

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
RESPIRATORY CARE BOARD

IN THE MATTER OF:

Jessica D. Carter, RCP
License Number – 6236

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CONSENT ORDER

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 Jessica D. Carter (the “RCP”). Her mailing address is 526 John St. Eden, NC 27288. The RCP holds North Carolina Respiratory Care License number 6236 (the “License”), first issued on May 21, 2010, with a current expiration date of May 30, 2016.

III. Waiver of Rights

I, Jessica D. Carter, 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)

- JC The right to a hearing before the Board;
- JC The right to present evidence to disprove all or some of the charges against me;
- JC The right to present evidence to limit or reduce any sanction that could be imposed for a violation;
- JC The right to confront and cross-examine witnesses and to challenge evidence presented by the Board against me;
- JC The right to present legal arguments to the Board; and
- JC 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 December 12, 2015, a Respiratory Care Supervisor at Moses Cone Hospital informed the Board that the RCP was terminated from Moses Cone Hospital for failing to comply with her conditions of employment after a discrepancy was found with a controlled substance. Jessica refused to come in for the drug screen or to talk about the matter. She was the only user in the pyxis machine and 10-5mg Oxycodone were missing.

C) On February 19, 2016, a Respiratory Care Supervisor at WakeMed Brier Creek informed the Board that the RCP was terminated for declining to permit a drug screen for reasonable suspicion per facility policy. According to the Supervisor, the RCP stated that she would not pass because she smoked marijuana over the weekend of February 13 and 14. The RCP signed a declination and was terminated effective February 18, 2016.

D) On March 8, 2016, the RCP attended the IISC meeting. During the interview, the RCP stated that she is currently unemployed. She admitted to smoking marijuana over the weekend of February 13 and 14 and having problems with substance use. She also admitted diverting medications. She denied using drugs while on the job. She provided an evaluation from the First Step program, which recommended that she enter the Path Way to Hope 30-45 day inpatient program.

V. Stipulated Order

During an Executive Session at its regular quarterly meeting on April 14, 2016 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, Jessica D. Carter, the RCP, admit that my admitted drug diversion and marijuana use constitute unprofessional conduct 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 would provide a sufficient basis for the Board to revoke my License.

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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 she 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 additional terms and limitations.

2. The RCP agrees to seek treatment and counseling with a Board approved substance abuse counselor within 30 days of her signature of this order and to submit a copy of that Counselor's findings and plan of treatment to the Board or the Board may accept the evidence of the RCP's completion of such counseling. The RCP also agrees to follow any Plan of Treatment suggested by the counselor to its completion and to sign a release of information form with her Counselor allowing him/her to provide written reports to the Board of her sessions with her Counselor on a quarterly basis for 36 months or until the plan of treatment is completed.

3. 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.

4. The RCP agrees to pay a civil penalty of two hundred and fifty dollars (\$250.00) pursuant to N.C. Gen. Stat. § 90-666. The RCP agrees that the civil penalty amount is are reasonable in light of the factual stipulations and agrees to remit this sums to the Board no later than 90 days after execution of this order if treatment is not completed by that date. However, the Board agrees to waive the civil penalty if the RCP completes intensive outpatient or residential treatment for substance use within 90 days of the date of execution of this Order. The RCP also agrees to assume financial responsibility for any other costs associated with fulfilling the terms of this Consent Order.

5. The RCP agrees to report any change of employment as a Respiratory Care Practitioner and any change of address in writing to the Board within five business days after any such change;

6. The RCP shall cause her immediate supervisor to submit written quarterly reports to the Board during the time the RCP is on Probation if employed. 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 and;

7. The RCP agrees to attend one or more interviews 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 assess her compliance with this Consent Order.

8. 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).

9. 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, fully describing the situation and providing a specific request to modify its terms for Board consideration. However, the RCP acknowledges that unless and until the Board confirms such a modification IN WRITING to the RCP, no modification of this Consent Order shall be in effect.

10. The RCP acknowledges and agrees that if she fails to comply with the terms of this Consent Order, either by completely failing to carry out one of her 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.

11. 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 her 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, Jessica D. Carter, 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.

Jessica D. Carter
Jessica D. Carter

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, Jessica D. Carter, who, after having presented documentation of her identity that was satisfactory to me, did acknowledge that she executed the foregoing Consent Order as her free and voluntary act.

This 19th day of May, 2016.

Jane E. Carter
Notary Public

(SEAL)

My Commission Expires: 12-8-17

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

The foregoing Consent Order is entered at Cary, North Carolina, this 19th day of May, 2016.

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