

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
RESPIRATORY CARE BOARD

IN THE MATTER OF:)

Heath Kershaw, RCP)
License Number – 8471)

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 Heath Kershaw (the "Licensee "). His mailing address is 249 Noah's Road in Fleetwood, North Carolina, 28626. He holds North Carolina Respiratory Care License number 8471 (the "License"), first issued on May 20, 2016, with a current expiration date of May 31, 2018.

III. Waiver of Rights

I, Heath Kershaw, the Licensee, 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)

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

IV. Stipulation to Facts

The Licensee and the Board stipulate to the following facts:

1. On or about July 18, 2017, Dennis Blair, the Respiratory Care Manager at Watauga Medical Center, reported that the Licensee had been convicted of two felony offenses of buying a controlled substance over the internet and money laundering; and the Licensee hereby stipulates that this is correct.
2. There is no indication that the Licensee was under the influence of any controlled substance at any point during his employment at Watauga Medical Center, and the hospital has not reported any concerns about the quality of the respiratory care that he has been providing there.
3. The Licensee's sentence for the felony conviction was a term of not more than 21 months/years; and he will begin serving a prison sentence on or about September 1, 2017.

V. Stipulated Order

During an Executive Session at its regular quarterly meeting on July 13, 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, Heath Kershaw, the Licensee, admit that the felony conviction described in this Consent Order would constitute a violation of N.C. Gen. Stat. § 90-659 (a) (2) and the Board Rule set forth in 21 N.C. Admin. Code 61.0307 (25), and provides a sufficient basis for the Board to revoke my License.

B. Stipulation to Sanction:

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

1. The Licensee agrees to surrender his License to practice respiratory care on or before September 1, 2017; and to cease all practice of respiratory care on or before that date.
2. The Licensee acknowledges and agrees that he will not be eligible to apply for a license to practice Respiratory Care until he completes serving his active sentence.
3. The Licensee acknowledges, as a result of his felony conviction, that if he applies to the Board for a license after completion of his active sentence, the Board may deny his application.

4. The Licensee acknowledges, as a result of his felony conviction,, that if he applies to the Board for a license after completion of his active sentence, the Board may:

- a. Impose conditions that he must meet before a license is issued to him: and
- b. Issue a license on probationary status, with limitations on his practice of Respiratory Care, as well as other ongoing conditions to which he must comply, including random drug screens and other monitoring conditions.

5. The Licensee 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).

6. The Licensee acknowledges that if other evidence of the Licensee's non-compliance with the Act or the Rules that is not presented in the Stipulated Facts above should arise, and regardless of whether any such other evidence relates to time periods before or after the time period of the stipulated facts in this Consent Order, then in determining the appropriate action to take, the Board also may consider the Licensee's conviction which is presented in the Stipulated Facts in this Consent Order.

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.

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CONSENT TO ISSUANCE OF CONSENT ORDER BY RESPIRATORY CARE PRACTITIONER

I, Heath Kershaw, 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.

Heath Kershaw

STATE OF NORTH CAROLINA
COUNTY OF Watauga

There personally appeared before me, a Notary Public in and for the County of Watauga, State of North Carolina, Heath Kershaw, 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 7 day of August, ²⁰¹⁷~~2016~~.

Charlotte P Miller
Notary Public

(SEAL)

My Commission Expires: 6-30-2018

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

The foregoing Consent Order is entered at Cary, North Carolina, this 18th day of August, ~~2016~~ 2017 (WLC)

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