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**BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS**

KS State Board of Healing Arts

In the Matter of)
)
CARL J. PACE, R.T.)
)
Kansas License No. 16-01789)

Docket No. 10-HA 00134

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts (“Board”), by and through Leri D. Dougherty, Associate Litigation Counsel (“Petitioner”), and Carl J. Pace, R.T. (“Licensee”), *pro se*, and move the Board for approval of a Consent Order affecting Licensee’s license to practice respiratory therapy in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee’s last known mailing address to the Board is: 203 Park Ave, Kansas City, Missouri 64124.
2. Licensee is or has been entitled to engage in the practice of respiratory therapy in the State of Kansas, having been issued License No. 16-01789 on approximately August 12, 1995. Licensee’s license is active.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of the healing arts, specifically the practice of respiratory therapy. K.S.A. 65-5501 *et seq.* and K.S.A. 65-5502.
4. This Consent Order and the filing of such document are in accordance with applicable law and the Board has jurisdiction to enter into the Consent Order as provided by K.S.A. 77-505 and 65-5510. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board’s Final Order.

5. The Kansas Respiratory Therapy Practice Act is constitutional on its face and as applied in this case. Licensee agrees that in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
6. Licensee voluntarily and knowingly waives his right to a hearing. Licensee voluntarily and knowingly waives his right to present a defense by oral testimony and documentary evidence, to submit rebuttal evidence, and to conduct cross-examination of witnesses. Licensee voluntarily and knowingly agrees to waive all possible substantive and procedural motions and defenses that could be raised if an administrative hearing were held.
7. The terms and conditions of the Consent Order are entered into between the undersigned parties and are submitted for the purpose of allowing these terms and conditions to become an Order of the Board. This Consent Order shall not be binding on the Board until an authorized signature is affixed at the end of this document. Licensee specifically acknowledges that counsel for the Board is not authorized to sign this Consent Order on behalf of the Board.
8. The Board has received information, investigated the same, and has reason to believe that on or about October 5, 2007, Licensee engaged in unprofessional conduct as defined in 65-5510(a)(2).
 - a. K.A.R. 100-55-5(i) defines unprofessional conduct as the following: being sanctioned or disciplined by a peer review committee or medical facility for acts or conduct that would constitute grounds for denial, refusal to renew, suspension, or revocation of a license under K.S.A. 65-5510 and amendments thereto; and

b. K.A.R. 100-55-5(q) defines unprofessional conduct as the following: committing conduct likely to deceive, defraud, or harm the public.

9. Arterial blood gas (ABG) tests are used to determine the pH of the blood, the partial pressure of carbon dioxide and oxygen, and the bicarbonate level.

10. Radiometer manufactures the machine (ABL800) used to analyze the blood for an ABG test. They also supply the interface (Radiance). ABL800 sends the results of the test to the Radiance software which then shares it with Olathe Medical Center's reporting system.

11. Each sample analyzed is given an accession number which is shared by the analyzer and interface which links the data between the two devices.

12.

(confidential)

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(confidential)

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(confidential)

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(confidential)

17. Licensee was placed on suspension by Olathe Medical Center.

18. Licensee acknowledges that if formal hearing proceedings were conducted and Licensee presented no exhibits, witnesses or other evidence, the Board has sufficient evidence to prove that Licensee has violated the Respiratory Therapy Practice Act with respect to the above allegations. Licensee further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

19. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-5510 and further defined by K.A.R. 100-55-5(i) for being sanctioned or disciplined by a peer review committee or medical facility for acts or conduct that would constitute grounds for denial, refusal to renew, suspension, or revocation of a license under K.S.A. 65-5510 and amendments thereto.

a. Licensee violated K.S.A. 65-5510 as further defined by K.A.R. 100-55-5(i), for being disciplined by Olathe Medical Center.

20. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-5510 and further defined by K.A.R. 100-55-5(q) for committing conduct likely to deceive, defraud, or harm the public.

a. Licensee violated K.S.A. 65-5510 as further defined by K.A.R. 100-55-5(q), for falsifying ABG test results.

21. Pursuant to K.S.A. 65-5510, the Board may deny, refuse to renew, suspend, revoke, or limit a license, or the licensee may be publicly or privately censured and pursuant to K.S.A. 65-5510(c), the Board has the authority to impose administrative fines for violations of the Respiratory Therapy Practice Act.
22. According to K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.
23. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 24 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
24. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action against his license to engage in the practice of respiratory therapy:

CENSURE

- a. Licensee is **PUBLICLY CENSURED** for violating the Respiratory Therapy Practice Act.
25. Licensee's failure to comply with the provisions of the Consent Order may result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act and Kansas Respiratory Therapy Practice Act.
26. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Respiratory Therapy Practice Act, or to investigate complaints received under the Risk Management Law, K.S.A. 64-4921 *et seq.*, that are known or unknown and are not covered under this Consent Order, or to initiate formal

proceedings based upon known or unknown allegations of violations of the Respiratory Therapy Practice Act.

27. Licensee hereby releases the Board, its individual members (in their official and personal capacity), attorneys, employees and agents, hereinafter collectively referred to as "Releasees", from any and all claims, including but not limited to those alleged damages, actions, liabilities, both administrative and civil, including the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.*, arising out of the investigation and acts leading to the execution of this Consent Order. This release shall forever discharge the Releasees of any and all claims or demands of every kind and nature that Licensee has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Licensee shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Releasees.
28. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any reporting entities authorized to receive disclosure of the Consent Order.
29. This Consent Order, when signed by both parties, constitutes the entire agreement between the parties and may only be modified or amended by a subsequent document executed in the same manner by the parties.
30. Licensee agrees that all information maintained by the Board pertaining to the nature and result of any complaint and/or investigation may be fully disclosed to and considered by the Board in conjunction with the presentation of any offer of settlement, even if Licensee is not present. Licensee further acknowledges that the Board may conduct

further inquiry as it deems necessary before the complete or partial acceptance or rejection of any offer of settlement.

31. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
32. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
33. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
34. Licensee shall obey all federal, state and local laws and rules governing the practice of respiratory therapy in the State of Kansas that may be in place at the time of execution of the Consent Order or may become effective subsequent to the execution of this document.
35. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become an Order under K.S.A. 65-2838. This Consent Order shall constitute the Board's Order when filed with the office of the Executive Director for the Board and no further Order is required.
36. This Consent Order constitutes disciplinary action.
37. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Licensee is hereby **PUBLICLY CENSURED** for violating the Respiratory Therapy Practice Act.

IT IS SO ORDERED on this 20 day of April, 2010.

**FOR THE KANSAS STATE
BOARD OF HEALING ARTS:**

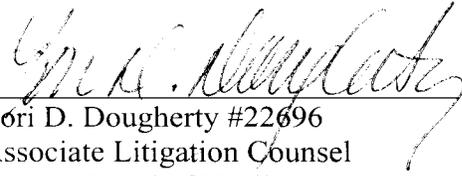

Kathleen Selzler Lippert
Interim Executive Director

4/20/10
Date

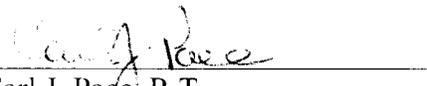

Carl J. Pace, R.T.
Licensee

23 Feb, 2010
Date

PREPARED AND APPROVED BY:


Lori D. Dougherty #22696
Associate Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
785-368-8212

AGREED TO BY:


Carl J. Pace, R.T.
Licensee
203 Park Ave
Kansas City, Missouri 66124

CERTIFICATE OF SERVICE

I, Cathy Brown, hereby certify that I served a true and correct copy of the Consent Order by United States mail, postage prepaid, on this 30th day of April, 2010, to the following:

Carl J. Pace, R.T.
Licensee
203 Park Ave
Kansas City, Missouri 66124

And the original was hand-filed with:

Kathleen Selzler Lippert
Interim Executive Director
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

And a copy was hand-delivered to:

Lori D. Dougherty #22696
Associate Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
785-368-8212

Compliance Coordinator
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

Cathy A. Brown