

CASE NO. 1059-13-0018  
DOCKET NO. A24036-  
509-2015

IN THE MATTER OF

ESTEBAN ALCAZAR, RCP #54150

MCALLEN, TEXAS

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BEFORE THE

DEPARTMENT OF STATE  
HEALTH SERVICES

AUSTIN, TEXAS

**AGREED ORDER FOR PROBATED SUSPENSION**

**I. JURISDICTION**

The Department of State Health Services (Department), Regulatory Services Division, Professional Licensing and Certification Unit, Respiratory Care Practitioner Certification Program, is authorized to enforce the Texas Occupations Code (TOC) Chapter 604, Respiratory Care Practitioner Registration Act ("Act"), and the Department rules found at Title 25 of the Texas Administrative Code (TAC) Chapter 140 ("Rules"), relating to the regulation of respiratory care practitioners in Texas.

**II. RESPONDENT**

Esteban Alcazar, (referenced herein, "Respondent") currently hold a certificate as a Respiratory Care Practitioner (RCP) certificate #54150 and is subject to the aforementioned Act and Rules.

**III. FACTS**

The Department has reviewed various documents and evidence related to a complaint investigation of Respondent's application for certification as a Respiratory Care Practitioner (RCP). The Department has determined that the Respondent violated the Rules at 25 TAC § 140.212(1)(G) and (I). The violations are more specifically described in the Department's February 6, 2015, Notice of Violation (reference herein, "Notice") which is attached, adopted and incorporated in this Agreed Order for Suspension (referenced herein "Order"), and failed to comply with 25 TAC §140.212(1)(G) and (I).

**IV. NOTICE**

Through delivery of the Notice, the Department informed Respondent of its intent to revoke Respondent's RCP certification #54150, for violations as noted in "III. Facts" of this Order.

**V. RESPONSE**

Respondent replied the Department's Notice, by making a written request for an Informal Conference and a Hearing. On April 7, 2015, an Informal Conference was held between the Department and the Respondent.

## VI. ENFORCEMENT

The Department and Respondent have agreed to the following:

1. The Respondent violated the Rules at 25 TAC §140.212(1)(G) and (I).
2. The Department agrees to withdraw the revocation of the Respondent's RCP certification, #54150, and proposes a two (2) year Probated Suspension with stipulations of the Respondent's RCP certification, commencing on the date of this order.
3. During the two (2) year Probated Suspension period, **Respondent shall be subject to random alcohol and drug testing** for the presence of alcohol and drugs (Basic Drug Screen). Notification to Respondent for submission to an alcohol and drug screen test, as noted above, shall be at the Department's discretion and by written or telephone notification. Respondent shall personally present himself to a licensed clinic or certified laboratory, for the submission of blood and/or urine to the laboratory technicians for the purposes of alcohol and drug testing, as noted above by 5:00 p.m. on the day following the Department contact of Respondent. Respondent is responsible for payment to the clinic or certified laboratory for the alcohol screen. It shall be Respondent's responsibility to arrange for the clinic or certified laboratory to mail the written test results to the Department, within 10 days following the testing, to the mailing address listed in #6, below. The Department shall be allowed to verify the authenticity of said alcohol testing results with the clinic or certified laboratory. Therefore, Respondent shall sign a written release to the clinic or certified laboratory for disclosure of his test results to the Department, and shall also present a copy of said release, within 10 days of release authorization, to the Department.
4. During the two (2) year probated suspension, the Department requires the Respondent to attend bi-weekly Alcoholic Anonymous (AA) meetings, and submit proof of attendance to the Department.
5. During the two (2) year probated suspension, the Department requires the Respondent to be supervised by authorized medical staff personnel while performing any and all duties of Respiratory Care.
6. Respondent fully agrees to cooperate with Department requests for any information or documentation and agrees to mail all documentation requests or reporting requirement, as outlined herein to: Enforcement Unit-Mail Code 7927, Division for Regulatory Services, Department of State Health Services, 1100 West 49<sup>th</sup> Street, Austin, Texas 78756-3199.
7. Should Respondent fail to comply with any term or condition of this Order, the Department may revoke the probation of the two (2) year suspension. Respondent agrees that activation of the two (2) year Probated Suspension pursuant to this paragraph shall not constitute a contested case with a right to a hearing under Texas Government Code Chapter 2001. If, however, the Department proposes to take disciplinary action against Respondent other than or in addition to activating the Probated Suspension ordered as agreed to herein, or if the Department proposes to take disciplinary action for conduct which does not constitute a violation of this Order, Respondent will be entitled to request a formal contested case hearing in relation to such proposed disciplinary action.

8. Respondent shall comply with this Order and all applicable laws, rules, and regulations relating to the practice of an RCP.
9. Respondent shall remain in compliance with all applicable laws, rules and regulations relating to the practice of a RCP.

## **VII. COMPLETE AGREEMENT**

This Order is made pursuant to Chapter 2001 of the Texas Government Code § 2001.056(2), and the procedural rules adopted by the Department. This Order represents the complete admission and agreement of all violations, as referenced in "III. Facts", "IV. Notice" of this Order.

### **A. WAIVER OF APPEAL**

In exchange for the Respondent's agreement to the two (2) year Probated Suspension, and the execution of this Order, Respondent waives the right to an administrative appeal hearing and judicial review by a state district court. Respondent has no objection to this Order being signed by either the Commissioner or his designee.

### **B. NO WAIVER WITH REGARD TO FUTURE VIOLATIONS**

The Department does not waive the right to enforce this Order or to prosecute any future violations that Respondent may commit and may consider the findings contained in this Order in assessment of any future enforcement actions.

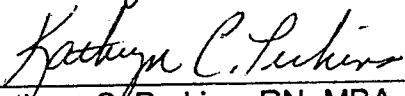
### **C. COMPLETE UNDERSTANDING**

The Respondent acknowledges understanding of the terms of this agreement, enters into the agreement freely, and agrees to the terms of this Order.

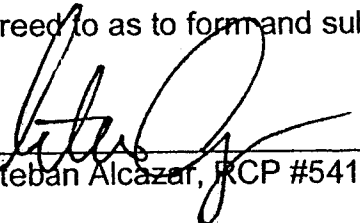
NOW THEREFORE, IT IS ORDERED that:

- 1) Respondent violated the Rules as described in section "III. Facts" of this Order;
- 2) Respondent is hereby placed on a two (2) year Probated Suspension with stipulations for violation of the Rules as set forth and described in section "III. Facts" of this Order;
- 3) Respondent's RCP certification #54150, shall be suspended for two (2) years, and said suspension be probated for two (2) years, for violation of the Rules at §140.212(1)(G) and (I), subject to Respondent's compliance with the probationary stipulations set forth and described in section "VI. Enforcement" of this Order; and
- 4) Respondent shall comply with this Order and with all applicable laws, rules, and regulations relating to the practice of an RCP. Failure to comply may result in additional enforcement action.

Signed and Ordered this 3<sup>rd</sup> day of, May, 2015.

  
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Kathryn C. Perkins, RN, MBA,  
Assistant Commissioner,  
Division for Regulatory Services

Agreed to as to form and substance:

  
\_\_\_\_\_  
Esteban Alcazar, RCP #54150

4-22-2015  
\_\_\_\_\_  
Date of Mr. Alcazar's Signature

#1059-13-0018