

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
RESPIRATORY CARE BOARD

IN THE MATTER OF:

Gregg J. Smith, RCP
License Number – 4074

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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.


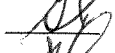



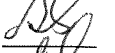
II. Identification of Licensee

The Respiratory Care Practitioner is Gregg J. Smith (the "LICENSEE"). His mailing address is 5084 Baux Mountain Road, Winston Salem, NC 27105. He holds North Carolina Respiratory Care License number 4074 (the "License"), first issued on October 1, 2004, with a current expiration date of October 31, 2018.

III. Waiver of Rights

I, Gregg J. Smith, 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)

-  The right to a hearing before the Board;
-  The right to present evidence to disprove all or some of the charges against me;
-  The right to present evidence to limit or reduce any sanction that could be imposed for a violation;
-  The right to confront and cross-examine witnesses and to challenge evidence presented by the Board against me;
-  The right to present legal arguments to the Board; and
-  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 November 8, 2017, the Board received a late renewal continuing education audit notice for the LICENSEE, which had been generated by the Board's automated CE system. Upon inspection by the Board staff, the dates on the documents appeared altered and suggested fraudulent misrepresentation of the continuing education requirements.
- 2) On Nov 8, 2017, an email was sent to the LICENSEE asking for clarification for the dates noted on the certificates for the ACLS, High Flow Nasal Cannula Therapy, and Clinicians Guide to Pap Therapy classes.
- 3) On December 11, 2017, the LICENSEE responded by email that the ACLS class was taken on December 11, 2016; the Teleflex live class/High Flow Nasal Cannula Therapy was taken on October 2016; and the non-traditional course, Clinicians Guide to Pap Therapy, was taken on August 10, 2016.
- 4) At its regularly scheduled meeting on December 5, 2017, the Board's Investigation and Informal Settlement Committee reviewed the LICENSEE'S continuing education documents and concluded that the dates on the documents appeared to be altered, which suggested that there had been a fraudulent misrepresentation of the continuing education requirements. The committee also concluded that the LICENSEE had failed to meet minimum licensure requirements set by statute or rule. According to the documents:
 - a. The ACLS course taken at Novant Health Huntersville Medical Center had the class date changed on the card from 2015 to 2016.
 - b. The certificate for a Teleflex course dated October 22, 2017 held in the Greensboro provided by Lisa Ely appeared altered from a previous year.
 - c. The remaining credits should have been taken after October 21, 2016 but were dated August 10, 2016.
- 5) On November 8, 2017, Lisa Ely, formerly of Teleflex confirmed in an email to the Board that she left Teleflex in 2015; yet the certificate for the Teleflex course in October of 2017 that the LICENSEE submitted was signed by Ms. Ely.
- 6) On February 7, 2018, Trish Bleynt, RN BC, MSN of Innovative Solutions confirmed in an email that that Gregg J Smith attended and successfully completed an ACLS Renewal Class on December 11, 2015 at Novant Health Huntersville Medical Center.
- 7) On February 6, 2018, a letter inviting the LICENSEE to the IISC meeting was sent to his address of record.
- 8) In an email to the Board on March 5, 2018, the LICENSEE indicated that he could not come to the IISC meeting since he was working and also stated: "I am in the middle of a divorce and my ex would not let me have access to my ceu s so I forced my to do the most stupid thing that I could have done I was trying to keep my job. Which did not work anyhow and have not worked in respiratory".

V. Stipulated Order

During an Executive Session at its regular quarterly meeting on April 12, 2018 the Board considered this matter and determined to offer a Consent Order to the LICENSEE, on the terms set out in this document.

A. Stipulation to Sections of Law Violated:

I, Gregg J. Smith, the LICENSEE, admit that the actions described in this Consent Order constitute a violation of N.C. Gen. Stat. § 90-659 (a) (1) and the Board Rules set forth in 21 N.C. Admin. Code 61.0307 (1), (2), and (23), and provide 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 this consent order and agree to the following terms, and the LICENSEE understands that every one of these terms is an essential provision of this Consent Order, to which he agrees:

1) The LICENSEE acknowledges that considering the Stipulated Facts set forth above, Probation is a minimally appropriate sanction for the Board to impose. Therefore, the LICENSEE agrees to accept a Probation Status on his License for 36 months from the Board and to comply with and complete each of the specific requirements set forth below within the period specified for compliance with each.

2) The LICENSEE agrees to pay a civil penalty of two hundred and fifty dollars (\$250.00) pursuant to N.C. Gen. Stat. § 90-666 (a) and 21 N.C. Admin. Code 61.0309 (c) (3); and agrees to the assessment of one hundred dollars (\$100.00) in costs pursuant to N.C. Gen. Stat. § 90-666(d). The LICENSEE agrees that the civil penalty and cost amounts are reasonable considering the factual stipulations and agrees to remit these sums to the Board no later than 90 days after execution of this order. The LICENSEE also assumes financial responsibility for any other costs associated with fulfilling the terms of this Consent Order.

3) The LICENSEE agrees to complete a two-page essay on the Purpose of CE credit for licensing according to Board writing guidelines and submit it electronically no later than 30 days after signing this Consent Order.

4) The LICENSEE agrees to complete 12 CE credits for the 2016-2017 renewal cycle no later than 90 days after signing this Consent Order and shall include documentation of completion of the AARC ETHICS Course within that 90-day period.

5) The LICENSEE understands and agrees that before it renews the License, on each renewal date during his 36 months that he holds the License on Probationary Status, the Board will audit his CE submissions for accuracy. Therefore, he will not be able to

renew the License in 2018, 2019 or 2020 until a CE audit is completed; and it will be necessary for him to complete and submit CE at least 30 days before each renewal date during the probationary period.

6) The LICENSEE agrees that if circumstances arise which affect the LICENSEE'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 LICENSEE 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 LICENSEE.

7) The LICENSEE 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 LICENSEE.

8) 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 in his practice of Respiratory Care.

9) The LICENSEE agrees 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, then the Board may invoke other disciplinary measures against the LICENSEE, based on that other evidence; and in determining the appropriate action to take, the Board also may consider the conduct of the LICENSEE which is presented in the Stipulated Facts in this Consent Order.

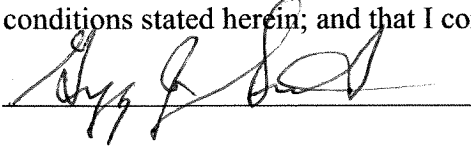
10) The LICENSEE acknowledges and agrees that this Consent Order and the materials compiled by the Board are matters of public record under the North Carolina Public Records Law, N.C. Gen. Stat. § 132-1 *et seq.*; and that the contents of this Consent Order will be reported to the appropriate entities 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).

C. 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 period or periods specified, or until amended in writing by the Board.

CONSENT TO ISSUANCE OF CONSENT ORDER BY RESPIRATORY CARE PRACTITIONER

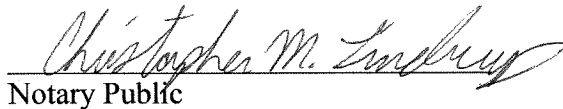
I, Gregg J. Smith, state that I have read the foregoing Consent Order; that I know and fully understand its contents; that after having an opportunity to consult with and obtain advice of counsel, I agree freely and without threat or coercion of any kind to comply with the terms and conditions stated herein; and that I consent to the entry of this Consent Order.



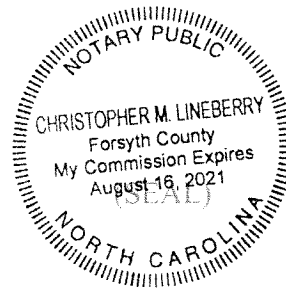
STATE OF NORTH CAROLINA
COUNTY OF Davidson

There personally appeared before me, a Notary Public in and for the County of Davidson, State of North Carolina, Gregg J. Smith, 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 6 day of June, 2018.



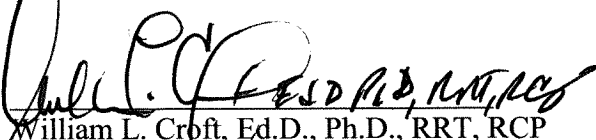
Notary Public



My Commission Expires: August 16, 2021

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

The foregoing Consent Order is entered at Cary, North Carolina, this 7th day of June, 2018.



William L. Croft, Ed.D., Ph.D., RRT, RCP
Executive Director
North Carolina Respiratory Care Board