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FILED
STATE BOARD OF RESPIRATORY CARE
DEC 14 2010
Dorcis K. O'Neal
DORCAS K. O'NEAL
EXECUTIVE DIRECTOR

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF RESPIRATORY CARE

IN THE MATTER OF: :
: :
JOSEPH CAPONE :
LICENSEE NO. :
43ZA00077300 :
: :
LICENSED TO PRACTICE :
RESPIRATORY CARE IN THE :
STATE OF NEW JERSEY :
:

Administrative Action

CONSENT ORDER

This matter was opened to the New Jersey State Board of Respiratory Care (Board) upon receipt of information from Hackensack University Medical Center on September 10, 2010, that Joseph Capone (Respondent) was placed off duty for reasonable suspicion of alcohol impairment while on duty on or about May 11, 2010. The Board was also notified that Respondent began participating in a rehabilitative program through Hackensack University Medical Center's Employee Assistance Program (EAP) on May 24, 2010. Respondent has also been participating with the Professional Assistance Program (PAP) since October 14, 2010, pursuant to the Board's request. Respondent's admission of his

reporting to work impaired and unable to fulfill his job responsibilities, constitutes professional misconduct in violation of N.J.S.A. 45:1-21(e) and thus provide grounds for disciplinary action against Respondent's license.

Respondent appeared before the Board on November 9, 2010, to discuss his appearance at work on May 11, 2010 while he was impaired from alcohol use. Respondent testified regarding his rehabilitation including but not limited to his participation with the EAP and PAP. As a result of Respondent's testimony before the Board and a review of documents submitted to the Board, the Board has found the public health and safety will be adequately protected as Mr. Capone has the ability to continue to safely practice respiratory care, provided certain conditions are met which are set forth herein.

The parties being desirous of resolving this matter, and the Board finding that the within Consent Order is adequately protective of the public interest;

IT IS ON THIS *14th* DAY OF *December* 2010,

HEREBY ORDERED THAT:

1. Respondent is hereby REPRIMANDED by the Board for engaging in conduct that relates adversely to the practice of respiratory care as discussed above.
2. Respondent shall maintain absolute abstinence from

all psychoactive substances and alcohol unless prescribed by a treating physician for a documented medical condition and in the usual course of the treating physician's medical practice with notification to the Medical Director of the Professional Assistance Program of New Jersey (PAP).

3. Respondent shall continue to submit to random urine monitoring under the auspices of the PAP at a frequency of two times per week. Subsequent reductions in screens will be at the discretion of the Executive Medical Director of the PAP with notification to the Board.

4. Respondent shall demonstrate regular documented attendance at the support group of Alcoholics Anonymous at a minimum of three meetings each week.

5. Respondent shall comply with monthly face-to-face visits with a representative of the PAP with reductions at the discretion of the Executive Medical Director of the PAP with notice to the Board.

6. Respondent shall be responsible to ensure that the PAP supplies quarterly reports to the Board regarding his progress. An immediate (within 24 hours of awareness) report both orally and in writing, shall be made by the PAP to the Board of any information that Respondent engaged in any violation of any laws regarding controlled dangerous substances or alcohol or any positive urine screen or failure to appear for urine monitoring.

Further, Respondent expressly waives any claim to privilege or confidentiality that he may have concerning the above outlined reports and disclosures by the PAP to the Board.

7. All costs associated with the monitoring outlined above shall be the responsibility of, and paid directly by, Mr. Capone.

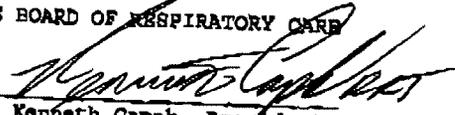
8. Mr. Capone shall continue to comply with his EAP program and notify the Board in writing upon his successful completion of the entire EAP program. Further, Mr. Capone shall notify the Board immediately (within 24 hours of awareness) if he ceases to continue with his EAP program for any reason.

9. Mr. Capone hereby consents to the entry of an order of automatic suspension of license without notice, upon the Board's receipt of any information which the Board in its sole discretion deems reliable that Mr. Capone has failed to comply with any of the conditions set forth above, any other provision of this Order, or any report of a confirmed positive urine, or a prima facie showing of a relapse or recurrence of use of alcohol or controlled substances.

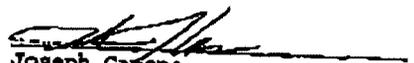
10. Mr. Capone shall have the right to apply for removal of the automatic suspension on five (5) days' notice but in such event shall be limited to a showing that the urine tested was not his or was a false positive in the case of urine testing, or that other information submitted was false.

11. This Order is effective upon its filing with the Board of Respiratory Care.

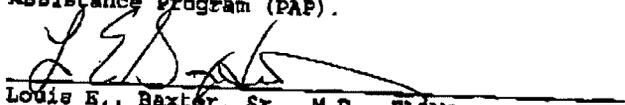
STATE BOARD OF RESPIRATORY CARE

By: 
Kenneth Capek, President

I have read and understand the within Order and agree to be bound by the terms therein. Consent is hereby given for the Board to enter this Order.


Joseph Capone

I have read and understand the within Order and agree to comply with the terms which relate to the Professional Assistance Program (PAP).


Louis E., Baxter, Sr., M.D., FASAM
Executive Medical Director
Professional Assistance Program