

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
RESPIRATORY CARE BOARD

IN THE MATTER OF:

Tonya L. Madden, RCP
License Number – 7923

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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 under N.C. Gen. Stat. § 90-652 and 21 N.C. Administrative. Code 61 .0307 in the Board's rules.

II. Identification of Licensee

The Respiratory Care Practitioner whose license is the subject of this matter is Tonya L. Madden (the "RCP"). Her mailing address is 10165 Stoney Brook Court SE, Leland, NC 28451. The RCP holds North Carolina Respiratory Care License number 7923 (the "License"), first issued on February 11, 2015, with a current expiration date of February 28, 2017.

III. Waiver of Rights

I, Tonya L. Madden, 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 Consent Order regarding my License:

(Initials)

TM The right to a hearing before the Board;

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

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

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

TM The right to present legal arguments to the Board;

TM The right to appeal from any final decision adverse to my license to practice respiratory care; and

TM The right to appeal from the entry of this Consent Order.

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 described in this Consent Order occurred..

B) On September 19, 2016, the Board received information relating to the RCP's conduct as a licensee of the Board. The information indicated that the RCP had tested positive during a pre-employment drug screen conducted by Novant Health Brunswick Medical Center on August 23, 2016.

C) On September 29, 2016, the Board received documentation from the Novant Health Brunswick including the Medical Review Officer Report that showed the test for the RCP on August 23, 2016 was positive for Amphetamines and Cocaine test.

D) On November 18, 2016, in an interview with the Board Investigator conducted in Brunswick County, the RCP stated that at the time of the drug test, she was seeking a second job at Brunswick Medical Center. She admitted to taking Adderall for ADHD but states that she has no idea how cocaine was found in the pre-employment urine drug test. She stated that she does not use illegal drugs. She stated that she did not have a current prescription for Adderall because her primary care physician did not want to renew the prescription again because the laws had changed and told her she needed to be seen again by her psychiatrist.

E) On December 6, 2016, the RCP appeared for an interview before the Board's Investigation and Informal Settlement Committee; and she did not admit to any drug use other than the Adderall and had no understanding how she tested positive for Amphetamines and Cocaine.

F) On December 15, 2016, The Board Investigator arranged for Arc Point Labs in Wilmington, NC to conduct a 5-panel hair follicle drug screen for the RCP to support her claim that she was not using controlled substances.

G) On December 29, 2016, the Board Investigator called Arc Point Labs and she was informed that the RCP never came to their facility for the 5-panel hair follicle drug screen.

H) On December 29, 2016, the Board Investigator informed the RCP, by email sent to her email address of record on file with the Board, that if the requested drug screen was not completed prior to the Board's regular quarterly meeting on January 12, 2017; the Board would make a decision based on the August 23, 2016 positive drug screen.

I) The RCP did not arrange to complete the 5-panel follicle drug screen prior to the Board meeting in January.

V. Stipulated Order

During an Executive Session at its regular quarterly meeting on January 12, 2017 the Board considered this matter and determined to offer a Consent Order to the RCP, on the terms set out in this document; and in a telephone call with the Executive Director on January 24, 2017, the RCP accepted each of the provisions of this Consent Order.

A. Stipulation to Sections of Law Violated:

I, Tonya L. Madden, the RCP, admit that my ingestion of Amphetamines and Cocaine would constitute unprofessional conduct which would violate 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 (14), and would provide a sufficient basis for the Board to revoke my License; and further admit that I failed to take steps to submit to the 5-panel follicle test requested by the Board that would confirm or refute the results of the drug test conducted by Novant Health Brunswick, and provide an objective basis for the Board to conclude I have not been taking Amphetamines or Cocaine. Therefore, in consideration of the Board allowing me to keep my License, I freely and voluntarily agree to the following,

B. RCP's Stipulation to Sanctions:

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 24 months from the date of her 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. 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 the Counselor to provide written reports to the Board of her sessions with her Counselor on a quarterly basis for 24 months or until the plan of treatment is completed.

3. Within 30 days after her execution of this Consent Order, the RCP agrees to submit an Initial Quantitative Drug Test to the Board and a letter from her physician detailing all prescriptions taken.

4. During the entire time that the RCP holds the License on Probationary Status, the RCP agrees to permit the Board to conduct Random Quantitative 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, but is not required to, accept drug screens performed by other state or federal agencies or employers in place of a Board mandated drug screen as proof of RCP's ongoing compliance.

5. The RCP also agrees to pay the costs of any drug screens or other treatment or testing required under this Consent Order and also agrees to assume financial responsibility for any other costs associated with fulfilling the terms of this Consent Order.

6. 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.

7. During the entire time that the RCP holds the License on Probationary Status, and if employed as a Respiratory Care Practitioner or in any other health care occupation the RCP shall cause her immediate supervisor to submit written quarterly reports to the Board. 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 or other professional duties, and detail any concerns of the supervisor about the RCP's Practice of Respiratory Care or other professional service on a form supplied by the Board.

8. 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.

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/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) 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 such a modification IN WRITING to the RCP, no modification of this Consent Order shall be in effect.

11. 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.

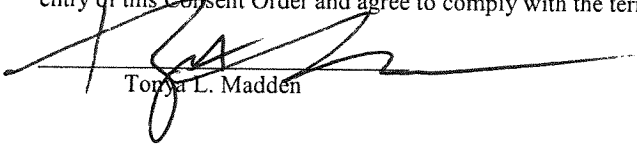
VI. Effective Date

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 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, 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 other evidence of the RCP'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 THE ENTRY OF CONSENT ORDER BY RESPIRATORY CARE PRACTITIONER

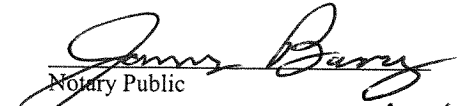
I, Tonya L. Madden, state that I have read the foregoing Consent Order; that I know and fully understand its contents; that after having an opportunity to consult with and obtain advice of counsel if I wanted to do so, I freely and without threat or coercion of any kind, consent to the entry of this Consent Order and agree to comply with the terms and conditions stated in it.


Tonya L. Madden

STATE OF NORTH CAROLINA
COUNTY OF Brunswick

There personally appeared before me, a Notary Public in and for the County of Brunswick, State of North Carolina, Tonya L. Madden 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 23rd day of February 2017.


Notary Public
My Commission Expires: 12/05/2022

JAMES BARRY
Notary Public
Brunswick County, NC

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

The foregoing Consent Order is entered at Cary, North Carolina, this 27th day of February
2017, and a copy of the signed Consent Order was mailed to the RCP's Address of Record
currently on file with the Board.



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