

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED *ctb*

AUG 15 2005

KS State Board of Healing Arts

In the Matter of)
)
Clinton Robertson R.T.)
Kansas License No. 16-02483)
_____)

Docket No. 06-HA-00014

CONSENT ORDER

COMES NOW the Kansas State Board of Healing Arts ("Board"), by and through Diane Bellquist, Associate Counsel ("Petitioner"), and Clinton Robertson, R.T, ("Licensee"), 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 226 Meadowbrook Lane, Wellsville, Kansas 66092.
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. 16-02483 on October 18, 1999. Licensee's license status is active.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of respiratory therapy, K.S.A. 65-5501.
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. 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 Act is constitutional on its face and as applied in this case.

6. Licensee agrees that in considering this matter the Board is not acting beyond its jurisdiction as provided by law.

7. 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.

8. 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.

9. On approximately April 14, 2003, Licensee failed to document why he did not provide a CPAP treatment to a patient in accordance with the physician's order.

10. On approximately January 13, 2004, Licensee charted that he provided two breathing treatments to a patient, when in fact he did not provide the treatments to the patient.

11. The hospital terminated Licensee's employment **(Confidential)**
(Confidential)

(Confidential)

12. Pursuant to K.S.A. 65-5510(a) the Board has grounds to impose disciplinary action against Licensee.

13. 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.

14. In lieu of the conclusion of formal proceedings, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following:

- a. Licensee shall be publicly censured for failing to provide treatments as ordered and for providing false information in the patient's charts; and
- b. Licensee shall pay a fine in the amount of \$500.00. Such fine is due on or before September 13, 2005 and should be made payable to the Kansas Board of Healing Arts.

15. 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.

16. Nothing in the Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Respiratory Therapy Act, or to investigate complaints received under the Risk Management law, K.S.A. 65-4921 *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 Act.

17. Licensee hereby releases the Board, its individual members (in their official and personal capacities), 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 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 Releasees.

18. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to the National Practitioner Databank and any other reporting entities requiring disclosure of the Consent Order.

19. 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.

20. 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.

21. Licensee, by signature to this document waives any objection to the participation of the Board members, including the Disciplinary Panel, in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member in any future proceeding on the basis that the Board member has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

22. Licensee acknowledges that he has read this Consent Order and fully understands the contents.

23. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.

24. All correspondence or communication between Licensee and the Board relating to this Consent Order shall be by certified mail addressed to the

Kansas State Board of Healing, Attn: Diane Bellquist, 235 S. Topeka Blvd.,
Topeka, Kansas 66603-3068.

25. 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.

26. 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. 77-505. 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.

27. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

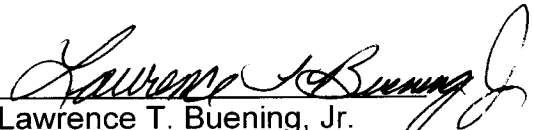
IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact and conclusions of law.

IT IS FURTHER ORDERED that:

- a. Licensee is hereby publicly censured for failing to provide treatments as ordered and for providing false information in the patient's charts; and
- b. Licensee shall pay a fine in the amount of \$500.00. Such fine is due on or before September 13, 2005 and should be made payable to the Kansas Board of Healing Arts.

IT IS SO ORDERED on this 15th day of August, 2005.

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



Lawrence T. Buening, Jr.
Executive Director

PREPARED AND APPROVED BY:



Diane Bellquist #20969
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065
(785) 296-7413

AGREED TO BY:



Clinton Robertson, R.T.
Licensee

CERTIFICATE OF SERVICE

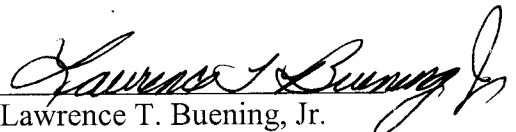
I, Lawrence T. Buening, Jr., Executive Director, Kansas Board of Healing Arts, do hereby certify that a true and correct copy of the foregoing Consent Order was served on the 15th day of August, 2005, by depositing same in the United States mail, first class postage prepaid and addressed to:

Clinton Robertson, R.T.
226 Meadowbrook Lane
Wellsville, Kansas 66092

and a copy was hand-delivered to the office of:

Diane Bellquist, Associate Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603

and the original is being maintained by the office of Executive Director.


Lawrence T. Buening, Jr.
Executive Director