

**WEST VIRGINIA MEDICAL IMAGING AND RADIATION
THERAPY TECHNOLOGY BOARD OF EXAMINERS**

IN RE: NATOSHA E. CLEAVENGER,
West Virginia Medical Imaging
Temporary License No. 7035.

Complaint No. 01-FY2010

CONSENT AGREEMENT

Now comes the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners (hereinafter "Board"), by its Executive Director, Grady M. Bowyer, and Natosha E. Cleavenger, (hereinafter "Respondent"), for the purpose of resolving Board Complaint No. 01-FY2010, against Respondent. As reflected in this agreement, the parties have reached an understanding concerning the proper disposition of the matters in controversy, and the Board, approving such an agreement, does hereby find and Order as follows:

FINDINGS OF FACT

1. The Board is a state entity created by West Virginia Code § 30-23-1 *et seq.* and is empowered to regulate the practice of medical imaging and radiation therapy technology pursuant to the same.
2. Respondent was issued temporary license # 7035 to practice medical imaging in the State of West Virginia on or around July 20, 2009 and current temporary license expires on January 20, 2010.

3. On August 4, 2009, the Respondent consented to a pre-employment drug screening as a requirement of employment with United Physicians Care, Inc. located in Shinnston, West Virginia.
4. The results of the drug screening of August 4, 2009 showed that Respondent tested positive for Benzodiazepines.¹
5. On August 21, 2009, the Board received a complaint (Complaint No # 01-FY2010) from Julia R. Loeffler, Director of Human Resources at United Physicians Care, Inc stating that Respondent had failed the drug screening.
6. On September 18, 2009, the Board received a response to the allegations made in the complaint.

CONCLUSIONS OF LAW

1. The Board is a state entity created by W. Va. Code § 30-23-1 *et seq.* and is empowered and authorized to regulate the practice of medical imaging and radiation therapy technology in West Virginia.
2. The Medical Imaging and Radiation Therapy Technology Act, pursuant to W. Va. Code § 30-23-1 *et seq.*, grants the Board power to make and enforce necessary rules and regulations for the licensing of medical imaging and

¹Benzodiazepines, sometimes abbreviated to “benzo,” is a psychoactive drug possessing sedative, hypnotic and muscle relaxant actions and is commonly used as a tranquilizer. A common example of a benzodiazepine is Valium.

radiation therapy technologists and the general practice of medical imaging and radiation therapy technology. The Act confers on the Board the right to take disciplinary action against licensees who violate its rules and regulations in order to protect the public interest and to preserve proper levels of education, experience and skill.

3. West Virginia Code § 30-1-8(a) provides that every Chapter 30 Board “may suspend or revoke the license of any person who . . . has been found to have engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct.”
4. “[Engaging] in actual or potential inability to practice medical imaging or radiation therapy technology with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals or any other material; or as a result of any mental or physical condition,” to which Respondent is admitting herein, is a violation of the standards of ethics pertaining to the medical imaging profession. W. Va. Code R. § 18-5-5.1.7.
5. Respondent’s testing positive for benzodiazepines during an employment drug screening demonstrates that she engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct in violation of West Virginia Code § 30-1-8 (a).

6. The Board has the authority to assess administrative costs for the adjudication of complaints. W. Va. Code § 30-1-8(a).

CONSENT

Respondent, Natosha E. Cleavenger, both in her individual capacity and as a licensed medical imaging technologist, by the execution hereof, agrees to the following:

1. Respondent is aware of her right to be represented by counsel and of her option to pursue this matter through appropriate administrative and/or court procedures, but Respondent intelligently and voluntarily waives her right to do so.
2. Respondent intelligently and voluntarily waives her right to a formal hearing before the Board in this matter. No person or entity has made any promise or given any inducement whatsoever to encourage Respondent to make this settlement other than as set forth herein.
3. Respondent acknowledges that the Board may reject this proposal and may hold a hearing to impose such sanctions of a disciplinary nature as required by law and as it may otherwise deem appropriate.
3. Respondent admits that her testing positive for benzodiazepines constitutes a violation of the accepted standards of practice and is therefore a violation of the Medical Imaging and Radiation Therapy Technology Act.

4. Respondent accepts the findings set forth above and consents to the entry of this Consent Agreement freely and voluntarily, and not under any duress, restraint or compulsion. Further, Respondent consents to the entry of the following Order affecting her conduct as a state licensed medical imaging technologist.
5. Respondent understands that this Consent Agreement and the underlying complaint are public records and agree that the sum and substance of the complaint and this agreement in part or in their entirety will be set forth in Board publications and on the Board website, as well as other appropriate placements, including the American Registry of Radiologic Technologists (ARRT).
6. Respondent acknowledges that proof of any misstatement or misrepresentation made in connection with this matter will result in the rescission of this agreement, the reinstatement of the complaint, the summary revocation of any license issued to Respondent, and the addition of any other charges which may arise or ensue from providing false information to the Board.

ORDER

1. On the basis of the foregoing, and upon entry of this Consent Order by this tribunal, the Board hereby **ORDERS** that this Consent Order shall serve as

an informal settlement of this Complaint pursuant to West Virginia Code § 30-1-8(a).

2. On the basis of the foregoing, the Board hereby **ORDERS** that temporary license number 7035 and any subsequent license received as a result of successful completion of the licensing examination, issued to Respondent, be placed on a probation for a period of three (3) years. The computation of such period is to begin on the date on which this ORDER is entered into the records of the Board.
3. The Board also **ORDERS** the Respondent to pay administrative costs in the amount of Three hundred, Sixteen dollars and Twenty-five cents (\$ 316.25).
4. Respondent shall not violate the provisions of West Virginia Code § 30-23-1, *et seq.*
5. Respondent shall not commit any act which would be a crime under West Virginia or federal law. If Respondent is charged by any law enforcement agency with committing any such criminal act, the Board shall be notified in writing of the formal charge(s) against Respondent, and resolution of same.
6. Throughout the duration of this Consent Agreement, Respondent shall take all steps required to gain full licensure and maintain a current and active license in the State of West Virginia. Respondent shall remain current on all

licensing fees, satisfy all continuing education requirements and shall not allow her license to lapse or otherwise be placed on an inactive status.

7. Respondent shall not, under any circumstances, misrepresent the status of her license.
8. Respondent shall, within ten (10) days of employment or continuation of medical imaging and radiation therapy practice, cause the employer or immediate supervisor, to notify the Board, in writing, of the employer or supervisor's receipt of a copy of this agreement.
9. Respondent shall inform the Board in writing within ten (10) days of the date Respondent assumes the practice of medical imaging technology in the State of West Virginia and shall include the name, address, and telephone number of her employer. Respondent shall provide in writing the name of her immediate supervisor. Respondent shall inform the Board of any interruption in medical imaging technology practice or change in employment within ten (10) days of such interruption or change.
10. Respondent shall immediately inform their medical imaging technology employer, any prospective medical imaging technology employer, and the director of any medical imaging technology education program in which Respondent enrolls or teaches, that the Board has placed Respondent's license on probation, and shall provide a complete copy of this agreement to

their employer(s). The Board may provide the employer(s) with a copy of this agreement and may communicate with the employer.

11. Respondent shall submit documentation of fifteen (15) contact hours of continuing education in drug and alcohol abuse each year during the time the license is on probation in addition to the twelve (12) annual or twenty-four (24) biannual required by law.
12. Respondent shall report in person for appointment with the Board staff upon request.
13. Respondent shall abstain from the use of alcohol and limit her use of drugs to those legally prescribed for a legitimate purpose by a physician, dentist or nurse practitioner duly licensed in the State of West Virginia. Respondent shall provide a copy of this Agreement to any prescribing physician, dentist or nurse practitioner. Respondent shall cause her physician, dentist or nurse practitioner to notify the Board in writing of any medications/drugs prescribed or given as samples and the condition for which said drug(s) has been prescribed within twenty-four hours (24) of receiving said prescription or samples. Respondent agrees that, if she accepts a prescription for narcotic or psychotropic drugs, the Board may impose additional probationary terms.

Rehabilitative:

14. Respondent shall be evaluated by a certified addictions counselor approved by the Board at her own expense. The evaluation completed by the Board-approved certified addictions counselor must be submitted to the Board. Respondent is required to follow all recommendations of the approved certified addictions counselor and complete all elements of the evaluation plan report. This requirement may be modified upon request to the Board by Respondent's certified addictions counselor.
15. Respondent shall submit to unannounced, witnessed drug-screening tests through First Lab for a period of three (3) years, during which time Respondent will submit to twelve (12) to fifteen (15) random tests during the first year. Said tests shall be on demand and to the specifications of the Board and **at Respondent's expense**. Receipt of a positive drug screen and or not calling **DAILY by noon** is deemed to be a violation of this Consent Agreement, and shall render the Consent Agreement null and void. Eating products containing poppy seeds will not constitute as an accepted reason for having a positive screen for opioids. Taking over the counter supplements will not constitute as an accepted reason for having a positive screen for any illegal drug.
16. Respondent shall coordinate any health care services she requires with one

physician or registered nurse practitioner, who shall be informed of any services or prescriptions sought or obtained by Respondent from any physician, dentist or nurse practitioner. Respondent shall provide this individual, who serves as her point of contact for health care needs, with a copy of this agreement.

17. Respondent shall execute a release to permit the Board to obtain medical, drug testing results from other jurisdictions, or other health care records, which may be requested at any time while her license is on probation, regarding her physical or mental health and any treatment rendered.

Violation of Terms:

18. Any deviation from these requirements without prior written consent of the Board shall constitute a violation of this Order, and result in the Consent Agreement being rendered null and void.
19. The Board shall immediately notify Respondent via certified mail of the specific nature of the charges. If the Respondent has been issued her Probationary license, that license shall be suspended as of the date of receipt of the certified letter.
 - a. Respondent may request reinstatement of her probationary license through renewal of this agreement, or execution of a new agreement,

which may contain different or additional terms. The Board is not bound to comply with this request.

- b. If the Board does not accept a renewed or new agreement, Respondent shall be notified in writing. Respondent may request a hearing to seek reinstatement of her probationary license. If Respondent requests a hearing following suspension for violation of this agreement and does not prevail, the cost incurred in holding such hearing shall be borne by Respondent. If Respondent prevails, the cost of such hearing shall be borne by the Board. Cost shall refer only to the expense of employing a court reporter and hearing examiner for the purpose of the hearing, and shall not include any legal or other fees incurred by the Board or Respondent in bringing the matter to hearing.
- c. The Board may schedule a hearing on its own initiative for the purpose of allowing the Board opportunity for considering further suspension or revocation of Respondent's license. Said hearing shall be scheduled in accordance with the provisions of West Virginia Code § 30-1-8 and § 30-23-1, et. seq. The Board shall bear the cost if it should seek a hearing following suspension of Respondent's probationary license for violation of this agreement. Cost shall refer

only to the expense of employing a court reporter and hearing examiner for the purpose of the hearing, and shall not include any legal or other fees incurred by Respondent in bringing the matter to hearing.

Modification of Terms:

20. If Respondent is proceeding successfully in her treatment and rehabilitation, she may petition the Board after no less than one (1) year from the execution of this agreement for a modification of the terms of the agreement. In the event that the Board finds that Respondent has made significant progress, based upon all information available, the Board may, at its discretion, alter or amend certain provisions of this agreement.

Petition for Reinstatement:

21. Following the probationary period, Respondent may petition to appear before the Board and submit satisfactory evidence that she is presently able to safely engage in the practice of radiologic technology. Evidence in support of this request shall include, but not necessarily be limited to:
 - a. Letter from the physician involved in Respondent's primary health care attesting to her ability to safely engage in the practice of medical imaging technology;
 - b. Letter of reference from Respondent's employer, if employed;

- c. Letter from Respondent outlining her future plans; and payment of all fines and administrative costs, if any.
22. The terms of this Order shall remain in effect and subject to yearly review and appropriate revision by the Board until such time as Respondent's license is fully reinstated by the Board.

Consequences for Repeat Offenses

23. After the terms of this Consent Agreement have been satisfied, should the Board receive substantiated information that Respondent is or has attempting to illegally obtain drugs or substances including, but not limited to the both illegal drugs, illegally obtained prescription drugs and alcohol, such information will constitute a repeat offense. In the event of a second offense, the Board will conduct a hearing to suspend Respondent's license for a period of three (3) years with all other components of this Agreement outlined above remaining in place.
24. If, after the terms of the Consent Agreement for the second offense have been satisfied and the Respondent re-offends, then the Board will immediately take the appropriate action for the **permanent revocation** of Respondent's license with the West Virginia Medical and Radiation Therapy Technology Board of Examiners.

AGREED TO BY:

Natasha Cleavenger
NATOSHA E. CLEAVENGER

3-3-10
DATE

ENTERED into the records of the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners this:

6th day of May, 2010.

WEST VIRGINIA MEDICAL IMAGING AND RADIATION THERAPY
TECHNOLOGY BOARD OF EXAMINERS,

By: Grady M. Bowyer
GRADY M. BOWYER,
EXECUTIVE DIRECTOR