

IN THE MATTER OF	*	BEFORE THE
HENRY J. RICHARDSON, R.C.P.	*	MARYLAND STATE
Applicant,	*	BOARD OF PHYSICIANS
RESPIRATORY CARE PRACTITIONER	*	CASE NUMBER: 2011-0948
* * * * *	*	* * * * *

FINAL ORDER

On or about April 26, 2011, Henry J. Richardson (the "Applicant"), date of birth 11/25/1962, submitted an Application for Reinstatement of Licensure for a Respiratory Care Practitioner (the "Application") to the Maryland State Board of Physicians (the "Board"). The Board notified the Applicant of its intent to deny his Application pursuant to the Maryland Respiratory Care Practitioners Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 14-5A-01 *et seq.* (2009 Repl. Vol.).

The Board based its action on the following provisions of the Act:

H.O. § 14-5A-09. Requirements of Certification.

- (a) *In general.* — To qualify for a license, an applicant shall be an individual who meets the requirements of this section.
- (b) *Moral Character.* — The applicant shall be of good moral character.

H.O. § 14-5A-17 Denials, reprimands suspensions, and revocations –In general.

- (a) *In general.* -- Subject to the hearing provisions of § 14-405 of this title, the Board, on the affirmative vote of a majority of a quorum, may deny a license . . . to any applicant . . . if the applicant . . . :
 - (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee, or for another;
 - (3) Is guilty of unprofessional or immoral conduct in the practice of respiratory care;

- (10) Willfully makes or files a false report or record in the practice of respiratory care; [and]
- (17) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes[.]

Pursuant to H.O. § 14-5A-17(a)(17), grounds for discipline under the Board's disciplinary statutes include the following under H.O. § 14-5A-17(a):

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee or for another;
- (3) Is guilty of unprofessional or immoral conduct in the practice of respiratory care; [and]
- (10) Willfully makes or files a false report or record in the practice of respiratory care[.]

The Board notified the Applicant that this Final Order would be executed thirty (30) days from the Applicant's receipt of the Board's notification, unless the Applicant requested a hearing.

On July 24, 2012, the Applicant received the Board's Notice of Intent to Deny his Application for Reinstatement of Licensure Under the Maryland Respiratory Care Practitioners Act (the "Notice."). The Board notified the Applicant in that Notice that this Final Order would be executed thirty (30) days from the Applicant's receipt of the Notice unless the Applicant requested a hearing. The Applicant's written request was due on August 23, 2012. The Applicant did not request a hearing by August 23, 2012.

FINDINGS OF FACT

The Board finds as follows:

BACKGROUND FINDINGS

1. The Board initially granted the Applicant a license to practice respiratory care, effective on or about June 29, 2009, which remained active through May 30, 2010.¹ The Applicant did not apply for renewal of his license on or before May 30, 2010. As a result, the Applicant's license expired, effective May 30, 2010.

2. The Applicant submitted an Application to the Board, dated April 26, 2011, which the Board received on or about May 5, 2011.

3. In his Application, under Question 12(a), the Applicant failed to disclose that he was previously licensed to practice respiratory care in North Carolina.

4. In his Application, the Applicant answered "NO" to questions 13A and B, which state:

- A. Have you ever been denied a license, certification, registration to practice any health occupation? (e.g. state board orders and/or charges; adverse or disciplinary actions by any health facility)
- B. Has any State licensing or disciplinary board or comparable body in the Armed Forces taken any disciplinary action against your license, certification or registration including but not limited to reprimand, suspension, or revocation? (e.g. state board orders and/or charges; adverse or disciplinary actions by any health facility)

4. At the conclusion of the Application, the Applicant certified that he personally reviewed all of his responses and that the information he provided was true and accurate. The Applicant acknowledged that any false information he provided may be cause for the Board to deny his Application.

5. The Board reviewed the Applicant's Application and determined that he made false representations about where he had been licensed, whether he had been

¹ In his original application, the Applicant failed to disclose on his 2009 application that he had been licensed to practice respiratory care in North Carolina.

denied a license to practice a health occupation in any state, and whether he had been disciplined in any state. The Board's investigation is set forth *infra*.

BOARD INVESTIGATIVE FINDINGS

6. The Board's investigation determined that the Applicant failed to disclose on his Application that he was: previously licensed to practice respiratory care in North Carolina; denied renewal of a license in North Carolina; disciplined in North Carolina for unprofessional conduct related to the delivery of respiratory care; and denied a license to practice respiratory care in the District of Columbia for making false or misleading statements on an application for licensure.

North Carolina Board licensure and disciplinary action

7. The North Carolina Respiratory Care Board (the "North Carolina Board") initially licensed the Applicant to practice respiratory care on or about January 31, 2007, with an expiration date of January 31, 2009.

8. In or around May 2008, the North Carolina Board initiated an investigation of the Applicant after receiving a complaint that he falsified a medical record by falsely documenting that he contacted a patient's physician to inform him of critical values in a blood gas result.

9. The North Carolina Board entered into negotiations with the Applicant to resolve these allegations. The Applicant did not submit an approved resolution to the North Carolina Board prior to the expiration of his license. As a result, the North Carolina Board refused to renew the Applicant's North Carolina respiratory care license when it expired on January 31, 2009.

10. On August 5, 2011, the Applicant executed a Consent Order with the North Carolina Board to resolve these allegations, in which the North Carolina Board found as a matter of law that the Applicant was guilty of unprofessional conduct related to the delivery of respiratory care, in violation of N.C. Gen. Stat. § 90-652 and 21 N.C. Admin. Code § 61.0307(10).

11. The North Carolina Board reprimanded the Applicant and imposed a civil penalty of \$ 250.00. The North Carolina Board executed the Consent Order on August 10, 2011.

D.C. Board denial of licensure

12. On or about June 1, 2009, the Applicant applied to the District of Columbia Board of Respiratory Care (the "D.C. Board") for a license to practice respiratory care. The Applicant made several false representations on his application, including the following: (a) he failed to disclose that he had been licensed to practice respiratory care in North Carolina; (b) he failed to disclose that the North Carolina Board refused to renew his license because he failed to sign a Consent Order regarding a complaint that had been filed against him; and (c) he crossed out the North Carolina license information on his attached resume.

13. The D.C. Board investigated the Applicant and issued an Order Denying Licensure, dated March 8, 2010, in which it denied the Applicant's application. The D.C. Board found as a matter of law that the Applicant filed statements with the D.C. Board that he knew or should have known were false and misleading in violation of D.C. Official Code § 3-1210.04(2001) for which the Board took action pursuant to D.C. Official Code § 3-1205.14(24)(2001).

Applicant's material misrepresentations on his Application

14. The Applicant failed to disclose in his Application that: (a) he was previously licensed in North Carolina; (b) the North Carolina Board investigated him for unprofessional conduct relating to the delivery of respiratory care; (c) the North Carolina Board refused to renew his license as a result of these allegations and his refusal to resolve them through a Consent Order; (d) he made false or misleading statements on his application for licensure to the D.C. Board; and (e) the D.C. Board denied his application for licensure pursuant to an Order Denying Licensure, dated March 8, 2010. In addition, the Applicant failed to inform the Board that on August 5, 2011, he executed a Consent Order with the North Carolina Board in which he stipulated that while practicing respiratory care in North Carolina, he falsified medical records, which constituted unprofessional conduct related to the delivery of respiratory care;

GROUND FOR DENIAL OF LICENSURE

GROUND FOR DENIAL UNDER H.O. § 14-5A-09

15. The Board denies the Applicant's Application, finding that he does not possess good moral character, a requirement for licensure under H.O. § 14-5A-09. The Applicant has been disciplined by disciplinary boards in other jurisdictions relating to false representations and other acts of unprofessional conduct. The Applicant failed to provide truthful responses to the Board when filing his Application.

16. While practicing respiratory care in North Carolina, the Applicant engaged in unprofessional conduct in the practice of respiratory care when he made false statements in a medical record. As a result, the North Carolina Board investigated him, refused to renew his license, and then reprimanded him and imposed a fine against him. The Applicant's unprofessional conduct in North Carolina, resulting in the North Carolina

Board's disciplinary actions against him, indicates that he does not possess good moral character, a requirement for licensure in this State.

17. The Applicant also made false and misleading statements when applying for licensure to the D.C. Board. As a result, the D.C. Board denied his application for licensure there. The Applicant's failure to provide truthful and forthright responses on his D.C. Board application indicates that he does not possess good moral character, a requirement for licensure in this State.

18. The Applicant then made several false representations to the Board in his Application, as stated above. The Applicant's failure to provide truthful, forthright responses on his Application indicates that he does not possess good moral character, a requirement for licensure in this State.

GROUND FOR ACTION UNDER H.O. § 14-5A-17

19. The Board denies the Applicant's Application in that his actions, as described above, constitute grounds for denial of his Application under the following provisions of Act under H.O. § 14-5A-17: H.O. § 14-5A-17(a)(1), Fraudulently or deceptively obtains or attempts to obtain a license; H.O. § 14-5A-17(a)(3), Is guilty of unprofessional or immoral conduct in the practice of respiratory care; H.O. § 14-5A-17(a)(10), Willfully makes or files a false report or record in the practice of respiratory care; and H.O. § 14-5A-17(a)(17), Is disciplined by a disciplinary or licensing authority or is disciplined by a court of any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes.

20. The underlying grounds for disciplinary action under H.O. § 14-5A-17(a)(17) include the following: H.O. § 14-5A-17(a)(1), Fraudulently or deceptively

obtains or attempts to obtain a license; H.O. § 14-5A-17(a)(3), Is guilty of unprofessional or immoral conduct in the practice of respiratory care; and H.O. § 14-5A-17(a)(10), Willfully makes or files a false report or record in the practice of respiratory care.

CONCLUSIONS OF LAW

Pursuant to H.O. § 14-5A-09, the Board finds as a matter of law that the Applicant does not possess good moral character, a requirement for reinstatement of licensure. Accordingly, the Board denies the Applicant's Application on this basis.

Pursuant to H.O. § 14-5A-17, the Board denies the Applicant's Application for his violation of the following provisions of the Act: H.O. § 14-5A-17(a)(1), Fraudulently or deceptively obtains or attempts to obtain a license; H.O. § 14-5A-17(a)(3), Is guilty of unprofessional or immoral conduct in the practice of respiratory care; H.O. § 14-5A-17(a)(10), Willfully makes or files a false report or record in the practice of respiratory care; and H.O. § 14-5A-17(a)(17), Is disciplined by a disciplinary or licensing authority or is disciplined by a court of any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes.

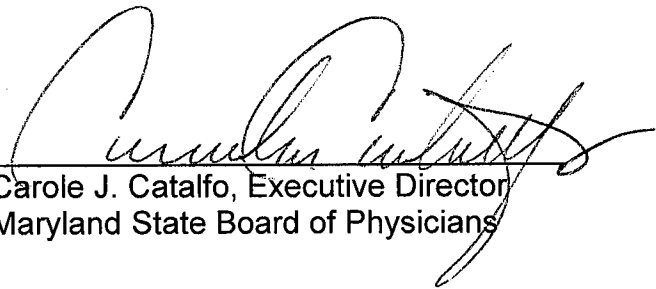
The underlying grounds for disciplinary action under H.O. § 14-5A-17(a)(17) include the following: H.O. § 14-5A-17(a)(1), Fraudulently or deceptively obtains or attempts to obtain a license; H.O. § 14-5A-17(a)(3), Is guilty of unprofessional or immoral conduct in the practice of respiratory care; and H.O. § 14-5A-17(a)(10), Willfully makes or files a false report or record in the practice of respiratory care.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 29th day of AUGUST 2012, by an affirmative vote of a majority of the quorum of the Board considering this case:

ORDERED that the Applicant's Application for Reinstatement of Licensure for a Respiratory Care Practitioner in the State of Maryland be and is hereby **DENIED**; and it is further

ORDERED that this is a Final Order of the Board, and as such, is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2009 Repl. Vol.).



Carole J. Catalfo, Executive Director
Maryland State Board of Physicians

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Health Occ. Code Ann. § 14-5A-17.1, any person aggrieved by a final decision of the Board in an action under Md. Health Occ. Code Ann. § 14-5A-17 may not appeal to the Secretary or the Board of Review but may take a direct judicial appeal. The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.