

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
RESPIRATORY CARE BOARD

IN THE MATTER OF:)
)
)
Angela J. Kerntke, RCP)
License Number – 6869)

CONSENT ORDER

The North Carolina Respiratory Care Board and its Licensee, Angela J. Kerntke, RCP, hereby enter this Consent Order and agree as follows:

1. Jurisdiction of the North Carolina Respiratory Care Board

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 Licensee is Angela J. Kerntke, and her mailing address of record on file with the Board is 110 Apple Drive, Havelock, NC 28532. She holds North Carolina Respiratory Care License Number 6869 (the "License"), first issued on July 10, 2012, with a current expiration date of July 31, 2015.

3. Waiver of Rights

I, Angela J. Kerntke, the Licensee, understand that I have the following rights, each of which I have waived as noted by my initials below (Note waiver of each right with Initials):

- AKK The right to a hearing before the Board;
- AKK The right to present evidence to disprove all or some of the charges against me;
- AKK The right to present evidence to limit or reduce any sanction imposed for a violation;
- AKK The right to confront and cross-examine witnesses and to challenge evidence presented by the Board against me;
- AKK The right to present legal arguments in a brief; and
- AKK 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. Stipulated Facts

The Licensee and the Board stipulate to the following facts, based on the Licensee's personal recollection and sworn testimony of the two paramedics who accompanied the Licensee in the ambulance during most of a patient transport from Carteret General Hospital in Morehead City to Vidant Hospital in Greenville, on June 28, 2013:

- A.** In June of 2013, the Licensee was employed in the practice of respiratory care at Carteret General Hospital in Morehead City, North Carolina and continues to be employed there.
- B.** On June 28, 2013, the Licensee participated in a critical care transport of a thirteen-year-old patient from Carteret General Hospital in Morehead City to Vidant Hospital in Greenville.
- C.** On September 10, 2013 the Board received a communication that raised questions about the conduct of the Licensee in maintaining the patient's airway during the transport.
- D.** On December 13, 2013, the Licensee was interviewed by the Board's Investigation and Informal Settlement Committee at its next scheduled meeting. During her interview with the Committee, the Licensee presented the following information orally and in a written statement that she presented to the Committee:
 - i.** A patient who had a head trauma was to be transported from Carteret General Hospital in Morehead City to Vidant Hospital in Greenville, on June 28, 2013, and the Licensee was assigned to be the respiratory therapist for the transport, accompanied by two EMTs and Shannon Cox, R.N.;
 - ii.** Prior to this transport, the Licensee had very limited experience with ambulance transports and with intubation of pediatric patients, but she was assigned as the Respiratory Therapist for this transport.
 - iii.** The EMT personnel on the ambulance switched with the EMT personnel in another ambulance and Michael W. Murphy and Laura Lewis joined the Licensee and Ms. Cox in the ambulance and were present on the ambulance as the EMTs during the rest of the transport, with Mr. Murphy driving and Ms. Lewis working as the EMT in the back of the ambulance;
 - iv.** The patient had been intubated and sedated with Propofol and Ativan before the transport began, but he started to wake up during the transport and became combative;
 - v.** Ms. Lewis administered the paralytic Vecuronium to the patient but before it could take full effect, the patient reached up, grabbed the ET tube, pulled it out, and then vomited;

- vi. Since the patient was secured to a backboard, he was rotated to his side while keeping him secure, and the Licensee suctioned the patient with mechanical suction and by hand due to the large amount of vomit, to clear his airway while receiving assistance from other personnel to control the patient's movements;
- vii. Ms. Lewis instructed Mr. Murphy to stop the ambulance and come back to assist with the patient, and at one point Ms. Lewis, Mr. Murphy, Ms. Cox and the Licensee all had to be involved to control the patient's movements and provide other supporting care of the patient;
- viii. In her written statement the Licensee stated that during the re-intubation, she could see the patient's vocal cords with a laryngoscope and observed the ET tube going through the vocal cords and achieving proper position;
- ix. The written statement also indicates that right after the intubation and repeatedly afterwards, she heard bi-lateral chest sounds, could see the patient's chest rise and fall, observed condensation in the ET tube, and did not hear sounds over the abdomen, which indicated that respiration through the ET tube was occurring;
- x. The Licensee further stated that she, Ms. Lewis instructed Mr. Murphy to come help in securing the patient right after the intubation but that shortly afterward, Ms. Lewis instructed Mr. Murphy to resume driving the ambulance, leaving the Licensee, Ms. Cox, and Ms. Lewis to attend to the patient;
- xi. The Licensee also stated that shortly after the re-intubation Ms. Lewis attempted to access a capnography device that Ms. Lewis had in her kit but it rolled under the bed in the ambulance;
- xii. The Licensee stated she was unable to reach the capnography device which she had in her kit because she was focused on controlling the patient's movements and continuing to assist his respiration with an Ambu Bag;
- xiii. The Licensee's notes in the hospital records indicate that the patient's oxygen saturation initially was over 90 after the re-intubation, but then about 10 minutes after intubation, the patient became very cyanotic, with pulse oximeter saturation reading in the 80's, and that you then reassessed breath sounds, found them to be present, and then suctioned the airway again in case there was a plug in the ET tube due to the vomiting;
- xiv. The Licensee stated that she did not want to pull out the ET tube at this point because she was concerned that the patient might aspirate some of the vomitus, and also because the patient had received the Vecuronium;
- xv. In her written statement, the Licensee indicated that she did not attempt to use a capnography device she had in her kit because at this point because her attention was focused on resolving the issue with the patient's oxygen saturation;

- xvi. The Licensee did not indicate that she considered having one of the other persons on the ambulance retrieve the capnography device that had rolled under the bed or retrieve any other capnography device in the ambulance;
 - xvii. The ambulance diverted to the hospital in New Bern, and the Licensee's handwritten notes indicate that the ET tube was dislodged during the patient's transfer from the ambulance stretcher, that the patient was re-intubated at that hospital and the ET tube was secured before the patient was transferred to a stretcher and into the ambulance to continue the transport to Vidant Hospital;
 - xviii. The Licensee's stated that her handwritten notes indicate that the airway remained intact during the transport to Vidant Hospital from New Bern, and that the patient had equal bilateral breath sounds and an oxygen saturation over 90 during this phase of the transport;
 - xix. The Licensee's written statement asserts that "Everyone in the back of that ambulance was well aware that it was of necessity to confirm tube placement. At no time was that issue not thought of, and as document in the medical records, multiple continued efforts were utilize to assure ourselves that the tube was, in fact, in the proper place."
 - xx. At the December 13, 2013 interview, the Licensee also presented letters of reference from colleagues at Carteret General Hospital, which described the quality of her respiratory care practice during her employment there.
- E.** On January 9, 2014 the Board considered this matter and determined to issue a Letter of Concern based on the information that had been provided up to that point during the investigation and interviews with the Licensee and others. The Letter of Concern stated that the Board was continuing to investigate this matter and may make additional disciplinary determinations based on other information that is brought to its attention.
- F.** On March 18, 2014, the Committee conducted further interviews of Pamela Rose, RCP, Candace Kort, Cathy Garner and the Licensee. These interviews focused on the procedures that led to the Licensee being assigned to the transport of the patient on the date in question.
- G.** The Board continued its investigation of this matter and the Board's Investigation and Informal Settlement Committee reviewed written transcripts and videotapes of depositions taken of several individuals in a civil case relating to the transport of the patient, which were received by Board counsel on or about April 30. These included Ms. Pamela Rose, RCP; Laura Lewis, EMT-P; Michael Murphy, EMT-P, and Dr. Victoria Selley, D.O.
- i. Dr. Selley stated in her deposition that when the patient presented at Carteret General Hospital, there was a significant amount of blood in one ear canal and this indicated some likelihood that he had a basilar skull fracture;

- ii. Dr. Selley testified that she made the decision to have the patient intubated because of his mental responses and the agitation that he was manifesting and because of concern about his future condition due to his injury;
- iii. Ms. Lewis and Mr. Murphy confirmed in their depositions that on June 28, 2013, they were on the way back to Morehead City from a prior transport in another ambulance and were instructed by Carteret General Hospital to stop on the side of Route 70 and switch to the ambulance that was transporting the teenage patient, which is an unusual situation in their experience;
- iv. Ms. Lewis and Mr. Murphy confirmed in their depositions that during the transport, Ms. Lewis served as EMT-P and Mr. Murphy drove the ambulance;
- v. In her deposition Ms. Lewis described the patient becoming aroused and stated that she, Ms. Cox and the Licensee determined that it would be better to administer Vecuronium instead of increasing the Propofol and Ativan because of how easily the patient was becoming aroused in reaction to stimulation and due to the expected length of the trip to Vidant Hospital in Greenville;
- vi. In her deposition, Dr. Selley confirmed that in a phone call with Ms. Lewis, she agreed with the recommendation from the personnel in the ambulance to administer Vecuronium, based on a report from Ms. Lewis that the patient had become combative in the ambulance;
- vii. Dr. Selley stated that she received a second call from the ambulance, she believes from Ms. Cox, indicating that the patient had pulled out the tube and had vomited and that they were having difficulties with the patient's oxygen saturations;
- viii. Ms. Lewis stated that after the re-intubation of the patient in the ambulance, she, Ms. Cox and the Licensee all watched for condensation in the endotracheal tube and for belly distension to check for placement of the tube, and did not indicate that they observed any indications that the re-intubation was misplaced;
- ix. Dr. Selley also testified that she recalls a third call from the ambulance, which she believes was from Ms. Cox again, reporting that the patient's heart rate had started to decline;
- x. Dr. Selley testified that in response to this information about the patient's condition, she recommended checking the placement of the tube, and she was told by whomever she was talking with that the personnel on the ambulance had checked the placement of the tube, that they had administered epinephrine and amiodarone and were following their ACLS procedure;
- xi. Mr. Murphy testified that at the conclusion of the transport, after the ambulance had reached Vidant Hospital and the patient had been moved into the hospital, he observed three open capnography devices in the back of the ambulance.

- H. After reviewing the depositions, the Investigation and Informal Settlement Committee decided to schedule another interview with the Licensee which was scheduled on June 10,
- i) During her June 10 interview, the Licensee was asked about Mr. Murphy's testimony that he found three open capnography devices in the back of the ambulance at the conclusion of the transport of the patient;
 - ii) The Licensee stated that she did not know why two other open capnography devices, besides the one that rolled under the stretcher, were found after the transport in the back of the ambulance; but she stated that during the transport she never had her hands on such a device;
 - iii) During her June 10 interview, the Licensee also stated that after the re-intubation of the patient, she had to hold the endotracheal tube in place and continue bagging the patient, so she personally was unable to reach any other devices in the ambulance;
 - iv) The Licensee confirmed that she had one pediatric and one adult capnography device with her in the ambulance, and there is no indication that the Licensee considered asking any of the other three individuals on the ambulance to arrange to retrieve a capnography device to apply to use for the patient during the transport;
 - v) Although the Licensee was aware of the importance of maintaining the patient's airway, and this point was emphasized in the phone call that Dr. Selley had with Ms. Cox, the Licensee relied on the other observations made by herself and others on the ambulance to determine whether the ET Tube had been properly placed, rather than using an available capnography device;
 - vi) During the June 10 interview, the Licensee also reported that there was one recent occasion when she had refused to participate in a transport of a patient who was experiencing vomiting and other symptoms, indicating that she did not believe that the case was an appropriate one for her skill level. [SEE RECORDING AT 19 MINUTES/45 SECONDS.
 - vii) At the June 10 interview, the Licensee also presented a letter dated May 27, 2014 from Dr. Robert E. Dornon, Jr., a physician serving as a hospitalist at Carteret General Hospital, in which Dr. Dornon states that the Licensee is very skilled at emergency intubations, interacts well with patients and staff at the hospital and demonstrates high skills and good judgment.

Based on the depositions and the Licensee's statements, the Board determined that the Licensee did not use available capnography devices that were on the ambulance during the transport, and in spite of the difficult circumstances that were involved, and other efforts made to check the integrity of the patient's airway, the Licensee and the others in the ambulance did not make sufficient efforts to use the most authoritative means present to determine that the patient's airway was intact.

Therefore, the Board instructed staff and counsel to prepare this Consent Order, including a Board Reprimand.

5. Stipulated Order

After careful consideration of the terms of this Consent Order, and after an opportunity to review it with legal counsel, I, Angela J. Kerntke, the Licensee agree to the terms of this Order.

A. Stipulation to Sections of Law Violated:

By her execution of this Consent Order, the Licensee admits that evidence of the Licensee's conduct described above, if proven at a hearing, 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 21 N.C. Admin. Code § 61.0307 (12), and would present a sufficient basis for the Board to impose more severe restrictions on her License than those contained in this Consent Order.

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 this Board Reprimand.
2. The Licensee agrees to complete an advanced airway skills assessment no later than ninety (90) days following the execution of this Consent Order. The skills assessment must be completed at a North Carolina Community College that offers the Board's approved respiratory care refresher course.
3. The Licensee also assumes financial responsibility for any costs associated with fulfilling the terms of this Consent Order.
4. The Licensee agrees 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 a public record under N.C. Gen. Stat. § 132-1.

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.

9. Noncompliance with 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 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, and may impose additional disciplinary sanctions.

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 with the terms of this Consent Order, the RCP shall immediately notify the Board in writing by return receipt mail, fully describing the situation and making any attendant request for modification.

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.

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

I, Angela J. Kerntke, state that I have read the foregoing Consent Order; that I know and fully understand its contents; that after having an opportunity to consult with and obtain advice of counsel, 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.



Angela J. Kerntke

STATE OF NORTH CAROLINA

COUNTY OF Craven

There personally appeared before me, a Notary Public in and for the County of Craven, State of North Carolina, Angela J. Kerntke, who, after having presented satisfactory documentation of her identity to me, did acknowledge that she executed the foregoing Consent Order as her free and voluntary act.

This 21st day of August, 2014.

Danna Ervin
Notary Public

(SEAL)

My Commission Expires: 05-09-17

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

The foregoing Consent Order is entered at Raleigh, North Carolina, this 28th day of August, 2014.

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