

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF RESPIRATORY CARE

\_\_\_\_\_ )  
 In the Matter of )  
 Stephen Carter, RT )  
 aka Stephen B. Carter, RT )  
 License No. RT3376 )  
 (License expiration date (5/31/14) )  
 \_\_\_\_\_ )

RECEIVED BY

FEB 27 2013

Docket No. REP-2012-007

MULTI-BOARD

CONSENT AGREEMENT FOR PROBATION

The Massachusetts Board of Respiratory Care ("the Board") and Stephen Carter, aka Stephen B. Carter ("the Licensee"), holder of a Full License as a Respiratory Therapist ("RT") issued by the Board, License No. RT3376, do hereby stipulate and agree that the information in this Consent Agreement for Probation ("Probation Agreement" or "Agreement") shall be entered into and become a permanent part of the Licensee's records maintained by the Board. For purposes of this Agreement, the word "license" shall mean a license to practice as a Respiratory Therapist in Massachusetts and any right to renew such license.

The Board and the Licensee agree to enter into this Probation Agreement to resolve the complaint identified as Docket No. REP-2012-007 ("Complaint") without resort to formal adjudication of such Complaint. The Complaint alleges that the Licensee 1) misrepresented his academic credentials on a resumé that he submitted in connection with an application for employment, and 2) failed to provide documentation of completion of the continuing education required as a condition of license renewal for the 2010-2012 license renewal period. In connection with the Complaint allegations, the Licensee acknowledges the following as true:

1. The Licensee was enrolled at Newbury College, Brookline, Massachusetts, from September 1992 to May 1994, where he pursued an Associate in Applied Sciences degree in Respiratory Care ("AS degree"). The Licensee did not complete the Respiratory Care program leading to the AS degree as he did not have the required GPA or complete all required courses. However, the Licensee completed a duly accredited 100-level respiratory therapist education program at Newbury College (Respiratory Therapy Technician Educational Program) in April 1994, which qualified him to take the National Board for Respiratory Care's ("NBRC") Certified Respiratory Therapy Technician ("CRTT") examination. The Licensee passed the certification examination and was awarded a Certified Respiratory Therapy Technician certificate by the NBRC on or about November 12, 1994.
2. On or about July 19, 1995, the Board issued to the Licensee a license to practice as a Respiratory Therapist, License No. RT3376, based on the Licensee's CRTT certificate. The license will expire on May 31, 2014 unless renewed before that date.

3. On or about September 20, 2011, the Licensee applied for employment as a Respiratory Therapist at a home oxygen and medical supply company in New Bedford, Massachusetts (“company”). During his interview process, the Licensee presented his resumé on which he represented that he had obtained an AS degree in Respiratory Care from Newbury College in 1994. The Licensee was hired as an RT at the company and continued such employment until June 25, 2012. By letter to the Board dated October 2, 2012, written in response to the Complaint, the Licensee stated that “a typographical error occurred while [he] was constructing [his] resume” and that he “unfortunately misused the terminology [“AS, Respiratory Care”] and made the error.”
4. By letter dated July 24, 2012, mailed to the Licensee by First Class Mail and Certified Mail at his address of record maintained by the Board, the Board requested that the Licensee provide documentation of his compliance with Board continuing education (“CE”) requirements for the 2010-2012 license renewal period. The deadline for the Licensee’s submission of the documentation requested was on or before August 13, 2012. The Certified mailing was returned to the Board as “Unclaimed” on August 20, 2012; the First Class mailing was not returned. As of September 20, 2012, the Licensee had not responded in any way to the Board’s July 24<sup>th</sup> request.
5. By letter dated September 20, 2012, mailed to the Licensee by First Class Mail and Certified Mail at his address on record, the Board again requested that the Licensee provide documentation of his compliance with the CE requirement for the 2010-2012 license renewal period. The second deadline for the Licensee’s submission of the documentation requested was on or before October 5, 2012. The Certified mailing was returned to the Board as “Unclaimed” on October 15, 2012; the First Class mailing was not returned. By letter to the Board dated October 1, 2012, the Licensee asserted that he had earned CE in 2010-2011 through one of his employers during that time, but that the CE obtained had been “lost, misplaced, or possibly shredded by that employer.” To date, the Board has not received any documentation establishing the Licensee’s completion of any CE required for the 2010-2012 license renewal cycle.
6. On or about April 11, 2012, the Licensee renewed his license to practice as an RT. The license renewal application stated, “My signature on this renewal application attests under penalties of perjury that...to my best knowledge and belief, I have complied with... 3) Board laws and regulations, including continuing education regulations.” The Licensee signed the renewal application attesting to his completion of the continuing education required by 261 CMR 5.00 *et seq.*
7. Based on Paragraphs 2 and 3, above, and notwithstanding the Licensee’s assertion that “a typographical error occurred while [he] was constructing [his] resumé,” the Licensee knowingly misrepresented his professional education on the resumé he submitted when applying for employment as a Respiratory Therapist, warranting disciplinary action by the Board against his RT license pursuant to M.G.L. c. 112, § 23X (f) and 261 CMR 4.04(5) (unethical professional conduct); 261 CMR 4.04(5) (committing an offense against any

provision of the laws of the Commonwealth relating to the practice of respiratory care, or any rule or regulation adopted thereunder); and M.G.L. c. 112, § 61 (engaging in deceit, malpractice, gross misconduct in the practice of his profession, or of any offense against the laws of the Commonwealth relating thereto).

8. Based on Paragraphs 4 and 5, above, and notwithstanding the Licensee's assertion that he had completed some amount of CE through an employer, "however, the CEU's that [he had] obtained...have been lost, misplaced, or possibly shredded by that employer," the Licensee failed to maintain an authenticated record of attendance for CE as required by 261 CMR 5.07(2) and failed to provide to the Board authenticated records of attendance for CE as required by 261 CMR 5.07(3), warranting disciplinary action by the Board against his RT license pursuant to M.G.L. c. 112, § 23S (2) (documentation of CE required); 261 CMR 5.00 *et seq.* (continuing education requirements); and M.G.L. c. 112, § 61.
9. Based on Paragraph 6, above, the Licensee perjured himself when he attested under oath that he had "complied with Board laws and regulations governing the completion of the continuing education required for license renewal" when he had not done so, warranting disciplinary action by the Board against his RT license pursuant to M.G.L. c. 112, § 23X (f), 261 CMR 4.04(5) and 261 CMR 4.06(7) (unethical professional conduct); and M.G.L. c. 112, § 61.
10. The Licensee hereby agrees that his Respiratory Therapist license shall be placed on PROBATION for a period of SIX (6) MONTHS ("Probationary Period") commencing with the date on which the Board signs this Probation Agreement ("Effective Date") as set forth below, which Probationary Period shall be subject to Paragraph 14, below.
11. During the Probationary Period, the Licensee further agrees that he shall comply with all of the following requirements to the Board's satisfaction:
  - (a) Within sixty (60) days after the Effective Date of this Probation Agreement he shall provide to the Board documentation satisfactory to the Board of his successful completion of six (6) online continuing education units (CEUs) in respiratory care;
  - (b) within 180 (one hundred and eighty) days after the Effective Date of this Probation Agreement he shall provide to the Board documentation satisfactory to the Board of his successful completion of nine (9) contact (in person) CEUs in respiratory care;
  - (c) the fifteen (15) CEUs completed in compliance with Paragraph 11(a) and (b), above, shall not be used to satisfy the CE requirement for the 2012-2014 license renewal period;
  - (d) within 180 (one hundred and eighty) days after the Effective Date of this Probation Agreement he shall provide to the Board documentation satisfactory to the Board of

his successful completion of the American Association for Respiratory Care's ("AARC") Ethics Course in Respiratory Care ([http://www.aarc.org/ethics\\_course/welcome/](http://www.aarc.org/ethics_course/welcome/));

- (e) he shall notify the Board in writing within ten (10) days of any change in his employment status, including each change in employer, change in position, resignation or termination, and the name, address and telephone number of each new employer;
  - (f) he shall comply with all laws and regulations governing the practice of respiratory care; and
  - (g) he shall timely renew his license to practice respiratory care.
12. The Board agrees that in return for the Licensee's execution and successful compliance with each requirement of this Probation Agreement, the Board shall not pursue further disciplinary action against his Respiratory Therapist license in connection with Docket No. REP-2012-007.
13. If the Licensee has timely complied to the Board's satisfaction with each requirement contained in this Probation Agreement, the Probationary Period will terminate six (6) months after the Effective Date of this Agreement upon written notification to the Licensee from the Board.
14. If the Licensee does not comply with each requirement of this Probation Agreement, or if the Board opens a complaint after the Effective Date of this Agreement alleging that the Licensee has engaged in conduct that violates Board statutes or regulations, and the complaint investigation (during which the Licensee shall have an opportunity to respond before the Board takes any of the actions set forth in Paragraph 14(a), below) produces evidence substantiating the allegations, the Licensee agrees to the following:
- (a) The Board may, as warranted to protect the public health, safety, or welfare and upon written notice to the Licensee at the Licensee's address of record with the Board,
    - i. EXTEND the Probationary Period; or
    - ii. MODIFY the Probation Agreement requirements; or
    - iii. EXTEND the Probationary Period AND MODIFY the Probation Agreement requirements; or
    - iv. IMMEDIATELY SUSPEND the Licensee's Respiratory Therapist license, or right to renew such license, prior to an adjudication of the allegations of the Licensee's noncompliance with the Probation Agreement or of the allegations contained in the subsequent complaint, and such suspension

and such suspension shall remain in effect until final disposition of the matter in accordance with Paragraph 14(b), below.

- (b) If the Board suspends the Licensee's Respiratory Therapist license, or right to renew such license, pursuant to Paragraph 14(a)(iv), above, the suspension shall remain in effect and the Probationary Period and Probation requirements shall be tolled (suspended) until:
- i. the Board gives the Licensee written notice that the Probationary Period and Probation requirements as written herein are to be resumed based on its review of documentation showing the Licensee's compliance to the Board's satisfaction with such Probation requirements; or
  - ii. the Board gives the Licensee written notice that the Probationary Period and Probation requirements as either are modified are to be resumed based on its review of documentation showing the Licensee's compliance to the Board's satisfaction with the Probation Agreement requirements; or
  - iii. the Board and the Licensee sign a subsequent consent agreement in resolution of the Licensee's noncompliance with the Probation Agreement or of any subsequent complaint, and any such subsequent agreement shall supersede this Probation Agreement; or
  - iv. the Board issues a written final decision and order following adjudication of the allegations of the Licensee's noncompliance or of any subsequent complaint, and any such order shall supersede this Probation Agreement.
15. The Licensee understands and agrees that if his Respiratory Therapist license is suspended by the Board in accordance with Paragraph 14, above, he shall immediately return to the Board, by hand or certified mail, his current Massachusetts license to practice as a Respiratory Therapist. Upon said suspension, the Licensee agrees that he will no longer be authorized to engage in the practice of respiratory care in the Commonwealth of Massachusetts and shall not in any way represent himself as a Respiratory Therapist until such time as the Board reinstates his license or right to renew such license. Any evidence of unlicensed practice or misrepresentation as a Respiratory Therapist after the Board has notified the Licensee of his license suspension shall be grounds for further disciplinary action by the Board and the Board's referral of the matter to the appropriate law enforcement authorities for prosecution, as set forth in M.G.L. c. 112, § 65.
16. The Licensee understands that entering into this Probation Agreement is a final act and not subject to reconsideration or judicial review.

17. The Licensee states that he has used legal counsel in connection with his decision to enter into this Probation Agreement or, if he has not used legal counsel, that the decision not to do so has been one taken of his own free will.
18. The Licensee understands that, after its Effective Date, this Probation Agreement constitutes a "public record" within the meaning of M.G.L. c. 4, § 7 subject to public disclosure and that the Board may forward a copy of this Agreement to other licensing boards or law enforcement entities, or both, as well as to any other individual or entity as required by law.
19. The Licensee agrees to return to the Board, either by hand or certified mail, two (2) duplicate originals of this Probation Agreement signed, witnessed and dated, within fifteen (15) days of his receipt of the unsigned, proposed Agreement from the Board.
20. The Licensee understands that he has a right to formal adjudication concerning the allegations against him and that during said adjudication he would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, to appeal to the courts, and all other rights as set forth in the Massachusetts Administrative Procedures Act, G. L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 *et seq.* The Licensee further states that he understands that in executing this document entitled "Consent Agreement for Probation," he is knowingly and voluntarily waiving his right to a formal adjudication and to the rights listed above.

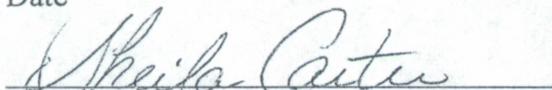
BY THE LICENSEE:



Stephen Carter

2-21-13

Date



Witness (Signature)

Sheila Carter

Witness (Print Name)

BY THE BOARD:



Sally Graham, Executive Director

2-27-13

Date

2/27/13

Effective Date of Probation Agreement

Fully signed Probation Agreement sent to the Licensee on 3/4/13 by Certified

Mail No. 7012 0470 0001 3611 5790 by JHS.