

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
RESPIRATORY CARE BOARD

IN THE MATTER OF:

James N. Britt, RCP
License Number – A-5591

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**CONSENT ORDER
FOR THE ALTERNATIVE PROGRAM**

1. 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. Gen. Stat. § 90-652 and 21 N.C. Admin. Code § 61.0307.

2. Identification of Licensee

The Respiratory Care Practitioner is James N. Britt (the “RCP”). His mailing address is 12667 NC 125, Hamilton, NC 27840. The RCP holds North Carolina Respiratory Care License number A-5591 (the “License”), first issued on June 05, 2008 with a current expiration date of June 30, 2019.

3. Waiver of Rights

I, James N. Britt, the RCP, 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below, I hereby freely and knowingly waive each of these rights without further process and agree to the terms of this Unpublished Consent Order regarding my License:

(Initials)

JB

The right to a hearing before the Board;

JB

The right to present evidence to disprove all or some of the charges against me;

JB

The right to present evidence to limit or reduce any sanction that could be imposed for a violation;

JB

The right to confront and cross-examine witnesses and to challenge evidence presented by the Board against me;

JB

The right to present legal arguments to the Board; and

JB

The right to appeal from any final decision adverse to my license to practice respiratory care.

4. Stipulation to Facts

The RCP and the Board stipulate to the following facts:

A. The RCP was employed 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 11, 2018, a complaint was filed by Cortney Ward in the Human Resource Department at Washington County Hospital which stated that the hospital administrator suspected the employee of being intoxicated on November 9, 2018. The complaint indicated that the RCP consented to a drug screen on November 9 and admitted to abuse of alcohol prior to testing.

C. On November 9, 2018, a breathalyzer screen revealed a blood alcohol concentration (BAC) of 170.3 mg deciliter of blood or 0.17% at 11:38 AM. The RCP requested a rescreen that resulted in a BAC of 143.4 mg of alcohol per deciliter of blood or 0.14% at 1:03 PM. The RCP was suspended for 3 unpaid days with the understanding he would have to sign a contract for conditions of continued employment upon his return.

D. On November 14, 2018, the RCP returned to work and signed a contract agreeing to a 60 day probation period which included entering the hospital's substance abuse program and consenting to BAC screenings at the beginning of each shift.

E. On December 3, 2018 at 9:27 AM, the RCP was screened at the beginning of the shift which resulted in a BAC of 81.9 mg of alcohol per deciliter of blood or 0.0819%, although he displayed no outward signs of intoxication. At 10:14 am, a rescreen resulted in a BAC of 67.9 mg of alcohol per deciliter of blood or 0.0679%.

F. On December 3, 2018, the Licensee's supervisor determined that he was a safety hazard for patient care and he was terminated for violating the probationary contract.

G. On December 12, 2019, a letter was sent to the RCP inviting him to an interview with the Board's Investigative Committee to discuss his conduct.

H. On January 3, the RCP requested a continuance in a phone call with the Executive Director. During the call, the RCP acknowledged that the BAC result on December 3 met the legal definition of intoxication for North Carolina but he indicated he was going to seek counseling and he claimed that his performance on the job was not impaired despite the BAC. At that time, the Executive Director informed him that the Board could take immediate action given the BAC.

I. On January 10, 2019 the Board considered this matter and determined to offer the RCP entrance into the Alternative Program under a Consent Order, on the terms set out in this document.

5. Stipulated Order

A. Stipulation to Sections of Law Violated:

I, James N. Britt, the RCP, admit that the positive drug screen described above constitutes violations of N.C. Gen. Stat. § 90-659 (a)(1)(d) and § 90-659 (4) and the regulations set forth in

21 N.C. Admin. Code § 61.0307 (3) (10) and (14), and provides a sufficient basis for the Board to permanently revoke my License, or take other disciplinary action.

B. Stipulation to Interim Sanction:

Under N.C. Gen. Stat. § 90-652, in lieu of proceeding to a hearing, the RCP and the Board hereby enter into this Consent Order and agree to the terms specified below. The Board offers the Alternative Program (AP) to licensees in situations where the information received about an RCP whose competency may be impaired because of a substance use disorder but who voluntarily seeks and receives medical supervision for their substance use issues. The RCP agrees to participate in the AP with the understanding that it is not published unless disclosure is necessary to protect the health, safety, and welfare of the public or as ordered by a court of competent jurisdiction. Unpublished consent orders are kept in a licensee's file, which is accessible to the public, but the Board does not publish them on its website. The RCP understands that every one of the following terms is an essential provision of this Order, to which he agrees:

1. The RCP agrees to a Suspension of his License for not less than 3 months from the date of his signature of this order. The RCP further agrees that at its regularly scheduled quarterly meeting in April of 2019, the Board may extend this suspension, or take further action against his License, up to and including revoking it, based upon the Board's review of his compliance with the terms of this Consent Order.

2. As a specific condition of the Suspension, the RCP agrees to all of the following terms and limitations.

3. The RCP agrees to attend an interview with the Investigative Committee of the Board on March 5, 2019 at 9:00 AM to assess his compliance with this Consent Order. The RCP further agrees that if for some reason, he is unable to attend the interview with the Investigative Committee on that date, that the period of the suspension of his License shall be extended to the date of the next regularly scheduled quarterly Board meeting that follows the date of his interview with the Investigative Committee.

4. The RCP shall seek treatment and counseling with a Board-approved substance abuse counselor during the suspension period within 7 days of his signature of this order and to submit a copy of the counselor's findings and plan of treatment to the Board no later than February 4, 2019.

5. The RCP shall follow any Plan of Treatment suggested by the Counselor and agrees to sign a release of information form with his Counselor allowing the Counselor to provide written report to the Board of his sessions and a fit for duty report by March 4, 2019.

6. The RCP shall submit to random drug and alcohol screens during the Suspension and shall pay the costs of any drug screens, treatment, or testing required under this Consent Order and agrees to assume financial responsibility for any other costs associated with fulfilling the terms of this Consent Order.

7. The RCP shall not seek employment as a Respiratory Care Practitioner until he receives written notice that the Suspension is lifted by the Board.

8. Upon any employment as a Respiratory Care Practitioner, the RCP shall report that employment to the Board by email or other writing within five business days of hiring; and the RCP shall report any change of employment as a Respiratory Care Practitioner and any change of address by email or other writing to the Board within five business days after any such change.

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 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) maintained by the U.S. Department of Health and Human Services.

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, fully describing the situation and providing a specific request to modify the terms of this Consent Order for the Board's consideration. **HOWEVER, THE RCP ACKNOWLEDGES THAT UNLESS AND UNTIL THE BOARD CONFIRMS IN WRITING ITS ACCEPTANCE OF ANY MODIFICATION REQUESTED, NO SUCH MODIFICATION SHALL BE IN EFFECT.**

11. The RCP acknowledges and agrees that if he fails to comply with the terms of this Consent Order, either by 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.

6. Effective Date

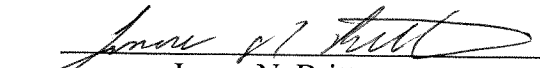
All provisions of this Consent Order are effective upon the date that the Executive Director of the Board signs it, and it shall remain in effect for the period or periods specified, or until amended in writing by the Board.

The terms of this Consent Order shall remain in effect until the RCP completes each of the requirements listed above and receives written confirmation of completion from the Board.

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 in response to any such other evidence of the Licensee's non-compliance with the Act or the Rules, 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 UNPUBLISHED CONSENT ORDER BY
RESPIRATORY CARE PRACTITIONER**

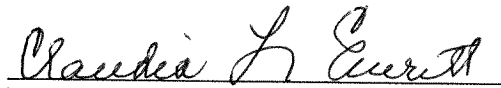
I, James N. Britt, state that I have read the foregoing Order; that I know and fully understand its contents; that after having an opportunity to consult with and obtain advice of counsel, I agree freely and without threat or coercion of any kind to comply with the terms and conditions stated herein;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


James N. Britt

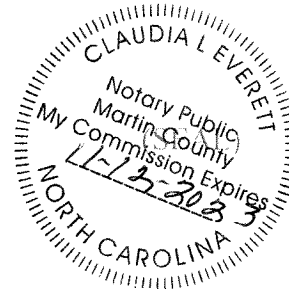
STATE OF NORTH CAROLINA
COUNTY OF Martin

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

This 31 day of Jan, 2019.

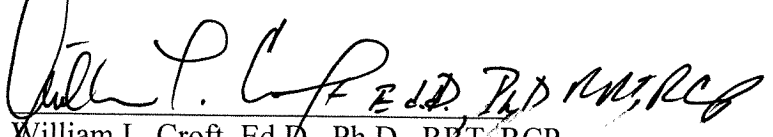

Notary Public

My Commission Expires: 11-12-2023



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

The foregoing Consent Order is entered at Cary, North Carolina, this 4th day of February 2019.


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