

**WEST VIRGINIA RADIOLOGIC TECHNOLOGY
BOARD OF EXAMINERS**

FILED

2006 JUL -6 A 11: 19

OFFICE WEST VIRGINIA
SECRETARY OF STATE

IN THE MATTER OF:

JARED BLACK,

West Virginia Radiologic Technology License No. 3286.

MODIFIED CONSENT AGREEMENT

Now comes the West Virginia Radiologic Technology Board of Examiners (hereinafter "Board"), by its Executive Director, Grady Bowyer, and Jared Black, (hereinafter "Respondent"), for the purpose of modifying the Consent Decree previously entered into with Respondent on December 12, 2005, which resolved Board Complaint No. 01-FY2005, 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. Respondent was issued a license to practice radiologic technology in the State of West Virginia on or around December 30, 2004.
2. During all times pertinent herein, Respondent was employed by Thomas Memorial Hospital as a radiologic technologist, and held radiologic license number 3286.
3. On or around June 24, 2004, Thomas Memorial Hospital discovered that Respondent had forged the name and DEA number of a hospital doctor on a prescription form, and attempted to obtain controlled substance pain relief medication.
4. As a result, a criminal investigation was conducted by the West Virginia State Police and Thomas Memorial Hospital into Respondent's activities concerning forgery and obtaining and using controlled substances without a valid prescription.
5. Respondent cooperated with the investigation.
6. Respondent admitted that he had taken a prescription pad from the hospital, forged a doctor's name and DEA number on prescription slips, and utilized the forged prescriptions to obtain controlled substances for his personal use.

7. Respondent admitted that he became addicted to pain relief controlled substances, and passed on and used forged prescriptions for controlled substances at least eleven times.

8. On or around June 29, 2004, Respondent was terminated from employment by Thomas Memorial Hospital for forging prescriptions and unlawfully obtaining and using controlled substances.

9. On or around December 15, 2005, Respondent signed the Consent Decree offered to him by the Board.

10. The Consent Decree became effective on December 19, 2005.

11. As a condition of the Consent Decree, Respondent was required to participate in a random drug screen program.

12. On or around April 23, 2006, Respondent was required to perform a drug screen test.

13. The results of the drug screen test were submitted to the Board by LabCorp, and reflected a positive result for cocaine.

14. Respondent denies that he used cocaine.

15. A positive drug screen result for cocaine constitutes a violation of the previous Consent Decree signed by Respondent on December 15, 2005.

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 radiologic technology in West Virginia.

2. The Radiologic Technologists 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 radiologic technologists and the general practice of radiologic 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 § 30-23-9(b)(3) provides that “[t]he board shall suspend or revoke any license or temporary permit when it finds the holder thereof has . . . [b]een incompetent, grossly negligent, or guilty of other malpractice as defined by the board by reasonable rules and regulations.”

4. By and through the unlawful acquisition and personal use of controlled substances, which affected Respondent's performance in a professional capacity, Respondent conducted himself in an incompetent and/or grossly negligent manner in violation of W. Va. Code § 30-23-9(b)(3).

5. West Virginia Code § 30-23-9(b)(4) provides that the Board may take disciplinary action against a licensee who has "failed or refused to comply with the provisions of this article or any reasonable rule promulgated by the board hereunder or any order or final decision of the board."

6. Pursuant to 18 C.S.R. § 4-4, "[t]he Board may deny an application for license or permit, place a licensee or permittee on probation, limit or restrict a license, suspend a license or permit or revoke any license or permit issued by the Board, upon satisfactory proof that a licensee or permittee has been convicted of a felony or is, in his or her professional capacity, engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct in violation of W. Va. Code §30-23-1 et seq. or the rules of the Board. "

7. By and through the unlawful acquisition and personal use of controlled substances, which affected Respondent's performance in a professional capacity, Respondent engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct in violation of 18 C.S.R. § 4-4.

8. A violation of a consent decree constitutes an unlawful act in violation of W. Va. Code § 30-23-9(b)(4).

CONSENT

Respondent, both in his individual capacity and as a licensed radiologic technologist, by the execution hereof, agrees to the following:

1. Respondent has had the opportunity to consult with counsel and executes this Consent Decree voluntarily, freely, without compulsion or duress and mindful that it has legal consequences. 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. Respondent acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and is aware of his legal rights regarding this matter, but intelligently and voluntarily waives such rights.

2. Respondent consents to the entry of the following Order affecting his conduct as a state licensed radiologic technologist.

ORDER

On the basis of the foregoing, the Board hereby ORDERS that license number 3286, issued to Respondent, be suspended for a period of three (3) months. Thereafter, license number 3286 shall be placed on probation for a period of three (3) years employment as a radiologic technologist. The computation of such period is to begin on the date on which notice is received in the office of the Board that Respondent is employed as a radiologic technologist and shall run only during such time that he is employed as a radiologic technologist on at least a permanent part-time basis (forty hours every two weeks) or full time basis in the State of West Virginia. The Board also Orders Respondent to pay administrative costs in the amount of twelve hundred and fifty dollars (\$1,250.00).

To receive and maintain a probationary license, regardless of employment status, Respondent shall meet the following conditions:

General:

1. Respondent shall not violate the provisions of West Virginia Code § 30-23-1, et seq.
2. 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, he shall notify the Board in writing of the formal charge(s) against him, and resolution of same.
3. Respondent shall maintain a current and active license in the State of West Virginia. He shall not allow his license to lapse or be placed on an inactive status.
4. Respondent shall not, under any circumstances, misrepresent his licensure status.
5. Respondent shall, within ten (10) days of employment or continuation of practice, cause his employer or immediate supervisor, to notify the Board, in writing, of the employer or supervisor's receipt of a copy of this agreement. Respondent shall further cause his employer or supervisor to submit monthly reports to the Board describing Respondent's job performance, attendance, attitude, and other work behaviors during the first year of probation and if his progress is satisfactory to the Board, quarterly thereafter.
6. Respondent shall inform the Board in writing within ten (10) days of the date he assumes the practice of radiologic technology, or any employment in the health care field, in the State of West Virginia and shall include the name, address, and telephone number of his employer. He shall provide in writing the name of his immediate supervisor. Respondent shall inform the Board of any interruption in radiologic technology practice or change in employment within ten (10) days of such interruption or change.
7. Respondent shall immediately inform his radiologic technology employer, any prospective radiologic technology employer, and the director of any radiologic technology

education program in which he enrolls or teaches, that the Board has placed his license on probation, and shall provide a complete copy of this agreement to his employer(s). The Board may provide his employer(s) with a copy of this agreement and may communicate with his employer.

8. Respondent shall submit documentation of fifteen (15) contact hours of continuing education in drug and alcohol abuse each year during the time his license is on probation in addition to what is required by law.

9. Respondent shall report in person for appointment with the Board staff upon request.

10. Respondent shall annually submit to the Board a written personal statement regarding his progress. The statement shall be due at the end of the first year and in each subsequent year during the month in which this agreement is accepted by the Board.

11. Respondent shall abstain from the use of alcohol and limit his use of drugs to those 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 his 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 hours) of receiving said prescription or samples. Respondent agrees that, if he accepts a prescription for narcotic or psychotropic drugs, the Board may impose additional probationary terms.

Rehabilitative:

12. Respondent shall participate in a structured aftercare program, with a certified addictions counselor approved by the Board. The treating certified addictions counselor shall make a monthly report to the Board about Respondent's progress and his compliance with the aftercare program. Respondent shall visit his approved treatment provider at least two (2) times per month during the first year of this agreement, then at least one (1) time a month thereafter during the remaining probationary period of this agreement. This requirement may be modified upon request to the Board by Respondent's certified addictions counselor.

13. Respondent shall submit to unannounced, witnessed, quantitative, drug-screening tests. Said tests shall be on demand, to the specifications of the Board and at Respondent's expense. Receipt of a positive drug screen and or not calling DAILY is deemed to be a violation of this Consent Agreement, and shall result in immediate suspension of Respondent's probationary license. 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.

14. Respondent shall coordinate any health care services he 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 his point of contact for health care needs, with a copy of this agreement.

15. Respondent shall participate in a twelve-step program at least three (3) times a week during the suspension and subsequent probationary period of this agreement. Respondent shall cause his twelve step sponsor to submit to the Board a quarterly written statement regarding Respondent's progress and attendance in the twelve step program.

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

17. Respondent shall annually submit to the Board a written personal statement regarding progress in recovery. The statement shall be due at the end of the first year and in each subsequent.

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 immediate suspension of Respondent's probationary license.

19. The Board shall immediately notify Respondent via certified mail of the specific nature of the charges, and the suspension of his license.

a. Respondent may request reinstatement of his 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 his 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 his treatment and rehabilitation, he 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 he 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 his ability to safely engage in the practice as a registered professional nurse;
- b. Letter of reference from Respondent's employer, if employed;
- c. Letter from Respondent outlining his future plans; and payment of all fines and administrative costs, if any.

However, 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.

AGREED TO BY:

JARED BLACK

DATE

ENTERED into the records of the West Virginia Radiologic Technology Board of Examiners this:

_____ day of _____, 2006.

WEST VIRGINIA RADIOLOGIC TECHNOLOGY BOARD OF EXAMINERS,

**By: _____
GRADY M. BOWYER,
EXECUTIVE DIRECTOR**

DATE

However, 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.

AGREED TO BY:

Jared Black
JARED BLACK

6/30/06
DATE

ENTERED into the records of the West Virginia Radiologic Technology Board of Examiners this:

5TH day of July, 2006.

WEST VIRGINIA RADIOLOGIC TECHNOLOGY BOARD OF EXAMINERS,

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

7/5/06
DATE