

IN THE MATTER OF
THE APPLICATION FOR A RESPIRATORY
CARE CERTIFICATE BY

BEFORE THE

JOSEPH ROBY STEINER, RCP

TEXAS MEDICAL BOARD

AGREED ORDER

On the 10th day of June, 2016, came on to be heard before the Texas Medical Board (the "Board"), duly in session, the matter of the application for a Texas respiratory care practitioner certificate by Joseph R. Steiner ("Applicant").

On June 9, 2016, Applicant appeared in person, without counsel, before the Licensure Committee of the Board ("Committee"). The Committee, after hearing from Applicant and after considering Applicant's application, recommended that Applicant be granted a Texas respiratory care certificate with certain terms and conditions, as set forth below, subject to the consideration and approval of the Board.

Based on the recommendation of the Committee, and with the consent of Applicant, as evidenced by Applicant's signature on this Agreed Order, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.

FINDINGS

The Board finds that:

1. General Findings:

- a. Applicant received all notice required by law. All jurisdictional requirements have been satisfied. Applicant waives any defect in notice and any further right to notice or hearing under TEX. OCC. CODE ANN. Title 3, Subtitle K, CHAPTER 604 (the "Act") or 25 T.A.C Part 1, Chapter 140, Subchapter E.
- b. Applicant applied for a Texas respiratory care certificate on March 6, 2016. Applicant is also licensed to practice respiratory care in Louisiana.

- c. Applicant graduated from the Bossier Parish Community College Respiratory Therapy Program in 2012.
- d. As of the date of this Order, Applicant is certified by the National Board for Respiratory Care.

2. Specific Findings:

- a. In 2002, Applicant was convicted of felony possession of controlled substances in Louisiana. Applicant was sentenced to five years' probation, the terms of which included requirements that Applicant attend Narcotics Anonymous on a weekly basis and submit to random drug testing. In 2005, Applicant completed the terms of the probation and was discharged.
- b. Applicant has cooperated with Board staff in the investigation of the allegations related to this Agreed Order. Applicant's cooperation, through consent to this Agreed Order, pursuant to the provisions of Section 604.201 of the Act, will save money and resources for the State of Texas. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Applicant agrees to the entry of this Agreed Order and to comply with its terms and conditions.

CONCLUSIONS OF LAW

Based on the above Findings, the Board concludes the following:

- 1. Section 604.058 of the Act and Title 25, TAC Chapter 140, Subchapter E, §140.213 authorize the Board to take disciplinary action against Applicant based upon Applicant's criminal history.
- 2. Section 604.201 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule and to resolve and make a disposition of this matter through an Agreed Order.

ORDER

Based on the Findings and Conclusions of Law, the Board ORDERS that Applicant is hereby GRANTED a Texas Respiratory Care Certificate under the following terms and conditions:

1. Independent Medical Evaluation. Upon entry of this Order, the Executive Director of the Board will designate a physician who is board certified in psychiatry to serve as the Board's evaluating psychiatrist. Within 90 days thereafter, Applicant shall submit to and obtain an independent medical evaluation from the evaluating psychiatrist.

- (a) The independent medical evaluation shall be conducted as directed by the Board, including, at a minimum:
 - (1) Social history and background information;
 - (2) Mental status exam;
 - (3) Review of records and other pertinent information;
 - (5) Current DSM multiaxial diagnosis, and
 - (6) Recommendations regarding continued care and treatment.
- (b) The Compliance Division of the Board shall furnish a copy of this Order to the evaluating psychiatrist, who shall make a full report to the Board regarding the evaluating psychiatrist's evaluation of Applicant and recommendations. If the IME report contains recommendations for continued care or treatment, drug testing, or other monitoring or practice restrictions, Applicant will be required to appear before a panel of Texas Board of Respiratory Care or Medical Board representatives upon written request mailed to Applicant's last known address on file with the Medical Board at least 10 calendar days before the requested appearance date. Such appearance shall be for the purpose of discussing the results of the evaluation and for consideration and possible action thereto.
- (c) Applicant shall pay all fees charged by the evaluating psychiatrist.
- (d) Applicant shall follow all recommendations made by the evaluating psychiatrist regarding continued care and treatment.

- (e) Applicant's failure to cooperate with the evaluating psychiatrist or failure to follow the evaluating psychiatrist's recommendations shall constitute a violation of this Order.
- (f) If the evaluating psychiatrist recommends continued care and treatment for Applicant, the Executive Director shall notify the Applicant to submit letters from up to three physicians who are board certified in psychiatry and who agree to serve as Applicant's approved treating psychiatrist within 30 days.
 - (1) The letters from proposed treating psychiatrist(s) shall state that they:
 - a. have been provided a copy of this Order;
 - b. agree to provide psychiatric treatment to Applicant; and
 - c. agree to provide periodic reports regarding Applicant's compliance with treatment and rehabilitation to (a) the Compliance Division of the Board or (b) an independent monitoring psychiatrist.
 - (2) A proposed treating psychiatrist may not be approved unless the proposed treating psychiatrist agrees to provide periodic reports either to the Compliance Division of the Board or to an independent monitoring psychiatrist.
 - (3) The Executive Director may reject all of the proposed treating psychiatrists and require the submission of additional letters or approve one or more to be the approved treating psychiatrist.
 - (4) Applicant shall begin the recommended care and treatment within 30 days after notification of approval of the treating psychiatrist.
 - (5) Applicant shall pay all fees charged by the treating psychiatrist.
 - (6) Applicant shall follow all recommendations made by the treating psychiatrist regarding continued care and treatment.
 - (7) Board staff may furnish to the treating psychiatrist any Board information that it determines, in its discretion, may be helpful or required for the treatment of Applicant.
 - (8) The treating psychiatrist shall provide periodic written reports no less than quarterly, on March 15, June 15, September 15, and December 15 of each year, during Applicant's treatment, either directly to the Compliance Division

of the Board or to an independent monitoring psychiatrist. Periodic reports shall include: (a) current diagnosis; (b) treatment regimen; (c) treatment compliance; (d) follow-up recommendations; and (e) prognosis. The Compliance Division of the Board or an independent monitoring psychiatrist may request clarification of periodic reports and may request additional reports.

- (9) The treating psychiatrist may require Applicant to participate in alcohol and/or drug screens and shall immediately report any positive results either directly to the Compliance Division of the Board or to an independent monitoring psychiatrist.
- (10) The treating psychiatrist shall immediately report, either directly to the Compliance Division of the Board or to an independent monitoring psychiatrist, any unilateral withdrawal from treatment by Applicant.
- (11) Applicant shall execute any and all releases for medical records and authorizations necessary to effectuate the provisions of this Order.
- (12) Applicant's failure to cooperate with the treating psychiatrist or failure to follow the treating psychiatrist's recommendations shall constitute a violation of this Order.

2. Monitoring Continued Care and Treatment. During any continued care and treatment, the Board shall monitor Applicant's compliance with treatment and rehabilitation, either directly through the treating psychiatrist or through an independent monitoring psychiatrist designated by the Executive Director.

- (a) If the approved treating psychiatrist agrees to provide reports directly to the Board, with the consent of Applicant, the Executive Director may authorize the treating psychiatrist to serve in the dual capacity as treating psychiatrist for Applicant and monitoring psychiatrist for the Board.
- (b) If the approved treating psychiatrist does not agree to provide periodic reports to the Board, or if Applicant does not consent, or if the Executive Director requires an independent monitoring psychiatrist, the Executive Director shall designate a physician who is board certified in psychiatry to serve as the Board's independent

monitoring psychiatrist. Applicant shall pay all fees charged by an independent monitoring psychiatrist.

- (c) An independent monitoring psychiatrist may require Applicant to present for a personal interview up to twice each year during treatment.
- (d) Applicant shall authorize the treating psychiatrist to provide information necessary for monitoring by the Board, either directly to the Board or through an independent monitoring psychiatrist. The information shall be limited to the minimum information necessary to ensure adequate assessment of Applicant's compliance with treatment, rehabilitation, and compliance with the terms of this Order.
- (e) An independent monitoring psychiatrist shall provide periodic written reports to the Compliance Division of the Board no less than semi-annually on March 15 and September 15 of each year during Applicant's treatment. The monitoring reports shall include: (a) current diagnosis; (b) treatment regimen; (c) treatment compliance; (d) follow-up recommendations; and (e) prognosis.
- (f) Board staff may furnish to the monitoring psychiatrist any Board information that it determines, in its discretion, may be helpful or required for the effective monitoring of Applicant's compliance with treatment, rehabilitation, and compliance with this Order.
- (g) Applicant's failure to cooperate with the monitoring psychiatrist shall constitute a violation of this Order.

3. Applicant shall abstain from the consumption of prohibited substances as defined below, except as prescribed by another physician to Applicant for legitimate and documented therapeutic purposes. As used in this provision, "consumption" means any manner of ingestion, including oral, injection, topical, inhalation, or otherwise.

a. Prohibited substances, as used in this order, includes:

- (1) Alcohol in any form;
- (2) Dangerous drugs, as defined in Chapter 483, TEX. HEALTH & SAFETY CODE;
- (3) Controlled substances, as defined in Chapter 481, TEX. HEALTH & SAFETY CODE;
- (4) any substance, in any form, including over-the-counter (OTC) agents and food products, that may cause a positive drug or alcohol test.

b. The following is an illustrative, but not exclusive, list of prohibited substances:

- (1) Stimulants
- (2) appetite suppressants
- (3) medication for ADD/ADHD
- (4) Anti-anxiety agents
- (5) Antidepressants
- (6) Antihistamines
- (7) Anticholinergics
- (8) Antispasmodics
- (9) Recreational, mind-altering drugs
- (10) Any product containing pseudoephedrine or epinephrine
- (11) Alcohol
- (12) any product containing alcohol, including mouthwashes, cough medicines, after shave lotions, colognes, hand sanitizing formulas, and dietary and herbal supplements
- (13) Food containing any of the above and/or poppy seeds.

c. Within five days after receipt of this Order, Applicant shall:

- (1) provide to the Compliance Division of the Board a list of all prohibited substances that Applicant is currently consuming, whether by prescription or otherwise;
- (2) give any treating physician a copy of this Order;
- (3) cause any treating physician to report all prescriptions and orders for any prohibited substance within five days after the treating physician receives this Order. The report shall include the medical condition being treated; the substance prescribed, dispensed or administered; the amount of such substance; and any refills authorized.

d. During the term of this Order, Applicant shall:

- (1) provide to the Compliance Division of the Board a list of all subsequent prescriptions and any subsequent orders for prohibited substances within 24 hours after receipt of the subsequent prescription or order; and
- (2) give any subsequent treating physician a copy of this Order within five days after the initiation of treatment, and Applicant shall cause the subsequent treating physician(s) to report all prescriptions and any orders for prohibited substances to the Compliance Division of the Board no later than five days after receipt of this Order by the treating physician. The report shall include

the medical condition being treated; the substance prescribed, dispensed or administered; the amount of such substance; and any refills authorized.

- e. If Applicant consumes any prohibited substance in any form without a prescription or order authorized by a physician for a legitimate medical purpose, Applicant shall immediately report Applicant's consumption in writing within 24 hours to the Compliance Division of the Board.
- f. The Applicant shall participate in the Board's drug testing program. In addition, at the request of a representative of the Board, with or without prior notice, Applicant shall submit to appropriate examinations, including screenings for alcohol and drugs, to determine by laboratory analysis whether Applicant is free of prohibited drugs and alcohol. Applicant shall pay any costs associated with these analyses.
- g. A violation of this Order under this provision shall include: (i) a positive or a positive-dilute screen for prohibited drugs or alcohol, or a metabolite of prohibited drugs or alcohol; (ii) an adulterated specimen; (iii) a substituted specimen; or (iv) a refusal or failure to submit to random screenings. Should a specimen be reported as negative-dilute, Applicant may be required to undergo additional testing and may be subject to further Board action. A violation may be based on drug and alcohol screening under the Board's program or any other drug and/or alcohol testing.

(1) Evidence of a violation of this Order under this provision and any other information related to Applicant's violation of this Order may be presented to Medical Board or Texas Board of Respiratory Care representatives at a Probationer's Show Compliance Proceeding, held in accordance with 22 TEX. ADMIN. CODE, §187.44.

(2) If the Medical Board or Texas Board of Respiratory Care representatives at such Probationer's Show Compliance Proceeding determine that Applicant is in violation of this Order pursuant to this provision, the representatives may direct the Executive Director to immediately **SUSPEND** Applicant's medical license. **THIS SUSPENSION SHALL BE EFFECTIVE IMMEDIATELY WITHOUT THE NEED FOR A**

FORMAL HEARING BEFORE THE MEDICAL BOARD OR BOARD OF RESPIRATORY CARE, A PANEL OF THE MEDICAL BOARD OR BOARD OF RESPIRATORY CARE, OR THE STATE OFFICE OF ADMINISTRATIVE HEARINGS OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE ADMINISTRATIVE PROCEDURE ACT. APPLICANT WAIVES ANY SUCH HEARING OR ANY SUCH DUE PROCESS AND ALL RIGHTS OF APPEAL IN REGARD TO THE SUSPENSION.

If Applicant is suspended under this provision, a formal complaint under the Act shall be filed as soon as practicable, alleging the violations of this Order under this provision and seeking such disciplinary action as may be appropriate, including revocation of Applicant's license. The formal complaint may also include allegations of other violations of this Order and other violations of the Act. The parties may resolve the issues by an agreed order, either before or after the filing of a formal complaint. **APPLICANT DOES NOT WAIVE AND SPECIFICALLY RESERVES THE RIGHT TO A HEARING BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS, WITH ALL RIGHTS PROVIDED BY THE ACT OR THE ADMINISTRATIVE PROCEDURE ACT AND THE RIGHT TO SEEK JUDICIAL REVIEW OF THE FINAL ORDER.**

4. Applicant shall comply with all the provisions of the Act and other statutes regulating the Applicant's practice.

5. Applicant shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Applicant's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Applicant pursuant to the Act.

6. Applicant shall inform the Board in writing of any change of Applicant's office or mailing address within 10 days of the address change. This information shall be submitted to the Registration Department and the Compliance Department of the Board. Failure to provide such information in a timely manner shall constitute a violation of this Order and a basis for disciplinary action by the Board against Applicant pursuant to the Act. Applicant agrees that 10 days' notice of a Probationer Show Compliance Proceeding to address any allegation of non-

compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Applicant waives the 45-day notice requirement provided by the Act and agrees to 10 days' notice.

7. Any violation of the terms, conditions, or requirements of this Order by Applicant shall constitute unprofessional conduct likely to deceive or defraud the public, and to injure the public, and shall constitute a basis for disciplinary action by the Board against Applicant pursuant to the Act.

8. Applicant shall give a copy of this Order to all hospitals, nursing homes, treatment facilities, and other health care entities where Applicant has privileges or applied for privileges, is employed or applied for employment as a respiratory care practitioner, or otherwise practices as a respiratory care practitioner.

9. Except as provided in Ordering Paragraph No. 10, the above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for one year following the date of the entry of this Order. If, after the passage of the one-year period, Applicant wishes to seek amendment or termination of these conditions, Applicant may petition the Board in writing. The Board may inquire into the request and may in its sole discretion, grant or deny the petition without further appeal or review. Petitions for modifying or terminating may be filed only once a year thereafter.

10. This Order shall be automatically terminated upon Compliance's determination that the following terms have been met:


- a. The Medical Director of the Board has determined that the IME report contains no recommendation for continued care or treatment, drug testing, or other monitoring or practice restrictions; and
- b. As of the date of Compliance's receipt of the Medical Director's confirmation that the IME report has been reviewed and contains no recommendation as described in subsection (a) of Ordering Paragraph No. 10, Applicant has maintained full compliance with all other terms and conditions of this Order.

APPLICANT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. APPLICANT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

I, JOSEPH ROBY STEINER, HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 8/30, 2016.



JOSEPH ROBY STEINER
Applicant

STATE OF Louisiana §
COUNTY OF Rapides §

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 30th day of August, 2016.

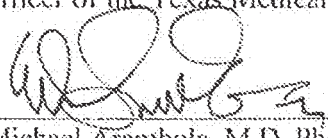
(Notary Seal)



Signature of Notary Public

Patsy Rayner
Notary #64160
My commission expires at death.

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this 26
day of September, 2016.



Michael Arambula, M.D. Pharm D., President
Texas Medical Board