioner, understand that I have each of the following rights:

(Initials)

WC III The right to a hearing before the Board;

WC III The right to present evidence to disprove all or some of the charges against me;

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

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

WC III The right to present legal arguments in a brief; and

WC III 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 Michael Crabb, RCP at Thomasville Hospital, stating that he had received multiple complaints from female staff that worked with the Licensee regarding unacceptable behavior toward them of a sexual nature. The staff worked in different areas of the facility and in different roles. The complaints ranged from inappropriate comments to touching. Statements were also made regarding feeling unsafe due to him waiting for them by their cars and unwelcome gifts. A full investigation was completed through the Public Safety department and information provided to Human Resources. The Licensee was terminated from his position at the hospital.

C. The Licensee attended the Board's Investigation and Informal Settlement Committee meeting on September 10, 2013 and stated that he does not understand the concerns and he did not mean any harm.

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

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

I, Walter Cales, III, the Respiratory Care Practitioner, admit that the allegations against me, if proven true, 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).

##### **B. Stipulation to 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. Suspension of his RCP License for 6 months.
2. The Licensee agrees to seek treatment and counseling with a Board approved addiction counselor within 90 days of his signature of this order and submit a copy of the counselor's findings and plan of treatment to the Board. The Licensee agrees to sign a release of information form and furnish it to the counselor allowing the counselor to provide quarterly

written reports to the Board of all visits with the counselor. The Licensee agrees to follow any plan of treatment suggested by the counselor.

3. Attend an Interview with the Board's Investigation and Informal Settlement Committee meeting on March 18, 2014. The committee may recommend additional conditions for the Licensee to comply with in order to return to the practice of respiratory care.

4. 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. Effective Date**

All provisions of this Consent Order are effective upon the date that the Executive Director of the Board signs this Order.

## **9. Noncompliance with Consent Order**

Failure by the Respiratory Care Practitioner 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 Consent Order, the Board staff receives evidence that the Respiratory Care Practitioner 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 Respiratory Care Practitioner is compliant with the terms of this Order.

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

Any modification of this Consent Order must be pre-approved in writing by the Board before it may occur.

**THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**

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

I, Walter Cales, III, 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.

Walter Cales III  
Walter Cales, III

STATE OF NORTH CAROLINA  
COUNTY OF Tredell

There personally appeared before me, a Notary Public in and for the County of Tredell, State of North Carolina, Walter Cales, III, 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 24<sup>th</sup> day of October, 2013.

Tammy Manchester  
Notary Public

My Commission Expires: 10/10/17



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

The foregoing Consent Order is entered at Raleigh, North Carolina, this 28<sup>th</sup> day of October, 2013.

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

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA  
RESPIRATORY CARE BOARD

IN THE MATTER OF: )

)

**CONSENT ORDER**

Walter Cales, III, RCP )

License Number – 6513 )

**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 Walter Cales, III (the "Licensee"). His mailing address is 123 Riverton Drive, Statesville, NC 28625. The Respiratory Care Practitioner holds North Carolina Respiratory Care License number 6513 (the "License"), first issued on June 6, 2011, with an expiration date of June 30, 2014.

**3. Waiver of Rights**

I, Walter Cales, III, the Respiratory Care Practitioner, understand that I have each of the following rights:

(Initials)

WCA The right to a hearing before the Board;

WCA The right to present evidence to disprove all or some of the charges against me;

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

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

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

WCA 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 Michael Crabb, RCP at Thomasville Hospital, stating that he had received multiple complaints from female staff that worked with the Licensee regarding unacceptable behavior toward them of a sexual nature. The staff worked in different areas of the facility and in different roles. The complaints ranged from inappropriate comments to touching. Statements were also made regarding feeling unsafe due to him waiting for them by their cars and unwelcome gifts. A full investigation was completed through the Public Safety department and information provided to Human Resources. The Licensee was terminated from his position at the hospital.

C. The Licensee attended the Board's Investigation and Informal Settlement Committee meeting on September 10, 2013 and stated that he does not understand the concerns and he did not mean any harm.

D. The Licensee signed a Consent Order on October 24, 2013 agreeing to suspension of his RCP License for 6 months and to return for interview with the Board's Investigation and Informal Settlement Committee meeting on March 18, 2014 at which time the committee may make further recommendations.

E. The Licensee attended the Board's Investigation and Informal Settlement Committee meeting on March 18, 2014 at which time he stated that he had attended a counseling session with Full Life Counseling.

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

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

I, Walter Cales, III, the Respiratory Care Practitioner, admit that the allegations against me, if proven true, 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).

##### **B. Stipulation to 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. The Licensee agrees to accept a license to practice respiratory care on Probationary Status for a period of 24 months from the date of execution of this order; and as a specific condition of that Probationary Status the Licensee agrees to all of the following terms and limitations.

2. The Licensee agrees to continue treatment and counseling with Full Life Counseling or other Board approved provider during the probationary period. The Licensee agrees to sign a release of information form and furnish it to the counselor allowing the counselor to provide quarterly written reports to the Board of all visits with the counselor during the probationary period. The Licensee agrees to follow any plan of treatment suggested by the counselor.

3. The Licensee 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 and to remit this sum to the Board no later than December 31, 2014.

4. The Licensee accepts and agrees to the assessment of two hundred and fifty dollars (\$250.00) in costs pursuant to N.C. Gen. Stat. § 90-666(d) and to remit this sum to the Board no later than December 31, 2014.

5. If employed in Respiratory Care, the Licensee 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.

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

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. Effective Date**

All provisions of this Consent Order are effective upon the date that the Executive Director of the Board signs this Order.

**9. Noncompliance with Consent Order**

Failure by the Respiratory Care Practitioner 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 Consent Order, the Board staff receives evidence that the Respiratory Care Practitioner 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 Respiratory Care Practitioner is compliant with the terms of this Order.

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

Any modification of this Consent Order must be pre-approved in writing by the Board before it may occur.

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

I, Walter Cales, III, 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.

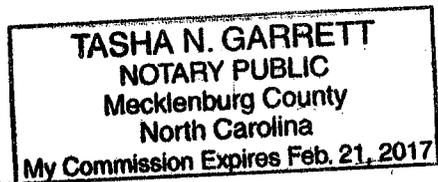
Walter Cales III  
Walter Cales, III

STATE OF NORTH CAROLINA  
COUNTY OF Mecklenburg

There personally appeared before me, a Notary Public in and for the County of Mecklenburg, State of North Carolina, Walter Cales III, 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 29 day of April, 2014.

Tasha N. Garrett  
Notary Public



(SEAL)

My Commission Expires: 2/21/2017

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

The foregoing Consent Order is entered at Raleigh, North Carolina, this 2nd day of May, 2014.

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