

# LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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<b>In The Matter Of</b>	:	<b>No. 10-I-140</b>
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<b>MICHAEL LYNN HOLEYFIELD, RRT:</b>	:	
<i>(Certificate No. L00800)</i>	:	
	:	<b>CONSENT ORDER</b>
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The above-entitled matter was docketed for investigation by the Investigating Officer of the Louisiana State Board of Medical Examiners (the "Board"), following the receipt of apparently reliable information indicating that Michael Lynn Holeyfield, RRT ("Mr. Holeyfield"), a respiratory therapist who at all times pertinent has been licensed and engaged in the practice of respiratory care in and around Shreveport, Louisiana was terminated from employment for falsification of records. Such information reveals that Mr. Holeyfield was the subject of an investigation by his employer, CHRISTUS Schumpert Health System when he was assigned to work at Highland Hospital. During the investigation, it was discovered that Mr. Holeyfield documented administration of six (6) treatments to ventilator patients in the Critical Care Unit, when in fact none of the treatments were given. In addition, he documented that a patient had refused respiratory treatment; however, the patient's family verified that when the treatment was due to be performed, Mr. Holeyfield informed the patient that he was too busy to perform the procedure.

During the Board's investigation, Mr. Holeyfield admitted he had incorrectly documented that the patient had refused the treatment; however, he further stated that he had no recollection of the other reported treatment incidents. In addition, he explained that he had recently been diagnosed and treated for medical conditions which could impair his ability to safely practice as a respiratory therapist. Mr. Holeyfield has not worked as a respiratory therapist since his employment ended at Highland Hospital, and although Mr. Holeyfield may retire from the practice of respiratory therapy, he would like to retain as an option his eligibility to return to practice in the future.

As evidenced by his subscription to this Order, Mr. Holeyfield acknowledges the substantial accuracy of the forgoing information and that such acknowledgment and the reported information would provide the Investigating Officer assigned to this matter by the Board with probable cause to pursue administrative proceedings against him for violation of the Respiratory Therapy Practice Act, La. Rev. Stat 37:3358A (2), (11), (15), and (17),<sup>1</sup> constituting sufficient cause for action against his license to

<sup>1</sup> The Louisiana Respiratory Therapy Practice Act, La. Rev. Stat. §37:3358A. provides that the Board may take action against the license of a respiratory therapist as a result of being 'found guilty of unprofessional conduct

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practice respiratory therapy in the State of Louisiana. On the basis of apparently reliable information, however, the Board is persuaded that the conditions from which Mr. Holeyfield suffers may be susceptible to effective medical treatment, resulting in the maintenance of his capacity to engage in the practice of respiratory therapy with reasonable skill and safety to patients, provided that he strictly observes and complies with appropriate restrictions on and conditions to maintenance of his license. In consideration of this finding, accordingly, and on the recommendation of the Investigating Officer respecting the pending investigation, the Board has concluded that its responsibility to ensure the health, safety and welfare of the citizens of this state against the unprofessional, unqualified and unsafe practice of respiratory therapy, La. Rev. Stat. §37:3351 will be effectively served by entry of the Order set forth hereinafter by consent.

Recognizing his right to have notice of administrative charges, and to administrative adjudication of such charges, at which time Mr. Holeyfield would be entitled to be represented by legal counsel, to call witnesses and to present evidence on his own behalf in defense or in mitigation of the charges made and to a decision thereon by the Board based upon written findings of fact and conclusions of law, pursuant to La. Rev. Stat. §49:955-965., Mr. Holeyfield nonetheless, hereby waives his right to formal adjudication and pursuant to La. Rev. Stat. §49:955(D), hereby agrees to an order of suspension of his license to practice as a respiratory therapist effective as of the date of this Order. Mr. Holeyfield's license to practice as a respiratory therapist shall be reinstated thereafter upon compliance with the terms and conditions described below. By his subscription hereto, Mr. Holeyfield also hereby acknowledges that he waives any right to which he may be entitled pursuant to the Louisiana Administrative Procedure Act, La. Rev. Stat. §49:951, *et seq.* or which otherwise may be afforded to him by law, to contest his agreement to or the force and effect of the Board's investigation or this document in any court or other forum relating to the matters referred to herein

By his subscription hereto, Mr. Holeyfield also hereby authorizes the Investigating Officer designated by the Board with respect hereto, to present this Consent Order to the Board for its consideration and to fully disclose to and discuss with the Board the nature and results of the investigation and he waives any objection to such disclosures to the Board under La. Rev. Stat. §49:960. Mr. Holeyfield expressly acknowledges that the disclosure of information to the Board by the Investigating Officer or her legal counsel shall be without prejudice to the Investigating Officer's authority to proceed with the filing and adjudication of an administrative complaint against him or to the Board's capacity to adjudicate such complaint should the Board decline to accept this Consent Order.

Accordingly, in consideration of the foregoing and pursuant to the authority vested in the Board by La. Rev. Stat. §37:3358 and La. Rev. Stat. §49:955(D);

**IT IS ORDERED** that the license of Michael Lynn Holeyfield, R.R.T., to engage in the practice of

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which has endangered or is likely to endanger the health welfare, or safety of the public.' Such unprofessional conduct includes among other items: (2) 'Violating the code of ethics adopted and published by the American Association for Respiratory Therapy.'; (11) 'Continuing or recurring practice that fails to satisfy the prevailing and usually accepted standards of respiratory therapy in this state.'; (15) 'Inability to practice respiratory therapy with reasonable competence, skill or safety to patients because of mental or physical illness, condition or deficiency, including but not limited to deterioration through the aging process or excessive use or abuse of drugs including alcohol.' and (17) 'Practicing or otherwise engaging in any conduct or functions beyond the scope of respiratory therapy as defined by this Chapter or the board's rules'.

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respiratory therapist in the state of Louisiana, as evidenced by Certificate No. L00800, be, and the same is hereby effective as of the date hereof **SUSPENDED for a minimum of six (6) months; and**

**IT IS FURTHER ORDERED** that the reinstatement of Mr. Holeyfield's license to practice respiratory therapy in the state of Louisiana shall be subject to his acceptance of and strict compliance with the following terms and conditions:

- (1) **TREATMENT; NOTICE OF RECORDS AND REPORTS.** Mr. Holeyfield shall successfully complete evaluation and treatment at an evaluation/treatment program approved by the Board, (the "Evaluation/Treatment Program"). He shall authorize and cause the Evaluation/Treatment Program, his treating physicians and therapists to provide the Board with a complete copy of his medical records, together with a written report setting forth his discharge diagnosis, prognosis and prescriptions or recommendations for continuing treatment, therapy and monitoring.
- (2) **CONTINUING EDUCATION IN MEDICAL RECORD KEEPING, AND PROFESSIONAL ETHICS.** Mr. Holeyfield shall provide written confirmation that he has attended and successfully completed one or more courses of study in the areas of maintenance of adequate medical records, professionalism and ethics, which shall be acceptable to and pre-approved in writing by the Board or its designee.
- (3) **SUSPENSION OF PRACTICE/REINSTATEMENT.** Mr. Holeyfield shall not engage in respiratory therapy practice in any form in the state of Louisiana until and unless the Board issues and serves on him a written order reinstating his license to practice respiratory therapy. In no event shall Mr. Holeyfield apply for, nor will the Board consider, reinstatement prior to completion of the requirements of this Order. As express conditions to the issuance of such other conditions as are set forth hereinabove, Mr. Holeyfield shall have been discharged from the initial Evaluation/Treatment Program and the Board shall have received the opinion from the treating physician acceptable to the Board, that Mr. Holeyfield is free from all controlled or mood-altering substances and is capable of practicing respiratory therapy with reasonable skill and safety to patients, based upon personal examination, evaluation and diagnosis of Mr. Holeyfield.
- (4) **PERSONAL APPEARANCE BEFORE THE BOARD.** In connection with a request for reinstatement of his license, Mr. Holeyfield shall personally appear before the board or its designee to permit it to consider his current treatment program, his compliance with the terms of this Order and to advise the Board of his intentions with respect to his continued practice of respiratory therapy.

**IT IS FURTHER ORDERED** that upon Mr. Holeyfield's compliance with and complete and continuing satisfaction of the terms and conditions hereinabove set forth, his license to practice respiratory therapy in the state of Louisiana shall be reinstated by the Board, **ON PROBATION**, for a period of two (2) years from the date of reinstatement; provided, however, that such reinstatement of license and his continuing exercise of rights and privileges thereafter shall be conditioned upon his acceptance of and strict compliance with the following terms, conditions and restrictions:

- (1) **Clinical Practice Limitations:** Based upon the evaluation findings and recommendations, Mr. Holeyfield's clinical practice may be limited in scope, type of clinical settings, hours of employment, or such other limitations as may be required for effective monitoring of his practice or to ensure patient safety. If indicated, these practice limitations may continue for

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the duration of his career in respiratory therapy, and will not expire at the end of this probation period

- (2) **Participation in the Board's Allied Professionals Health Program; Continuing Monitoring, Treatment and Therapy; Reports to Board.** Mr. Holeyfield shall enroll in the Board's Allied Professionals Health Program and shall continue to abide by and strictly adhere to all recommendations from the Treatment Program for monitoring, treatment and therapy. Mr. Holeyfield shall authorize and cause such individuals to submit to the Board not less frequently than quarterly throughout the probationary term, written reports and/or verbal reports should the Board desire the latter on his then-current treatment diagnosis, course of treatment, prognosis, and his fitness and ability to practice respiratory care with reasonable skill and safety to patients. The quarterly reports are due on or before the first of January, April, July and October of each year. Random drug screens may be required during this monitoring period.
- (3) **Board Access to Treatment Records and Reports.** By his subscription hereto, Mr. Holeyfield does hereby authorize any physician or other health care professional who has or may hereafter evaluate, diagnose, treat or monitor him, or any institution at which he may subsequently receive treatment, as well as any physician under whose care he may come at such an institution, to provide the Board with copies of all medical reports relating to Mr. Holeyfield's history, examination, evaluation, diagnosis, treatment and prognosis and to provide the Board with written and verbal reports relative thereto. By his subscription hereto Mr. Holeyfield acknowledges that he shall immediately execute any written authorization necessary for the Board to obtain the above records or reports. Mr. Holeyfield expressly waives any privilege, which may otherwise be afforded the disclosure of such records pursuant to state or federal law, and irrevocably agrees to immediately execute any necessary written authorization presented to him that permits the Board access to such records.
- (4) **Notification to Employers and Reports from Supervisors.** Prior to beginning or returning to work, Mr. Holeyfield shall provide a copy of this Consent Order to each supervising physician, hospital, clinic, facility or other employer or prospective employer at which or for whom he provides services as a respiratory therapist in this state. Mr. Holeyfield shall provide the Board's Probation Officer with information identifying his place of employment as a respiratory therapist, and identify his supervisor. Thereafter, Mr. Holeyfield shall authorize and cause the supervisor, or another designee approved by the Board, to provide quarterly reports to the Board on a Board approved form. The quarterly reports are due on or before the first of January, April, July and October of each year.
- (5) **Probation Monitoring Fee.** For each year of the probationary term, Mr. Holeyfield shall pay the Board an annual probation monitoring fee of Three Hundred (\$300.00) Dollars. Payment of the initial fee shall be due not later than sixty (60) days from the effective date of this Order. All subsequent annual payments shall be due on or before the anniversary date of the initial due fee payment.
- (6) **Fees and Costs of Treatment; Testing and Reports.** Any and all fees, costs or expenses incurred by Mr. Holeyfield pursuant to the requirements of this Order, including but not limited to treatment, monitoring, drug screens and reporting, shall be borne by Mr. Holeyfield.

- (7) **Self-Reporting.** Mr. Holeyfield shall immediately self-report in writing to the Board any violation of or failure to adhere to the terms, conditions or restrictions of this order. Furthermore, Mr. Holeyfield shall immediately self-report in writing to the Board any personal action or inaction which constitutes a violation of the Act.
- (8) **Cooperation with Board's Probation and Compliance Officer.** Throughout the probationary term, Mr. Holeyfield shall immediately notify the Board's Probation Officer of any change in his current home and professional addresses and telephone numbers and he shall direct all matters required pursuant to this Consent Order to the attention of the Probation Officer with whom he shall cooperate on all matters and inquiries pertaining to his compliance with the terms, conditions and restrictions hereof. Mr. Holeyfield shall also make himself available upon reasonable notice for personal interviews with the Probation Officer of the Board or their designated representatives for the purpose of discussing his then-current compliance with the terms of this Order.
- (9) **Absence from State or Discontinuance of Practice - Effect on.** Should Mr. Holeyfield at any time during the period of probation be absent from the state of Louisiana, or discontinue practicing as a Respiratory Therapist for a period of thirty (30) days or more, he will so advise the Board in writing. In such instance, the probationary term ordered herein and all terms and conditions thereof, shall be deemed interrupted and extended and shall not commence to run until Mr. Holeyfield notifies the Board in writing that he has returned to Louisiana and he has resumed the practice of Respiratory Therapy in the state of Louisiana. In such instance, Mr. Holeyfield shall not receive credit toward completion of the probationary period for the time during which he was absent from, or not practicing respiratory therapy in the state of Louisiana.
- (10) **Additional Probationary Terms.** In addition to such other terms and conditions as are placed upon his license to practice as a respiratory therapist by this Order, Mr. Holeyfield hereby consents to, agrees with and acquiesces in the imposition of any additional terms, conditions or restrictions, as well as the length and nature thereof, which the Board in its sole discretion may deem necessary or appropriate.
- (11) **Sanction; Suspension; Resolution.** By his subscription hereto, Mr. Holeyfield acknowledges that his receipt of written notification that the Board has received apparently reliable information which indicates his failure to comply with the requirements set forth by this Order in any respect shall, without the need for formal hearing or for providing him with any right to which he may otherwise be entitled pursuant to the Louisiana Administrative Procedure Act, La. Rev. Stat. §§49:951 *et seq.*, or which otherwise may be afforded to him by law, constitute his irrevocable consent to the immediate suspension of his license to practice as a respiratory therapist in this state. In the event of suspension under this provision Mr. Holeyfield acknowledges that he shall not resume the practice of respiratory therapy in this state until and unless the Board issues and serves on him a written order reinstating his license following: (i) the Board's receipt of Mr. Holeyfield's sworn certification attesting, under penalty of perjury and providing false sworn information to the Board, that he is then in full compliance with all requirements of this Order; (ii) Mr. Holeyfield's meeting at the Board office with the Director of Investigations to discuss his alleged transgressions of the Order and potential recommendations for disposition; and (iii) the conclusion of

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administrative proceedings following an administrative hearing and a final decision issued by the Board on any charges made the basis of his suspension or that may be filed in these proceedings; alternatively, by the Board's acceptance of a superseding consent or other order or recommendation respecting disposition of such charges.

- (12) **Certification of Compliance with Probationary Terms; Personal Appearance Before the Board.** At least sixty (60) days prior to the conclusion of the probationary term imposed herein, Mr. Holeyfield shall provide the Board with an affidavit certifying that he has complied with each of the terms of probation imposed by this Order and he shall contact the Board and arrange for a personal appearance before the board or its designee at its meeting preceding the expiration of his probation term. The probationary term and all of its terms, conditions and restrictions, shall be and shall be deemed to be extended and continued in full force and effect pending Mr. Holeyfield's compliance with the requirements of this provision.
- (13) **Effective Date.** This Consent Order shall be effective the date it is approved and accepted by the Board as shown by the signature of its representative below.

**IT IS FURTHER ORDERED** that any violation of or failure of strict compliance with any of the terms, conditions, or restrictions of this Order by Mr. Holeyfield shall, upon proof of such violation or failure, be deemed adequate and sufficient cause for the suspension or revocation of Mr. Holeyfield's license to practice respiratory therapy in the state of Louisiana or for such other disciplinary action as the Board may deem appropriate, as if such violations were enumerated among the causes provided in La. Rev. Stat. §37:3358.

**IT IS FURTHER ORDERED** that this Consent Order shall be, and shall be deemed to be, a public record.

New Orleans, Louisiana, this 22 day of June, 2010.

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By: 

**Robert E. Dawson, M.D.**  
Vice President

*Acknowledgment and Consent Follows  
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STATE OF LOUISIANA  
PARISH OF BOSSIER

**ACKNOWLEDGMENT  
AND CONSENT**

I, MICHAEL LYNN HOLEYFIELD, RRT, hereby acknowledge, approve, accept and consent to entry of the above and foregoing Order, this 27<sup>th</sup> day of May, 2010.

Michael Lynn Holeyfield  
MICHAEL LYNN HOLEYFIELD, RRT

WITNESSES:

Jill E Shemwell  
Signature

Jill E Shemwell  
Printed Name

5490 Barksdale Blvd, B.C., LA 71112  
Address

Tara N. Flatt  
Signature

TARA N. FLATT  
Printed Name

5490 BARKSDALE BLVD, B.C., LA 71112  
Address

Sworn to and subscribed before me at Bossier City, Louisiana, this 27<sup>th</sup> day of May, 2010, in the presence of the two stated witnesses.

[Signature]  
Notary Public (Signature)

64236  
Printed Name/Notary #

MONICA M. STINSON, Notary Public  
Bossier Parish, Louisiana  
My Commission is for Life  
Notary No. 64236