



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Division of Health Professions Licensure
Board of Respiratory Care

239 Causeway Street, Suite 200, 2nd Floor, Boston, MA 02114
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DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

JUDYANN BIGBY, MD
SECRETARY

JOHN AUERBACH
COMMISSIONER

COPY
FILE

BY CERTIFIED MAIL NO. 7009 1680 0001 1520 0071

February 1, 2010

Andrew Hyams, Esq.
Kerstein, Coren & Lichtenstein LLP
60 Walnut Street
Wellesley, MA 02481

RE: In the Matter of Ibraltino L. Andrade
License No. RT9856 (suspended)
Complaint Docket No. REP-2009-008

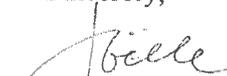
Dear Andy:

Please find enclosed for your files a fully executed original copy of the Consent Agreement that Ibraltino Andrade today entered into with the Board of Respiratory Care ("Board"). The Board has issued a Respiratory Therapist license to Mr. Andrade, License No. RT9856, and suspended the license as of February 1, 2010. The Board will terminate the license suspension on February 16, 2010, provided that Mr. Andrade has complied with the Consent Agreement terms regarding license suspension, which appear in Paragraph 4(b) of the Agreement.

Upon termination of license suspension, the three-year license probation period will begin. The Board has sent a copy of the Consent Agreement to Karen Fishman, the Division of Health Professions Licensure ("DHPL") staff person who is responsible for monitoring compliance with probation agreements that licensees enter into with DHPL boards of registration. All correspondence and documentation involving Mr. Andrade's license probation should be directed to her at the address listed above.

Thank you for your and Mr. Andrade's cooperation in resolving this matter.

Sincerely,


Joelle Stein
Board Counsel

Enclosure

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF RESPIRATORY CARE

_____)
 In the Matter of)
 IBRALTINO LUCAS ANDRADE)
 Limited Permit No. RL5940)
 (LP expiration date 1/31/10))
 Respiratory Therapist License No. RTA550)
 (PENDING ISSUANCE))
 _____)

Docket No. REP-2009-008

CONSENT AGREEMENT

The Massachusetts Board of Respiratory Care ("Board") and Ibraltino L. Andrade, the holder of a Limited Permit ("LP") issued by the Board on or about May 14, 2008, Limited Permit No. RL5940 (expiration date 1/31/10), and an applicant for a Respiratory Therapist ("RT") license, do hereby stipulate and agree that the information set forth below shall be entered into and become a permanent part of Mr. Andrade's records maintained by the Board.

1. Mr. Andrade agrees that he has voluntarily entered into this Consent Agreement with the Board to resolve two matters pending before the Board:

(a) A complaint against his Limited Permit, No. RL5940, identified as Docket No. REP-2009-008 ("Complaint"), alleging that he failed to disclose his criminal history on the Application for Limited Permit ("LP Application") he submitted to the Board on or about May 14, 2008. On his LP Application, Mr. Andrade answered "No" to Question 19, "Have you ever been arrested, charged, arraigned, indicted, prosecuted, convicted or been the subject of any criminal investigation or court proceeding in relation to any criminal violation. Do not report minor traffic violations for which a fine of \$100 or less was imposed." ("Question 19") Mr. Andrade signed the following certification on the last page of his LP Application: "I certify, under the pains and penalties of perjury, that the information I have provided pursuant to this application for licensure is truthful and accurate. I understand that any failure to provide truthful and accurate information in connection with this application for licensure may be grounds for the Board of Respiratory Care to deny issuance of a license; to suspend or revoke a license issued to me; and to deny renewal of a license issued to me, all in accordance with Massachusetts law."

REDACTED

REDACTED

REDACTED placed Mr. Andrade on administrative probation until October 18, 2001 in connection with the motor vehicle offenses and ordered payment of fees and assessments. The matter was closed on October 18, 2001. (Brockton District Court, Docket No. 0115 CR 002091)

REDACTED

005040)

REDACTED

R

(b) The pending Application for Respiratory Therapist License ("RT Application") that Mr. Andrade submitted to the Board on or about September 8, 2009. On his RT Application, Mr. Andrade answered "Yes" to Question 19. In addition to the offenses

REDACTED

(2) On or about March 19, 2009, Mr. Andrade was issued a Motor Vehicle Citation in connection with a motor vehicle offense, Unlicensed Operation of a

REDACTED

2. Mr. Andrade acknowledges that his conduct as set forth in Paragraph 1.(a)(1) and (2), above, demonstrates a lack of the good moral character required for licensure under Massachusetts General Laws ("M.G.L.") Chapter 112, section ("§") 23S, and warrants disciplinary action by the Board pursuant to M.G.L. c. 112, § 61, and M.G.L. c. 112, § 23X, subsection (a) for obtaining a license by fraud or deception; and M.G.L. c. 112, § 23X, subsection (f) and 261 Code of Massachusetts Regulations ("CMR") 4.04(5) for acting in a manner that is professionally unethical according to the ethical standards of the profession of respiratory care.

3. **REDACTED**

4. Based on the foregoing, the Board and Mr. Andrade agree to the following in resolution to the Complaint:

- (a) Upon the Board's receipt of two (2) copies of this Consent Agreement signed and dated by Mr. Andrade, the Board shall APPROVE his completed Application for Respiratory Therapist License and shall ISSUE to Mr. Andrade a Respiratory Therapist license, whereupon the Board shall IMMEDIATELY SUSPEND SAID LICENSE and shall HOLD SUCH SUSPENDED LICENSE FOR FIFTEEN (15) CALENDAR DAYS ("license suspension period") from the effective date of the Agreement as set forth below.

The Board acknowledges that it has previously received from Mr. Andrade the Respiratory Therapist license fee of \$260.

- (b) Mr. Andrade agrees that during the license suspension period he shall:

(1) Not practice as a Respiratory Therapist in Massachusetts during the license suspension period. Mr. Andrade understands that practice as a Respiratory Therapist includes, but is not limited to, seeking or accepting a paid or voluntary position as a Respiratory Therapist, or both, or a paid or voluntary position requiring that the applicant hold a current Respiratory Therapist license. Any evidence of such practice shall be grounds for the Board's referral of any such unlicensed practice to the appropriate law enforcement authorities for prosecution as set forth in M.G.L. c. 112, §§ 65 and 23AA.

(2) Obey all motor vehicle laws.

(3) Not engage in any criminal conduct that may result in his arrest for violation of any criminal law.

(c) The Board shall terminate the license suspension if Mr. Andrade has met the requirements of this Consent Agreement in a manner satisfactory to the Board and such suspension termination is in the best interests of the public health, safety, or welfare.

(d) Upon the Board's termination of the license suspension, Mr. Andrade agrees to a period of LICENSE PROBATION of THREE (3) YEARS ("probationary period"). During the probationary period, Mr. Andrade agrees:

(1) To obey all motor vehicle laws.

(2) Not to engage in any criminal conduct that results in his arrest for violation of any criminal law, which conduct may be brought to the Board's attention during the probationary period by quarterly CORI reports.

(3) To comply with all laws and regulations governing the practice of respiratory care.

(4) To provide a copy of this Consent Agreement to each of his employers in the field of respiratory care and to request that each employer provide a letter addressed to the Board and signed by the employer, on the employer's original letterhead stationery and sent by the employer directly to the Board, verifying that the employer has received and read a copy of this Agreement.

(e) Mr. Andrade shall work with the Massachusetts criminal courts, and with the Massachusetts Criminal History Systems Board as necessary, to ensure that any Criminal Offender Record Information ("CORI") report requested using his name and Social Security number is accurate and complete. The Board shall request a CORI report for Mr. Andrade three (3) months after the commencement of the probationary period and Mr. Andrade shall respond to any questions the Board may have following its review of the CORI report.

(f) Mr. Andrade may submit a written request to the Board for termination of the probationary period ("probation termination") during the last month of the probationary period. The Board shall terminate the license probation if Mr. Andrade has met the requirements of this Consent Agreement in a manner satisfactory to the Board and such probation termination is in the best interests of the public health, safety, or welfare.

5. Mr. Andrade understands and agrees that if the Board receives information indicating that he is not compliant with each requirement of this Consent Agreement and the investigation of the allegations of noncompliance, during which the Mr. Andrade shall be provided with a reasonable opportunity to respond before the Board takes any of the actions set forth, below, produces evidence substantiating noncompliance:

(a) The Board may, as warranted to protect the public health, safety, or welfare and upon written notice to the Mr. Andrade at his address of record with the Board:

- (1) EXTEND the license suspension period or the probationary period, depending on which period is in effect; or
- (2) MODIFY the requirements of this Consent Agreement; or
- (3) EXTEND the license suspension period or the probationary period, depending which is in effect, AND MODIFY the requirements of this Agreement; or
- (4) if the probationary period is in effect, IMMEDIATELY SUSPEND Mr. Andrade's license, or right to renew such license, before adjudication of any of allegations noncompliance that are contested by Mr. Andrade, and such suspension shall remain in effect until final disposition of the matter in accordance with Paragraph 5.(b), below.

(b) If the Board suspends the Mr. Andrade's license, or right to renew such license, pursuant to Paragraph 5.(a)(4), above, the suspension shall remain in effect and the probationary period and requirements of this Agreement relating to probation shall be tolled (suspended) until:

- (1) the Board, upon written notice to Mr. Andrade, resumes the probationary period and requirements of this Agreement relating to probation AS WRITTEN HEREIN based on documentation showing compliance to the Board's satisfaction with the requirements of the Agreement relating to probation; or
- (2) the Board and Mr. Andrade agree in writing to resume the probationary period and requirements of this Consent Agreement relating to probation AS EITHER ARE MODIFIED and any such modified agreement shall supersede this Agreement; or
- (3) the Board and Mr. Andrade sign a subsequent consent agreement in resolution of Mr. Andrade's noncompliance, and any such agreement shall supersede this Agreement; or
- (4) the Board issues a final decision and order following adjudication of the allegations of noncompliance and such final decision and order shall supersede this this Consent Agreement.

6. The effective date of this Consent Agreement ("effective date") is the date on which the Board signs this Consent Agreement after receiving two (2) copies of the Agreement signed and dated by Mr. Andrade.

7. Mr. Andrade agrees to return to the Board at its office at 239 Causeway Street, Suite 200, Boston, Massachusetts 02114, either by hand or by overnight mail, two (2) duplicate originals of this Consent Agreement signed by Mr. Andrade, witnessed and dated, no later than Monday, February 1, 2010.

8. Mr. Andrade understands that the suspension of his Respiratory Therapist license under the terms of this Consent Agreement is a final act depriving him of all privileges of licensure as a Respiratory Therapist as set forth in this Agreement and is not subject to reconsideration or judicial review. Mr. Andrade further understands that the post-suspension period of license probation under the terms of this Agreement is a final act and is not subject to reconsideration or judicial review.
9. Mr. Andrade states that he has used legal counsel in connection with the decision to enter into this Consent Agreement or, if he has not used legal counsel, that the decision not to use legal counsel has been one taken of his own free will.
10. Mr. Andrade understands that this Consent 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 and law enforcement entities, as well as to any other individual or entity as required or permitted by law.
11. The Board agrees that in return for Mr. Andrade's execution and successful compliance with all the requirements of this Consent Agreement, the Board shall not prosecute before itself the allegations arising from the Board's investigation in connection with Docket No. REP-2009-008.
12. Mr. Andrade certifies that he has read this document entitled "Consent Agreement." Mr. Andrade understands that he has the right to a formal adjudicatory hearing concerning the allegations against him and that at said hearing he would possess the rights 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 set forth in the Massachusetts Administrative Procedure Act, M.G.L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.00 *et seq.* Mr. Andrade further states that he understands that in executing this document entitled "Consent Agreement" he is knowingly and voluntarily waiving his right to a formal hearing and to all of the above-listed rights attendant thereto.

Ibraltino L. Andrade
Ibraltino L. Andrade

2/1/10
Date

Guerrino J. Schaefer
Witness

2/1/10
Date

Sally Graham
Sally Graham, Executive Director
Board of Respiratory Care

2-1-10
Effective Date of License Suspension

2-16-10 *JHS*

Date of Suspension Termination
(to be entered on date of suspension
termination)

2-16-10 *JHS*

Effective Date of Probation
(to be entered on date of suspension
termination)

Date of Probation Termination
(to be entered on date of probation
termination)

Consent Agreement signed by Board and bearing effective date of **license suspension** sent to Mr. Andrade/Andrew Hyams, Esq., on 2/1/10 by Certified Mail No. 7009168000011520 0671 by JHS.

Consent Agreement bearing effective date of **license suspension termination and effective date of probation** sent to Mr. Andrade/Andrew Hyams, Esq., on 2/18/10 by Certified Mail No. 7009168000011520 0910 by JHS.

Consent Agreement bearing effective date of **probation termination** sent to Mr. Andrade/Andrew Hyams, Esq., on _____ by Certified Mail No. _____ by _____.



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Division of Health Professions Licensure
Board of Respiratory Care
239 Causeway Street, Suite 500, Boston, MA 02114

DEVAL L. PATRICK
GOVERNOR

JOHN W. POLANOWICZ
SECRETARY

CHERYL BARTLETT, RN
COMMISSIONER

Tel: 617-973-0806
Fax: 617-973-0980
www.mass.gov/dph/boards/rc

VIA U.S. FIRST CLASS CERTIFIED MAIL, # 7012 3460 0001 7331 3511
RETURN RECEIPT REQUESTED

May 9, 2014

Joseph R. Doktor, PC
9 Canton Street
Randolph, MA 02368

Re: In the Matter of Ibraltino Lucas Andrade, RT9856
Docket Nos. REP-2009-008 and REP-2013-001

Dear Attorney Doktor:

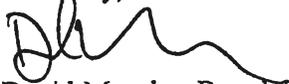
This letter acknowledges receipt by the Board of Respiratory Care (Board) of two signed, originals of the Consent Agreement for Post-Suspension Probation (Agreement) between your client, Ibraltino Lucas Andrade and the Board in resolution of the above-referenced complaint. The Board has now signed the Agreement, and submits a copy for your client's records. Please note carefully that the effective date of the Agreement is May 9, 2014, as stated on the signature page of the agreement.

A copy of this letter and the Agreement will remain in complaint files Docket Nos. REP-2009-008 and REP-2013-001. The files will be retained for no less than three (3) years in accordance with state public records laws.

In addition, Karen Fishman is responsible for monitoring compliance with any probation agreement that a Respiratory Therapist enters into with the Board. All correspondence and documentation in connection with Mr. Andrade's Probation Agreement should be directed to her at the Board's office listed above. You or Mr. Andrade may also contact her at (617) 973-0951 with any questions regarding this matter.

As Mr. Andrade's attorney of record, the Board expects that you will notify your client of the Board's action and forward to him the enclosed copy of the Agreement. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read 'DM', with a long horizontal flourish extending to the right.

David Murphy, Board Counsel
Board of Respiratory Care

Cc: Karen L. Fishman, Probation Monitor

RECEIVED BY

MAY 9 2014

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF RESPIRATORY CARE

MULTI-BOARD

_____)
In the Matter of)
Ibraltino Lucas Andrade)
License No. RT9856)
(License Suspended 2/13/2013))

Docket Nos. REP-2009-008
REP-2013-001

POST-SUSPENSION CONSENT AGREEMENT FOR PROBATION

The Massachusetts Board of Respiratory Care ("Board") and Ibraltino Lucas Andrade ("Respondent"), a Respiratory Therapist ("RT") formerly licensed by the Board, hereby stipulate and agree that the following information shall be entered into, and become a permanent part of, the Respondent's records maintained by the Board. For purposes of this Post-Suspension Consent Agreement for Probation ("Agreement"), the word "license" shall refer to both a current license and to any right to renew an expired license.

1. The Respondent acknowledges that the Board issued to him a license to practice as an RT in Massachusetts, License No. RT9856, on or about February 1, 2010.
2. The Respondent acknowledges that at the time his license was issued, the Board immediately suspended said license for a period of 15 days, with the suspension terminating effective February 16, 2010.
3. The Respondent acknowledges that, pursuant to a Consent Agreement entered into by the Board and the Respondent, the February 16, 2010 termination of his license suspension was contingent upon the commencement of a three-year period of license probation that would have expired in February of 2013 if all conditions of the probationary period had been met, and if in the opinion of the Board, the termination of the Respondent's probation was in the best interests of the public health, safety, and welfare.
4. The Respondent acknowledges that all facts recited in the Consent Agreement, executed on February 1, 2010, are accurate and that he is and was, at all times, aware of the conditions imposed on him by the Board during the probationary period, including the express prohibitions found in Paragraph 4 Subparagraph (d) regarding criminal conduct that results in arrest for violation of any criminal law.

REDACTED

6. The Respondent and the Board acknowledge that on April 3, 2014, the Respondent

submitted a Petition for Reinstatement of License to the Board, pursuant to the Board's Policy No. RC-10-01, adopted March 3, 2010.

7. The Respondent and the Board acknowledge that on Tuesday, April 15, 2014 the Respondent appeared before the Board to discuss his Petition for Reinstatement of License. On April 15, 2014, the Board voted to grant the Respondent's Petition for Reinstatement on a probationary basis, contingent upon complete compliance with conditions incorporated into this Agreement.
8. The Respondent agrees to comply with the following standard requirements during the probationary period:
 - a. Comply with all laws and regulations governing the practice of Respiratory Therapists in the Commonwealth of Massachusetts;
 - b. Timely renew his Massachusetts RT license;
 - c. Notify the Board in writing of any change in his mailing address, within ten (10) days of such change;
 - d. Comply with all continuing education requirements.
9. The Respondent agrees to comply with the following requirements pursuant to the Board's vote to offer the Respondent reinstatement on a probationary basis:
 - a. Respondent will report to the Board within 10 days if he is arrested, indicted, or subject to prosecution for criminal charges in the Commonwealth of Massachusetts or any other jurisdiction;
 - b. Upon the execution of this agreement, Respondent will be responsible for conveying to the Board written documentation of his efforts to seek full-time employment. Said documentation may be in the form of a list of positions for which the Respondent has applied, and any correspondence exchanged between the Respondent and prospective employers. The Respondent will make such reports to the Board on a monthly basis, by the 15th of each month beginning on May 15, 2014;
 - c. Upon securing employment, Respondent will notify the Board via writing of his date of hire, the name and address of his employer, and the name of his supervisor within 10 days of commencing work;
 - d. Respondent agrees to furnish to any employer for whom he is working in the capacity of an RT a copy of this Agreement;
 - e. Subsequent to the notification of his new employment, Respondent will notify the Board of any change in his employment status within 10 days of said change. This notification to the Board will include the date of separation from his employer, the reasons for his separation, and any new employment obtained by the Respondent subsequent to that separation;
 - f. No later than 30 days subsequent to securing employment, Respondent will commence monthly counseling sessions with a psychiatrist, psychologist, or other therapist qualified to provide treatment related to his emotional and mental well-being. Respondent may commence such counseling prior to securing employment;

suspension, the Respondent agrees that he shall not in any way represent himself as a licensed RT in Massachusetts until such time as the Board terminates the suspension of his license or right to renew such license. Any evidence that the Respondent has represented himself as an RT in Massachusetts after the Board has notified the Respondent 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.

13. The effective date of this Agreement ("Effective Date") is the date on which the Board signs this Agreement after receiving two copies of the Agreement signed and dated by the Respondent.
14. The Respondent understands that he has the right to consult with legal counsel in connection with his decision to enter into this Agreement and acknowledges that, if he has not used legal counsel, the decision not to do so has been one taken of his own free will.
15. The Respondent understands that the probation of his RT license as agreed to under the terms of this Agreement is a final act and is not subject to reconsideration or judicial review.
16. The Respondent understands that, after its Effective Date, this Agreement constitutes "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 and/or law enforcement entities, and to any other individual or entity as required by law.
17. The Respondent certifies that he has read this document entitled "Post-Suspension Consent Agreement for Probation." The Respondent understands that, by executing this Agreement, he is agreeing to the terms and conditions pursuant to which the Board shall reinstate his RT license and place his license on probationary status on the terms and conditions set forth herein.

18. The Respondent and the Board agree that for purposes of this Agreement, all documentation and reports due to the Board by the Respondent may be submitted to Karen Fishman, Probation Monitor, Division of Health Professions Licensure, 239 Causeway Street, Suite 500, Boston, MA 02114.

BY THE LICENSEE:

Ibraltino Lucas Andrade
Ibraltino Lucas Andrade

05/02/2014
Date

Joseph R. Doktor
Witness (Signature)
JOSEPH R DOKTOR 5/2/14
Witness (Print Name and Date)

FOR BOARD USE:

BY THE BOARD:

Mary Phillips
Mary Phillips, Executive Director

5/9/14
Effective Date

An original copy of this fully executed Post-Suspension Consent Agreement for Probation was sent to Licensee/Licensee's attorney on 5/9/14 by Certified Mail No. 7012 3460 0001 7331 3511 by T. Wetgate