

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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In The Matter of:

DONALD B. BANDARIES, CRT
(Certificate No. LP 1810)

NO. 95-I-063

CONSENT ORDER

An investigation conducted by the Investigating Officer on behalf of the Louisiana State Board of Medical Examiners ("Board") has developed apparently reliable information indicating that Donald B. Bandaries, CRT (Mr. Bandaries), a respiratory therapist licensed to practice respiratory therapy in the state of Louisiana, misappropriated medication without authority or approval from a hospital at which he was employed during the year 1994. Such medication, although not classified as controlled substances under federal regulation or Louisiana statute, may have the ability to affect the central nervous system and/or induce physiological or psychological dependence.¹ Such investigation also reveals that currently, and for some period of time, Mr. Bandaries has suffered from chemical dependency, having voluntarily admitted himself to inpatient evaluation at a chemical dependency unit at which he has successfully completed inpatient treatment (hereinafter referred to as "treatment facility").

Predicated on the foregoing, the Investigating Officer assigned to this matter, John B. Bobear, M.D., has determined that probable cause exists for recommending to the Board that an Administrative Complaint be filed in this matter charging Mr. Bandaries with violation of the Louisiana Respiratory Therapy Practice Act and the Board's Rules and Regulations pertaining to Respiratory Therapists.²

On the basis of information provided to the Board with Mr. Bandaries' knowledge and consent, the Board is persuaded that the condition from which Mr. Bandaries suffers may be susceptible to continued effective medical treatment, resulting in his maintenance of the ability to engage in the practice of respiratory therapy with reasonable skill and safety to patients, provided that he strictly observes and complies with reasonable and appropriate restrictions on and conditions to maintenance of his continued licensure.

¹The medications referred to herein are Stadol, Dalgan and Vistaril.

²La. Rev. Stat. §37:3358A(1); La. Admin. Code §§45:5519A(17); 45:5519A(5) and 45:5519A(13).

As evidenced by his subscription hereto, Mr. Bandaries acknowledges the existence of probable cause for the institution of administrative proceedings against his license, further acknowledging that proof of such information upon administrative evidentiary hearing would establish grounds under the Louisiana Respiratory Therapy Practice Act and the Board's Rules and Regulations pertaining to respiratory therapists, for the suspension or revocation of his license to practice respiratory therapy in Louisiana or for such other action as the Board might deem appropriate, pursuant to La. Rev. Stat. §37:3358; La. Admin. C. §45:5519A(17); La. Admin. C. §45:5519A(5); and La. Admin. C. §45:5519A(13), respectively.

Recognizing his right to have allegations or charges asserted in an Administrative Complaint adjudicated, pursuant to La. Rev. Stat. §§49:955-58, and to a final decision rendered upon findings of fact and conclusions of law, Mr. Bandaries, nonetheless, hereby waives his right to notice of charges and formal adjudication and, pursuant to La. Rev. Stat. §49:955D, consents to entry of the Order set forth hereinafter. Mr. Bandaries acknowledges that he hereby waives any right to which he may be entitled pursuant to the Louisiana Respiratory Therapy Practice Act, the Louisiana Administrative Procedure Act or which otherwise may be afforded to him by law, to contest his agreement to or the force and effect of this document in any court relating to the matters referred to herein. By his subscription hereto, Mr. Bandaries 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 under La. Rev. Stat. §49:960. Mr. Bandaries expressly acknowledges that the disclosure of the information to the Board by the Investigating Officer shall be without prejudice to the Investigating Officer's authority to file a formal Administrative Complaint against him or to the Board's capacity to adjudicate such Complaint should the Board decline to approve this Consent Order.

Based upon the information provided, accordingly, and on the recommendation of the Investigating Officer assigned to this matter, John B. Bobear, M.D., coupled with receipt of reports indicating that Mr. Bandaries is currently in compliance with the recommendations of the treatment facility and that his prognosis to remain so is good, the Board has concluded that its responsibility to ensure the health, safety and welfare of the citizens of this state, pursuant to La. Rev. Stat. §37:3358A, will be effectively served by entry of the Order set forth hereinafter, by consent.

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. §49:955D;

IT IS ORDERED that the license of DONALD B. BANDARIES, CRT, to engage in the practice of respiratory therapy in the state of Louisiana, as evidenced by Certificate No. LP1810, be and the same is hereby placed ON PROBATION for a period of three (3) years, said period of probation to begin on the effective date of this Order.

IT IS FURTHER ORDERED that during the three (3) year probationary period referred to hereinabove, Mr. Bandaries shall strictly comply with and satisfy the following probationary terms, conditions and restrictions:

- a) ***Strict Adherence to Aftercare Monitoring:*** Mr. Bandaries shall continue to submit to such out-patient treatment and aftercare monitoring as may be prescribed or recommended by the treatment facility or to whom he may be referred for subsequent, continuing or follow-up treatment or therapy, including but not limited to, strict adherence by Mr. Bandaries to all terms and conditions of the aftercare program of the treatment facility;

- b) ***Board Access to Aftercare Treatment Records and Reports:*** Mr. Bandaries shall authorize the treatment facility, and any health care provider under whose care he may come for subsequent, continuing or follow-up treatment or therapy, to provide the Board, upon request, with copies of all medical records relating to Mr. Bandaries' history, examination, evaluation, diagnosis, treatment and prognosis, and Mr. Bandaries shall authorize and cause the treatment facility and/or his then-current primary treating physician to submit to the Board, not less than quarterly throughout the duration of the probationary period, written reports on Mr. Bandaries' then-current treatment program, diagnosis, prognosis and compliance with the terms and conditions of the aftercare program referred to hereinabove;
- c) ***Complete Abstinence for Life:*** Mr. Bandaries shall, for the duration of his career as a respiratory therapist, maintain complete abstinence from the use of alcohol, any controlled substance as enumerated in 21 C.F.R. §1308 and La. Rev. Stat. §40:964, or any substance which may be hereafter included in any such schedules by amendment or revision of the cited regulation or statute, any mood-altering substance, as well as the drugs Dalgan, Stadol and Vistaril, unless prescribed by a treating physician for a bona fide medical condition, in which event he shall notify his monitoring physician within five (5) days of such prescription;
- d) ***Cooperation with the Board's Probation/Compliance Officer:*** Mr. Bandaries shall immediately notify the Board's Probation/Compliance Officer of any change in his current home and professional addresses and telephone numbers, and he shall cooperate with him on all matters or inquiries pertaining to the conditions of his probation or his continued practice of respiratory therapy; and
- e) ***Certification of Compliance/Appearance before the Board.*** Prior to the conclusion of the probationary period referred to herein, Mr. Bandaries will provide the Board with an Affidavit certifying that he has successfully complied with each of the terms referred to hereinabove. Moreover, within sixty (60) days of the expiration of such probationary period, Mr. Bandaries will contact the Board to schedule a conference with the Board or its designee to discuss his then-current status and his future plans for engaging in the practice of respiratory therapy.


IT IS FURTHER ORDERED that any violation or failure to maintain strict compliance with any of the terms, conditions or restrictions of this Order by Mr. Bandaries shall, upon proof of such violation or failure, be deemed adequate and/or sufficient cause, upon proof of such violation or failure, for the suspension and/or revocation of Mr. Bandaries' license to practice respiratory therapy in the state of Louisiana, or for such other disciplinary action as the Board deems appropriate, as if such violations were enumerated among the causes provided in La. Rev. Stat. §37:3358 and the Board's Rules and Regulations pertaining to Respiratory Therapists, La. Admin. C. §45:5919A.

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

New Orleans, Louisiana, this 20 day of June, 1996.

LOUISIANA STATE BOARD
OF MEDICAL EXAMINERS

By:


F. P. BORDELON, JR., M.D.
President

**ACKNOWLEDGMENT
AND CONSENT**

I, DONALD B. BANDARIES, CRT, HEREBY ACKNOWLEDGE, APPROVE,
ACCEPT AND CONSENT to entry of the above and foregoing Order, this 17 day of
June, 1996.


DONALD B. BANDARIES, CRT

WITNESS:

