STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
RESPIRATORY CARE BOARD

IN THE MATTER OF:	)	
	)	**CONSENT ORDER**
Thelma Riley, RCP	)	
License Number – 1728	)	

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1. Jurisdiction

The North Carolina Respiratory Care Board (the Board) is an occupational licensing board of the State of North Carolina, organized under The Respiratory Care Practice Act, codified at N.C. Gen. Stat. § 90-646, *et seq*. The Board has jurisdiction over this matter pursuant to N.C. Gen. Stat. § §90-652 and 90-659 and 21 N.C. Admin. Code 61.0307.

2. Identification of RCP

The Respiratory Care Practitioner is Thelma Riley (the "RCP"). Her mailing address is 12036 Windy Rock Way, Charlotte, NC 28273. The RCP holds North Carolina Respiratory Care License number 1728 (the "License"), first issued on August 12, 2002, with an expiration date of August 31, 2015.

3. Waiver of Rights

I, Thelma Riley, understand that I have each of the following rights, and as noted by my initials below, I, Thelma Riley, the RCP, hereby freely and knowingly waive each of these rights without further process and agree to the terms of this Consent Order regarding my License:

TR The right to a hearing before the Board;

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

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

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

TR The right to present legal arguments in a brief; and

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

4. Stipulated Facts

The Respiratory Care Practitioner and the Board stipulate to the following facts:

A. The RCP was engaged in the practice of respiratory care in North Carolina when the events described in this Consent Order occurred.

B. On July 15, 2014, the Board received a complaint from Carmita Edison at Carolina Specialty Hospital (CSH) located in Pineville, NC alleging that staff members were not following approved department policies and procedures in the operation of ventilators which placed patients at risk of harm. The RCP was not one of the individuals whose conduct was the subject of Ms. Edison's complaint.

C. Investigations of the RCP's named in the Ms. Edison's complaint were begun as Case # 14-714 and Case # 14-715 and the Board subpoenaed pertinent information from CSH and received documents in response to the subpoena on November 12, 2014.

D. On September 9, 2014, the RCP attended an interview with the Board's Investigation and Informal Settlement Committee meeting as a witness to provide information for Case # 14-714 and Case # 14-715, at which time she stated she followed the policies of CSH in regards to the ventilator checks and the spontaneous breathing trials. Subpoenaed documentation from CSH showed the respiratory staff supervised by the RCP charted high pressure limits at 60 cmH20 and low pressure limits at 10 cmH20 on all patients. The RCP stated that she did not have any concerns regarding patient safety related to high pressure alarms until the interview.

E. On October 9, 2014, the Board voted to continue the two cases that related to Ms. Edison's complaint. As a result of the information obtained during the RCP's interview on September 9, concerning ventilator policies and protocols for high and low pressure settings on patients, the Board also requested the RCP to attend an additional interview at the Board's Investigation and Informal Settlement Committee meeting concerning her role as the manager of the Respiratory Care Department at CSH.

F. On November 19, 2014, Board investigators reviewed the subpoenaed documentation with the RCP for September 28 and 29, 2013; January 12 and 13, 2014; February 8-9, 2014; April 19-20, 2014; and July 12, 2014. The documentation showed that staff members: 1) failed to use the appropriate licensed credential designation; 2) set high pressure limits at 60 cmH20 and low pressure limits at 10 cmH20 on all patients; and 3) failed to assess patient status according to the stated protocol; and 4) failed chart treatment modalities consistently. The RCP told the Board investigators that the medical director was aware of the ventilator alarm settings and had no concerns about them.

G. On November 20, 2014, the RCP attended the Board's Investigation and Informal Settlement Committee meeting held at a local hotel in Pineville. During the interview, she again stated that the medical director was aware of the ventilator alarms and had no concern with the settings, since these were within stated policy. She stated that she did not have concerns regarding patient safety related to high pressure alarms until her last interview with the Board. The RCP admitted that staff under her supervision: 1) failed to chart vital signs or breath sounds for their assigned ventilator patients; 2) set high pressure limit (HPL) at 60 cmH20 and low pressure alarms (LPA) at 10 cmH20 on all patients but stated that "it was department policy to set alarm settings this way"; and 3) failed to use the appropriate licensed credential designation;

H. The RCP stated that the Medical Director is aware of the policy and the alarm policy will be reviewed and changed.

I. The Policy # RT-602 submitted to the Board by Carolina Specialty Hospital was last revised in May 2013 and it describes the procedure for setting high and low pressure alarms, and monitoring breath sounds and vital signs on ventilator patients. The Policy procedure provides following procedures for setting high and low pressure alarms on ventilators: 1) high-pressure alarm ideally is set at 15 cmH2) pressure above peak inspiratory pressure (PIP). The pressure alarm can be set higher due to the patient's disease state; and 2) low-pressure alarm ideally is set at 15 cmH2) pressure below peak inspiratory pressure (PIP). In addition, the policy also states that "the routine ventilator assessments are to be performed Q4 hours and include: Breath sounds-verify ET tube position.

J. The subpoenaed documentation received from Carolina Specialty Hospital on November 12, 2014 was reviewed with the RCP during the interview on November 20, 2014. The RCP agreed that the documentation shows that on September 28 and 29, 2013; January 12 and 13, 2014; February 8-9, 2014; April 19-20, 2014; and July 12, 2014, the staff under her supervision did not chart vital signs or breath sounds for their assigned ventilator patients when receiving aerosolized medication, did not set ventilator pressure limits according to department policy, and did not use the proper credentials;

K. The Policy # RT-802 submitted to the Board by Carolina Specialty Hospital last reviewed in May 2013 describes the aerosolized medication therapy protocol. The protocol states the guidelines and warnings of the procedure to include monitoring patents vital signs and evaluate patient's clinical status with each treatment. The need to change medication and/or therapy modality may be indicated by: 1) a pulse rate of 20 bpm occurring with bronchodilator medications; 2) significant worsening of dyspnea or wheezing occurring during or within 30 minutes of discontinuing therapy; and 3) If the patient's condition does not improve within 72 hours, reevaluate patient's therapy and modify as necessary or consult with the patient's physician. The policy also states that RCP's must consult with the physician if abnormal vital signs are sustained for more than 15 minutes

L. The RCP also acknowledged that although staff documented treatments and ventilator checks, the location of documentation was inconsistent and also was inconsistently charted on the flow sheet or the RT notes. She acknowledged that she could see why this inconsistency might create misunderstandings and problems for patient care.

M. The RCP addressed missing documentation in the chart with documents showing that staff did document treatments and ventilator checks in varied locations within the documentation. She stated that the charting software may be part of the issue. They were documenting changes on the flow sheet and/or the RT notes per policy. The policies require documentation on ventilator and tracheostomy patients every 3-4 hours, but most round every 2 hours to assess the patient. She stated that patients received a full assessment. The documents reviewed with the RCP showed ventilator patients did not have vital signs or breath sounds charted before or after therapies or any time during the day.

N. The RCP acknowledged that staff is not documenting according to department or CSH policy, but there is a variation in documentation per policy depending on patient status. She was unable to define standard of care versus policy and procedure when asked.

O. After reviewing the CSH Policy during her interview on November 20, 2014, the RCP acknowledged that the CSH ventilator policy was not followed by staff based on the documentation showing the patients having a HPL of 60. She stated the she does not feel the majority of patients at CSH require high pressure limit (HPL) of 60 and low pressure alarm (LPA) of 10, but the lungs of the patients were not as compliant which is "why 60 is their standard". She stated that activity level and coughing affects the frequency of alarms so they were trying to avoid the high number of alarms from going directly to the phones, since the staff must respond to each one.

P. In regard to the Board concern that therapists were using credentials inappropriately by either not using the RCP designation or using variations of RT, the RCP stated that she had not previously noticed this issue and is instructing staff to use RCP.

Q. In regard to the Board concern that the RCP was not reporting terminations to the Board, she stated that she was unaware that terminations must be reported to the Board and that future terminations would be reported. She stated that she will begin to evaluate her understanding of actions needed for all of the issues raised specifically with supervision of staff.

5. Stipulated Order

A. RCP's Stipulation as to Pertinent Sections of the Statute and Rules:

I, Thelma Riley, the Respiratory Care Practitioner, admit that the allegations against me, if proven true, would constitute violations of N.C. Gen. Stat. § 90-659 (a)(1) (b) and (d), N.C. Gen. Stat. § 90-659 (4) and the regulations set forth in 21 N.C. Admin. Code 61 .0307 (10) and 61 .0307(15).

B. RCP's Stipulation to Sanctions and Future Performance Obligations:

Under N.C. Gen. Stat. § 90-652, in lieu of proceeding to hearing, the Respiratory Care Practitioner and the Board hereby enter into this consent order whereby the Respiratory Care Practitioner and the Board agree to the following sanctions and future performance obligations:

1) The RCP acknowledges that in light of the Stipulated Facts set forth above, the imposition of twelve-month probationary period on her License would be an appropriate sanction for the Board to impose under N.C. Gen. Stat. § 90-659 (1)(d) and (4). Therefore, the RCP accepts and agrees to the imposition of Probation on her License for a period of three hundred and sixty (360) days after execution of this Consent Order, and also agrees to complete or comply with each of following Items set forth below, within the time period specified for compliance with each.

2) The RCP accepts and 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. The RCP shall remit this sum to the Board no later than one hundred and eighty (180) days after execution of this order.

3) The RCP accepts and agrees to the assessment of one thousand dollars ($1000.00) in costs pursuant to N.C. Gen. Stat. § 90-666(d) and to remit this sum to the Board no later than one hundred and eighty (180) days following the execution of this Consent Order. The RCP also assumes financial responsibility for any other costs that she may incur to comply with the terms of this Consent Order.

4) The RCP agrees to complete a two page essay on the meaning of Standard of Care using Anthony Dewitt's book according to Board writing guidelines and submit it electronically no later than 30 days after signing this Consent Order.

5) The RCP agrees to attend an interview with the Investigation and Informal Settlement Committee as the Board directs on September 8, 2015 after execution of this order to describe in detail the policy and procedures at Carolina Specialty Hospital including staff education and cultural change.

6) The RCP agrees to create, present, and video tape a continuing education program for staff at Carolina Specialty Hospital to include topics on a just workplace culture and reporting of patient safety violations without fear of retaliation. In addition, The RCP will submit the video tape one hundred and eighty (180) days following the execution of this Consent Order.

7) 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.

8) The RCP acknowledges that this disciplinary action will be reported to 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 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 fails to complete it within the time specified, that will constitute a violation of 21 N.C. Admin. Code 61 .0307(3); and the Board may suspend or revoke the License, or impose additional disciplinary sanctions or performance obligations on the RCP.

10) 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, including but not limited to the National Databank maintained by the National Board for Respiratory Care and the Healthcare Integrity and Protection Data Bank (HIPDB).

11) The RCP acknowledges and agrees that if circumstances arise which affect the RCP's ability to remain in compliance with any of the terms of this Consent Order; 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.

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 for one year from its effective date and expire at that point. However, the Licensee must continue to comply with the Respiratory Care Practice Act and the Board's Rules; and 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 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 ORDER BY RESPIRATORY CARE PRACTITIONER

I, Thelma Riley, state that I have read the foregoing Consent Order; that I know and fully understand its contents; that 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 as a condition of maintaining my license from the North Carolina Respiratory Care Board.

Thelma Riley, RCP

Thelma Riley

STATE OF NORTH CAROLINA
COUNTY OF Caldwell

There personally appeared before me, a Notary Public in and for the County of Caldwell, State of North Carolina, Thelma Riley, 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 2 day of February, 2015.

(SEAL)

Notary Public

My Commission Expires: My Commission Expires November 6, 2016

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

The foregoing Consent Order is entered at Cary, North Carolina, this 9th day of February, 2015.

William L. Croft PhD, RRT, RCP

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