

IN THE MATTER OF:)

)

CONSENT ORDER

Douglas M. Vandergrift, RCP)

License Number -5755)

Case Number - 20-977

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 Douglas M. Vandergrift (the "RCP"). His mailing address is 1188 McKnight Dr., King, NC 27021. The RCP holds a North Carolina Respiratory Care License Number 5755 (the "License"), which was first issued on August 28, 2008, and expires on August 31, 2020.

3. Waiver of Rights

I, Douglas M. Vandergrift, 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)

DMV The right to a hearing before the Board;

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

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

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

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

DMV 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 January 8, 2020, a complaint was filed by the Cardiopulmonary Manager at Novant Health in Winston Salem, NC, against Douglas (Doug) Vandergrift, RCP. The complaint states he was terminated for falsification of a medical record and willful disregard for hospital policy. He placed a verbal order for Respiratory Evaluation and Initiate Protocol and assigned a provider to this order without discussing it with this provider. When asked, the provider stated twice that he had not spoken with the RCP and did not authorize the order. In addition, the RCP inappropriately acted on the Protocol by discontinuing orders without proper documentation of an assessment. The RCP had been counseled twice recently about similar events. The falsification of the provider record is a serious, non-negotiable event that results in termination from Novant Health.

C. On January 28, 2020, The Board Investigator interviewed the Manager and the Supervisor of Respiratory Care at Novant Health Forsyth Medical Center in Winston-Salem, NC. The Manager stated that on the morning of January 7, 2020, when rounding in the patient care areas, a therapist alerted to a concern relating to a patient who had just been improperly placed within the facility’s Respiratory Care Protocol, which involves applying respiratory care therapies to a patient. The concern that the therapist reported to the Manager was that the RCP had started a new patient on the Protocol. The RCP started the Protocol and discontinued the prior physician order for the nebulizer treatments by taking this action.

D. Further investigation by the Manager revealed that the attending physician denied ordering the Respiratory Care Protocol or writing an order for the other therapy to be discontinued. According to the Manager, the physician stated that “he had not had a conversation with Doug.”

E. The Manager stated during the interview that the following actions were taken by the RCP and that these actions did not adhere to Novant Health policy and were determined to be a falsification of the patient’s medical record:

- 1) The RCP took action on a patient protocol, but the “Protocol Evaluator” for that day was assigned responsibility for implementing or adjusting all protocols, and the RCP had no authority to do this.
- 2) The RCP stated that he had started a “Respiratory Care Protocol” for the patient in question and had discontinued prior physician orders, but that he had not done the required Respiratory Care Assessment Treatment Plan first.

- 3) The RCP discontinued physician orders and wrote a verbal order for a "Respiratory Care Protocol" in the patient's Medical Record, without actually receiving any physician's orders to do so.
- 4) The RCP wrote into the patient's Medical Record to "start the Respiratory Care Protocol per Novant Health Protocol" when actually there is no hospital policy that authorizes starting any protocol with this type of order entry.

F. On January 29, 2020, in an interview with the Board Investigator, the RCP stated that he informed the nurse that he was going to start the Respiratory Care Protocol and discontinue the nebulizer orders. He then went to the computer and put the protocol order in and chose the physician of record as the ordering M.D. and discontinued the prior nebulizer order. He admitted that in order to start the Respiratory Care Protocol per Novant Health Protocol, he should have entered it as a verbal order from the physician. He admitted that he had not completed the required "Respiratory Care Assessment and Treatment Plan per the hospital policy but stated he "completed a very detailed note instead."

G. The RCP indicated during the interview with the Board Investigator that he was very busy that morning with his patient load and went to care for some other patients and forgot to contact the physician of record. The RCP admitted that he did not contact the physician at any time during the shift about the starting of the Protocol. He admitted that he did violate a Novant Health policy, but said it was not done with intent or with a willful disregard for patient welfare.

H. On March 3, 2020, the RCP attended the Investigative Committee meeting. He expressed remorse for taking the actions he did. He stated he was only thinking of the patient. He admitted that he failed to get the required order or speak to the physician. He understood his actions were unprofessional and may constitute practicing medicine. During the interview, the Licensee submitted a letter to the Board in which he stated: "I put in the Protocol and told the patient, I would discontinue the scheduled treatments and change them to PRN if she needed one. I then spoke to the RN to let her know and asked if she could inform the attending physician of the situation when he came around and that I was planning to catch up with him as well when I saw him. I think the patient's wishes in refusing treatment are important to illustrate, in that I didn't do anything clinically wrong or in any way have the intention to do harm to my patient. I was just trying to support her wishes."

I. On May 7, 2020, at its Quarterly Board Meeting scheduled on that date due to the COVID-19 Pandemic, the Board determined that the weight of the evidence clearly indicates that the RCP ordered a protocol without the consent of the physician. The Board determined to offer the RCP a reprimand with additional stipulations, as stated in this Consent Order.

J. On May 11, 2020, the RCP agreed to the Consent Order offered by the Board in an email reply to the Executive Director.

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5. Stipulated Order

A. Stipulation to Sections of Law Violated:

I, Douglas M. Vandergrift, the RCP, admit if it were proven at a hearing that I ordered a protocol without obtaining an order, this would constitute a violation of N.C. Gen. Stat. § 90-659 (a) (1) (b) and (d), as well as N.C. Gen. Stat. § 90-659 (a)(4) and the rules codified in 21 N.C. Admin. Code § 61 .0307, (10), (11), 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 the execution of 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. The RCP also assumes financial responsibility for any costs associated with fulfilling the terms of this Consent Order.
- 4) The RCP agrees to read the chapter on Malpractice Law in "The Respiratory Therapist's Legal Answer Book" by Anthony Dewitt and write a 3-page essay in accordance with the Board Writing Policy within 30 days following the execution of this Consent Order.
- 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 any of 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 other 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 the 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.

VI. Effective Date

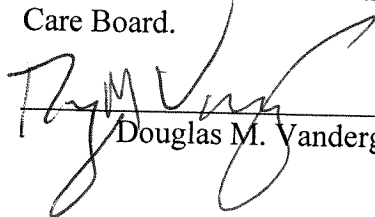
All provisions of this Consent Order are effective upon the date that the Executive Director of the Board signs it, and it shall remain in effect for the period or periods specified, or until amended in writing by the Board.

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.

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CONSENT TO ISSUANCE OF ORDER BY RESPIRATORY CARE PRACTITIONER

I, Douglas M. Vandergrift, 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.

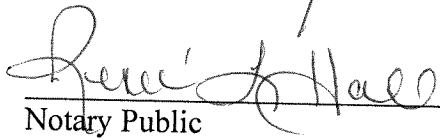


Douglas M. Vandergrift

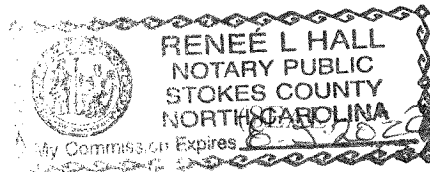
STATE OF NORTH CAROLINA
COUNTY OF Stokes

There personally appeared before me, a Notary Public, in and for the County of Stokes, State of North Carolina, Douglas M. Vandergrift 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 8th day of June, 2020.



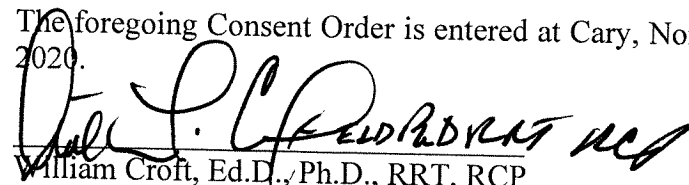
Notary Public



My Commission Expires: 8-5-2020

ENTRY OF CONSENT ORDER WITH DOUGLAS M. VANDERGRIFT ON BEHALF OF THE NORTH CAROLINA RESPIRATORY CARE BOARD

The foregoing Consent Order is entered at Cary, North Carolina, this 15th day of June, 2020.



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