BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

In The Matter of Charges and
Complaint Against
ANTHONY CRUZ, C.R.T.,
Respondent.

Case No. 10-23453-1

FILED
MAR 14 2011
NEVADA STATE BOARD OF
MEDICAL EXAMINERS
By: 

SETTLEMENT, WAIVER AND CONSENT AGREEMENT

THIS AGREEMENT is entered into by and between the Investigative Committee (IC) of
the Nevada State Board of Medical Examiners (the Board) composed of
Charles N. Held, M.D, Theodore B. Berndt, M.D. and Ms. Valerie Clark, BSN, RHU, LUTCF, by
and through counsel, Lyn E. Beggs, Esq., and Anthony Cruz, C.R.T. (Respondent), as follows:

WHEREAS, on August 19, 2010, the Board’s IC an Order of Summary Suspension,
suspending Respondent’s license to practice respiratory therapy in Nevada and on
August 26, 2010 filed a Complaint and subsequently filed a First Amended Complaint on
January 11, 2011 in the above referenced matter charging Respondent with engaging in conduct
that is grounds for discipline pursuant to the Medical Practice Act (NRS Chapter 630 and
NAC Chapter 630) to wit: one count of rendering respiratory care to a patient while under the
influence of alcohol or any controlled substance, as more fully set forth in Count I of the First
Amended Complaint, one count inability to practice to respiratory care with reasonable skill and
safety because of use of narcotics, as more fully set forth in First Amended Count II of the
Complaint and one count of willfully and intentionally making a false or fraudulent statement
when applying or renewing a license as more fully set forth in Count III of First Amended
Complaint;

WHEREAS, Respondent has received and reviewed a copy of the First Amended
Complaint, understands the nature and significance of the First Amended Complaint and is fully
advised concerning his rights and defenses to the First Amended Complaint as well as the possible
sanctions that may be imposed if the Board finds and concludes that he has engaged in conduct
that is grounds for discipline pursuant to the Medical Practice Act and after due consideration
concedes that he engaged in the conduct set forth in counts I, II and III of the Complaint; and

WHEREAS, Respondent understands and agrees that this Agreement is entered into by
and between himself and the Board’s Investigative Committee, and not with the Board, but that the
Investigative Committee will present this Agreement to the Board for consideration in open
session at a Board meeting, appropriately noticed, and that the Investigative Committee shall
advocate approval of this Agreement by the Board, but that the Board has the right to decide in its
own discretion whether or not to approve this Agreement; and

WHEREAS, Respondent and the Investigative Committee each understand and agree that
if the Board approves the terms, covenants and conditions of this Agreement, then the terms,
covenants and conditions enumerated below shall be binding and enforceable upon Respondent
and the Board’s Investigative Committee; and

NOW THEREFORE, in order to resolve the above-captioned case and charges brought
against Respondent by the Board’s Investigative Committee in said matter, Respondent and the
Investigative Committee hereby agree to the following terms, covenants and conditions:

1. **Consent to Entry of Order.** In order to resolve the matter of these disciplinary
proceedings pending against him without any further costs and expense of providing a defense to
the First Amended Complaint or to any other amended complaints, Respondent hereby agrees that
an order may be entered herein by the Board finding that Respondent engaged in conduct that is
grounds for discipline pursuant to the Medical Practice Act to wit: one count of rendering
respiratory care to a patient while under the influence of alcohol or narcotics, one count of inability
to practice respiratory care with reasonable skill and safety because of the use of narcotics, and one
count of willfully and intentionally making a false or fraudulent statement when applying for or
renewing a license as set forth in counts I, II and III of the First Amended Complaint; and ordering
that Respondent’s license to practice respiratory care be revoked. Said revocation to be stayed and

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Respondent to be placed on probation for a period of sixty (60) months with the following terms and conditions:

1) Respondent’s license shall be suspended for a period of six months, said suspension running from the date of the summary suspension of Respondent’s license on August 19, 2010. Said summary suspension shall be lifted and Respondent’s license to practice reinstated to the appropriate licensing status;

2) Respondent shall be issued a public reprimand;

3) Respondent shall complete his contract with the PRN-PRN program through Monte Vista Hospital and shall comply with all terms of his contract;

4) Respondent shall sign all necessary releases with the PRN-PRN program for the Board to access his records from the PRN-PRN program and any other releases necessary to monitor Respondent’s treatment;

5) Respondent shall submit to any additional random hair or urine screens as required by the Board and shall be responsible for any costs associated with the required tests;

6) Respondent shall provide the Compliance Officer of the Nevada State Board of Medical Examiners with the best and most expeditious manner of contacting him;

7) Respondent shall notify any employer of the terms of his probation;

8) Respondent shall notify the Compliance Officer of where he will be practicing respiratory care at least forty-eight (48) hours prior to starting to practice;

9) Respondent shall notify the Compliance Officer of any change of his address within forty-eight (48) hours;

10) Respondent shall pay any costs associated with monitoring of his compliance with these terms of probation. Respondent shall remit to the Nevada State Board of Medical Examiners such costs within thirty (30) days of being presented with an invoice for said compliance costs;

11) Respondent shall reimburse the Board the reasonable costs and expenses incurred in the investigation and prosecution of this case, the current amount being $2395.21. These costs shall be paid to the Nevada State Board of Medical Examiners within twelve months of the acceptance of this Agreement by the Board;
12) Any violation of the terms of his contract with the PRN-PRN program or a positive
drug screen for any controlled substance or dangerous drug that Respondent does not hold a
valid prescription for shall result in the immediate suspension of his license pending proceedings
to determine whether or not to impose the stayed revocation of licensure.

13) Should Respondent relocate to another state, he shall notify the Compliance
Officer at least forty-eight (48) hours prior to leaving Nevada.

14) If Respondent relocates to another state prior to his release from the PRN-PRN
program, he shall enter and complete a treatment program within his new state and sign any
necessary releases for the Board to monitor his treatment. Said program to be approved by the
Chairman of the Investigative Committee.

15) Respondent shall sign any necessary releases to allow the Board to communicate
with any other state agency which licenses him to practice respiratory care regarding the terms of
his probation and his compliance with those terms.

2. **Jurisdiction.** Respondent was at all times mentioned in the Complaint filed in the
above-captioned matter was, a respiratory therapist licensed to practice respiratory care in the state
of Nevada subject to the jurisdiction of the Board to hear and adjudicate charges of violations of
the Medical Practice Act (NRS 630), and to impose sanctions as provided by the Act.

3. **Representation by Counsel.** Respondent acknowledges that he is not represented
by counsel and wishes to proceed towards resolution of this matter as set forth in this Agreement
without counsel. Respondent understands and acknowledges that he may retain and consult
counsel prior to entering into this Agreement and agrees that if counsel is retained for
representation in this matter prior to entering into this Agreement, that counsel for the Investigative
Committee will be informed of such prior to Respondent executing this Agreement.

4. **Waiver of Rights.** Respondent covenants and agrees that he enters into this
Agreement knowingly, willingly, and intelligently with knowledge that he may consult with
counsel prior to entering into this Agreement. In connection with this Agreement, and the terms,
covenants and conditions contained herein, Respondent knowingly, willingly and intelligently,
waives all rights arising under or pursuant to the United States Constitution, the Constitution of the
state of Nevada, NRS Chapter 630 and NRS Chapter 233B that may be available to Respondent or
that may apply to Respondent in connection with the proceeding regarding the Complaint filed
herein, the defense of said Complaint and the adjudication of the charges in said Complaint, and
Respondent further agrees that the matter of the disciplinary action commenced by the filing of the
complaint herein may be settled and resolved in accordance with this Agreement without a hearing
or any further proceeding, and without the right to judicial review. In the event this Agreement is
not approved by the Board, this Agreement shall have no force and effect and Respondent shall
have all rights arising under or pursuant to the United States Constitution, the Constitution of the
State of Nevada, NRS Chapter 630 and NRS Chapter 233B that may be available to Respondent or
that may apply to Respondent in connection with the proceeding on the complaint filed herein.

5. **Acknowledgement of Reasonable Basis to Proceed.** Respondent covenants and
agrees that the Board’s Investigative Committee has a reasonable basis to believe that Respondent
violated one or more provisions of the Medical Practice Act.

6. **Procedure for Adoption of Agreement.** It is expressly understood that this
Agreement will only become effective if the Board approves the recommendation of the
Investigative Committee for acceptance. The Investigative Committee and counsel for the
Investigative Committee shall recommend approval of the terms, covenants and conditions
contained herein by the Board in resolution of the disciplinary proceedings pending herein
against Respondent pursuant to the Complaint. In the course of seeking Board approval of this
Agreement, counsel for the Investigative Committee may communicate directly with the Board
staff and members of the panel of the Board who would adjudicate this case if it were to go to
hearing. Respondent covenants and agrees that such contacts and communication may be made
or conducted ex parte, without notice or opportunity to be heard on his part or on the part of his
counsel, if any, until the public Board meeting where this Agreement is discussed, and that such
contacts and communications may include, but not be limited to, matters concerning this
Agreement, the Complaint and the allegations therein, any and all evidence that may exist in
support of the Complaint, and any and all information of every nature whatsoever related to the
complaint against Respondent. The Investigative Committee and its counsel agree that
Respondent and his counsel, if any, may appear at the Board meeting where this Agreement is
discussed in order to respond to any and all questions that may be addressed to the Investigative
Committee or its counsel at such meeting.

7. **Effect of Acceptance of Agreement by Board.** In the event the Board approves
the terms, covenants and conditions set out in this Agreement, counsel for the Investigative
Committee will cause to be entered herein the Board’s Order approving this Settlement, Waiver
and Consent Agreement, ordering full compliance with the terms herein and ordering that this
case be closed, subject to the provisions in Paragraph 1.

8. **Effect of Rejection of Agreement by Board.** In the event the Board does not
approve the terms, covenants and conditions set out in this Agreement, this Agreement shall be
null, void, and of no further force and effect except as to the following covenant and agreement
regarding disqualification of adjudicating Board panel members. Respondent agrees that,
notwithstanding rejection of this Agreement by the Board, nothing contained herein and nothing
that occurs pursuant to efforts of the Investigative Committee or its counsel to seek acceptance
and adoption of this Agreement by the Board shall disqualify any member of the adjudicating
panel of the Board from considering the charges against Respondent and participating in the
disciplinary proceedings in any role, including adjudication of the case, and Respondent further
agrees that he shall not seek to disqualify any such member absent evidence of bad faith.

9. **Release From Liability.** In execution of this Agreement, the Respondent, for
himself, his executors, successors and assigns, hereby releases and forever discharges the state
of Nevada, the Board, the Nevada Attorney General, and each of their members, agents and
employees in their representative capacities, and in their individual capacities absent evidence of
bad faith, from any and all manner of actions, causes of action, suits, debts, judgments,
executions, claims and demands whatsoever, known and unknown, in law or equity, that
Respondent ever had, now has, may have or claim to have, against any or all of the persons or
entities named in this paragraph arising out of or by reason of this investigation, this disciplinary
action, this settlement or its administration, in connection with the complaint. The Investigative

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Committee hereby agrees to accept this Agreement in full settlement of all claims related to the
complaint, with the understanding that the final decision rests with the Board.

10. **Binding Effect.** Respondent covenants and agrees that this Agreement is a
binding and enforceable contract upon Respondent and the Board’s Investigative Committee,
which contract may be enforced in a court or tribunal having jurisdiction.

11. **Forum Selection Clause.** Respondent covenants and agrees that in the event
either party is required to seek enforcement of this Agreement in the district court, he consents
to such jurisdiction, and covenants and agrees that exclusive jurisdiction shall be in the Second
Judicial District Court of the State of Nevada in and for the County of Washoe.

12. **Attorneys’ Fees and Costs.** Respondent covenants and agrees that in the event
an action is commenced in the district court to enforce any provision of this Agreement, the
prevailing party shall be entitled to recover reasonable costs and attorneys’ fees.

13. **Failure to comply with terms.** In the event the Board enters its Order approving
this Agreement, upon receipt of credible information that Respondent has failed to comply with
any term or condition of this Order, the Board may seek to impose the stayed revocation of
Respondent’s license to practice respiratory care. Failure to comply with the terms recited herein
may result in additional disciplinary action being initiated against Respondent for a violation of
an Order of the Board in accordance with NRS 630.3065(2)(a). Furthermore, any failure to pay
any fine, fee, or cost ordered herein will also result in such legal action as determined to be
necessary to collect the unpaid fine, fee, or cost.

Dated this 14th day of January 2011.

By: Lyn E. Beggs, Esq.
Attorney for the Investigative Committee

Dated this 13th day of January 2011.

By: Anthony Cruz, C.R.T.
Respondent

Subscribed and sworn to before me
This 13th day of January 2011.

Notary Public
IT IS HEREBY ORDERED that the foregoing Settlement, Waiver and Consent Agreement is approved and accepted by the Nevada State Board of Medical Examiners on the 11th day of March 2011, with the final total amount of costs due of $2,395.21.

[Signature]

Benjamin J. Rodriguez, M.D., Vice President
NEVADA STATE BOARD OF MEDICAL EXAMINERS