

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
RESPIRATORY CARE BOARD

IN THE MATTER OF:)

)

CONSENT ORDER

Alberto Ribera, RCP)

License Number -1307)

Case Number - 19-968

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 21 N.C. Admin. Code § 61.0307.

2. Identification of Licensee

The Respiratory Care Practitioner is Alberto Ribera (the "RCP"). His mailing address is 2009 Welsh Court, Winterville, NC 28590. The RCP holds a North Carolina Respiratory Care License Number 1307 (the "License"), which was first issued on July 08, 2002, and expires on July 31, 2020.

3. Waiver of Rights

I, Alberto Ribera, 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)

AR The right to a hearing before the Board;

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

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

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

AR The right to present legal arguments to the Board; and

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

4. Stipulation to Facts

The Respiratory Care Practitioner ("RCP") and the Board stipulate to the accuracy of each of the following facts:

A. The RCP was engaged in the practice of respiratory care in North Carolina when the events occurred that led to the initiation of this complaint.

B. On September 26, 2019, a complaint filed by the Manager of Cardiopulmonary Services at Vidant Medical Center in Greenville, NC, stated "on August 21, 2019, the RCP falsified performing a complete ventilator check in the patient's medical record. This was verified after investigation and finding the transport ventilator was in the standby mode at the time when the ventilator check was documented to have occurred in the patient's medical record.. The formal evaluation process of this matter was completed by Vidant Medical Center and his employment was terminated on September 9, 2019".

C. On October 3, 2019, the Manager stated in an interview with the Board Investigator that the RCP had recorded an entry in the medical record indicating that during a transport of a patient within Vidant Medical Center, the RCP had completed a ventilator check on a Hamilton-brand ventilator; but the ventilator was found to be in the Stand-By mode. The Bio-Med Department was asked to analyze the ventilator logs to confirm this finding. The analysis of the ventilator log demonstrated the ventilator had been in the "Stand-By" mode at the time that the ventilator check was documented by the RCP. Since the ventilator was in the Stand-By mode at that time, the ventilator check could not have been completed as documented. According to the manager, the RCP admitted that when he made the entry in question in the patient's medical record he just copied the settings from the previous ventilator check.

D. On October 25, 2019, the RCP stated in an interview with the Board Investigator that he falsely charted the ventilator and patient assessment in the medical record during the patient transport. He admitted copying the same data from his morning assessment and ventilator check and stated that he did that because nothing had changed in the patient's condition.

E. On December 3, 2019, the RCP attended the Investigative Committee Meeting. During the interview, the RCP stated that the Vidant Manager misunderstood his account of how he had charted. He stated he did not say "he wrote down the previous ventilator settings but he wrote down his ventilator information in his notes then used the notes to chart on the computer which was not in the same room. He also stated the transport was uneventful. The RCP provided the committee with a timeline of events using the ventilator logs which shows he calibrated the ventilator as shown on the logs around 1305H. He transported the patient between 1313 according to the progress note and he gave a report. At 1337H, he documented the ventilator check. His charting shows that he documented the ventilator check at 1340H including the patient breath sounds as decreased. He states that he placed the patient back on the ventilator prior to 1340. The progress notes state that he documented the ventilator check at 1340.

F. On December 4, 2019, the Executive Director telephoned the Tech Support phone number for Hamilton ventilators to clarify the ventilator log analysis. The technical adviser stated, "after calibration, the ventilator remains in Stand-By mode, and it is not logged by the system. According to the documents received from Vidant Medical Center, the events for the loss of power, alarm on, off, and battery discharging were logged, but there was no ventilation initiated at the point in time for which the RCP has documented a ventilator check. This was confirmed by the manager at Vidant in a follow-up call by the Executive Director.

G. On January 9, 2019, at its regularly scheduled Quarterly Board Meeting, the Board determined that the weight of the evidence clearly indicates that the RCP did falsify the ventilator flow chart by entering in the previous ventilator settings since the ventilator was determined to be in the Stand-By mode at the time he charted. The decision by the Board was to offer the RCP a reprimand with additional stipulations as stated in this Consent Order.

H. On January 10, 2020, the RCP agreed to the Consent Order offered by the Board in an email to the Executive Director.

5. Stipulated Order

A. Stipulation to Sections of Law Violated:

I, Alberto Ribera, the RCP, admit if it were proven at a hearing that I falsely documented a ventilator check, this would constitute a violation of N.C. Gen. Stat. § 90-659 (a) (1) (b) and N.C. Gen. Stat. § 90-659 (a)(4) and the rules codified in 21 N.C. Admin. Code § 61 .0307 (3), (10), and (23); and provides a sufficient basis for the Board to revoke my License permanently, or take other disciplinary action.

B. Stipulation to Sanctions:

Under N.C. Gen. Stat. § 90-652, in lieu of proceeding to a hearing, the Respiratory Care Practitioner and the Board hereby enter into this Consent Order and agree to each and every one of the following terms:

- 1) The RCP accepts and agrees to the issuance of a Board Reprimand.
- 2) The RCP accepts and agrees to the assessment of 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 ninety (90) days after execution of this Consent Order. However, this payment may be waived by the Board, as stated in this Consent Order.
- 3) The RCP accepts and agrees to the assessment of one hundred dollars (\$100.00) in costs pursuant to N.C. Gen. Stat. § 90-666(d) and to remit this sum to the Board no later than ninety (90) days following the execution of this Consent Order and may be waived as stated in this Consent Order. The RCP also assumes financial responsibility for any costs associated with fulfilling the terms of this Consent Order.

4) The RCP agrees to complete the AARC Professional Ethics course within 60 days following the execution of this Consent Order. The costs and civil penalty stated in this Consent Order will be waived by the Board if completed within a 30-day period.

5) The RCP shall report any disciplinary action taken against him in connection with his employment as a Respiratory Care Practitioner or in connection with any other employment in which he is involved in providing health care services.

6) The RCP acknowledges and agrees that this Consent Order is a matter 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.

7) 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.**

8) The RCP 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 immediately suspend or revoke the License, or impose additional disciplinary sanctions or performance obligations on the RCP.

9) The RCP acknowledges and agrees that he must continue to comply with the Respiratory Care Practice Act ("RCPA") and the Board's Rules; and further acknowledges that if evidence of his non-compliance with the RCPA or the Board's Rules, that is not presented in the Stipulated Facts above should arise after execution of this Consent Order, then the Board may invoke other disciplinary measures against him, based on that other evidence; and that in determining the appropriate action to take in response to any such other evidence of his non-compliance with the RCPA or the Board's Rules, the Board also may consider the conduct of the RCP which is presented in the Stipulated Facts in this Consent Order.

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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 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.

CONSENT TO ISSUANCE OF ORDER BY RESPIRATORY CARE PRACTITIONER

I, Alberto Ribera, 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.

Alberto Ribera
Alberto Ribera

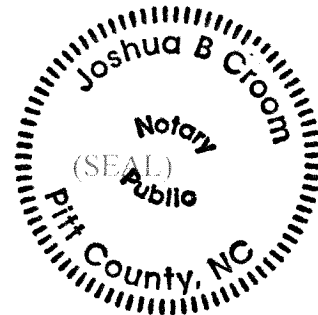
STATE OF NORTH CAROLINA
COUNTY OF Pitt

There personally appeared before me, a Notary Public in and for the County of Pitt, State of North Carolina, Alberto Ribera, 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 27 day of January, 2020.

Joshua B Croon
Notary Public

My Commission Expires: 11/13/2022



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

The foregoing Consent Order is entered at Cary, North Carolina, this 30th day of JANUARY, 2020.

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