

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
RESPIRATORY CARE BOARD

IN THE MATTER OF:

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CONSENT ORDER

Donny E. Helms, RCP
License Number – 1433

I. 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. General Statute § 90-652 and 21 N.C. Administrative. Code § 61 .0307.

II. Identification of Licensee

The Respiratory Care Practitioner is Donny E. Helms (the “RCP”). The RCP’s mailing address is 12992 Hwy 265, Jefferson, SC 29718. The RCP holds North Carolina Respiratory Care License number 1433 (the “License”), first issued on September 30, 2002 with a current expiration date of September 30, 2015.

III. Waiver of Rights

I, Donny E. Helms, the Respiratory Care Practitioner, 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)

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

IV. Stipulation to Facts

The RCP and the Board stipulate to the following facts:

A. The RCP was employed and engaged in the practice of respiratory care in North Carolina during the time period when the events occurred that led to the initiation of this matter.

B. On April 21, 2015, the Board received a complaint Anita Doster, Manager of Respiratory Therapy at Carolinas Medical Center-Union, who reported that Donny Helms, RCP was tested for reasonable suspicion of impairment during the 7:00 AM-7:00 PM (day) shift on April 20, 2015. He tested positive for alcohol with breathalyzer testing on April 20, 2015 with the urine sample pending. The RCP was placed on administrative leave and referred to the Employee Assistance Program.

C. On April 28, 2015, The RCP's spouse, Krystan Simpson Helms, informed the Board that the RCP was admitted into First Step in Monroe, NC on Wednesday April 22 with the length of treatment to be determined by the staff of First Step.

D. On May 20, 2015, the Board received documents under a subpoena it had issued to CMC which showed a negative drug screen on April 20, 2015 but an alcohol level of 0.225% and 0.215% in two different tests on that same day.

E. On June 9, 2015, the RCP appeared for an interview before the Board's Investigation and Informal Settlement Committee; and admitted to testing positive for alcohol with a 0.225 and 0.215 alcohol levels on April 20, 2015 and was admitted to First Step recovery. He stated that he completed First Step 28-day program, attends AA 3 times a week, and will be randomly drug tested each month for the next two years. He also stated that was cleared by the EAP to return to work and he stepped down from his supervisory position. He provided three letters of reference.

V. Stipulated Order

During an Executive Session at its regular quarterly meeting on July 9, 2015 the Board considered this matter and determined to offer a Consent Order to the RCP, on the terms set out in this document.

A. Stipulation to Sections of Law Violated:

I, Donny E. Helms, the RCP, admit that if evidence showed that I had used alcohol while treating patients, that would constitute a violation of N.C. Gen. Stat. § 90-659 (a)(1) (d) and the Board Rule set forth in 21 N.C. Admin. Code 61.0307 (10) and 21 N.C. Admin. Code 61.0307 (14), which would provide a sufficient basis for the Board to permanently revoke my License.

B. Stipulation to Sanction:

Under N.C. Gen. Stat. § 90-652, in lieu of proceeding to hearing, the RCP and the Board hereby enter into this consent order and agree to the following terms, and the RCP understands that each and every one of these terms is an essential provision of this Consent Order, to which he agrees:

✓ 1. The RCP agrees to accept a license to practice respiratory care on Probationary Status for a period of not less than 36 months from the date of execution of this order; and as a specific condition of that Probationary Status, the RCP agrees to all of the following terms and limitations.

✓ 2. The RCP agrees to pay 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 also agrees to the assessment of two hundred and fifty dollars (\$250.00) in costs pursuant to N.C. Gen. Stat. § 90-666(d). The RCP agrees that the civil penalty and cost amounts are reasonable in light of the factual stipulations and agrees to remit these sums to the Board no later than 90 days after execution of this order. The RCP also assumes financial responsibility for any other costs associated with fulfilling the terms of this Consent Order.

✓ 3. The RCP 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. The RCP shall cause his immediate supervisor to submit written quarterly reports to the Board during the time the RCP is on Probation. Each such written report shall be submitted in a format defined by the Board and shall document the RCP's performance in the delivery of Respiratory Care, and detail any concerns of the supervisor about the RCP's practice of Respiratory Care with a form supplied by the Board.

✓ 5. During the entire time that the RCP holds the License on Probationary Status, the RCP agrees to permit the Board to conduct random drug testing of the RCP, and further agrees that the entire costs of all drug testing will be paid by the RCP. 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 RCP 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 or employer as proof of RCP's ongoing compliance

✓ 6. The RCP agrees to seek treatment and counseling with a Board approved substance abuse counselor during the probationary period within 30 days of his signature of this order and submit a copy of the counselor's findings and plan of treatment to the Board.

⑦ 7. The RCP agrees to sign a release of information form with his Counselor allowing him/her to provide written reports to the Board of his sessions with his Counselor on a quarterly basis for 24 months. The RCP shall agree to follow any Plan of Treatment suggested by the Counselor.

✓ 8. The RCP agrees to an interview 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.

✓ 9. 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).

✓ 10. 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.

✓ 11. 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.

✓ 12. 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.

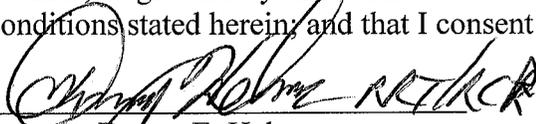
6. Effective Date/Modification

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 RCP 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.

CONSENT TO ISSUANCE OF CONSENT ORDER BY RESPIRATORY CARE PRACTITIONER

I, Donny E. Helms, 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.



Donny E. Helms

STATE OF NORTH CAROLINA
COUNTY OF Union

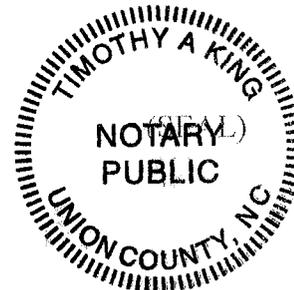
There personally appeared before me, a Notary Public in and for the County of Union, State of North Carolina, Donny Helms, who, after having presented documentation of his identity that was satisfactory to me, did acknowledge that he executed the foregoing Consent Order as his free and voluntary act.

This 20th day of August, 2015.



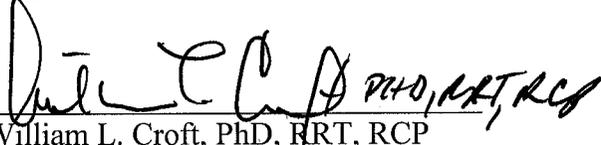
Notary Public

My Commission Expires: 4-29-17



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

The foregoing Consent Order is entered at Cary, North Carolina, this 26th day of August, 2015.



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