

IN THE MATTER OF	*	BEFORE THE
ROBERT B. ALLEN, RCP	*	MARYLAND STATE BOARD
Applicant	*	OF PHYSICIANS
	*	Case Number: 2014-0894

\* \* \* \* \*

**FINAL ORDER**

On or about January 22, 2014, Robert B. Allen, RCP. (the “Applicant”) applied to the Maryland State Board of Physicians (the “Board”) for respiratory care practitioner licensure. On or about September 29, 2014, the Board notified the Applicant of the Board’s intent to deny his Application for Respiratory Care Practitioner Licensure under the Maryland Respiratory Care Practitioners Act (the “Act”), Md. Code Ann., Health Occ. (“H.O.”) § 14-5A-101 *et seq.* (2009 Repl. Vol. & 2013 Supp.).

The Board bases its denial on the following:

**14-5A-09. Qualifications for licenses.**

- (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[.]

**§ 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 the quorum of the Board may deny a license to any applicant...if the applicant...:
  - ...
  - (3) Is guilty of unprofessional or immoral conduct in the practice of respiratory care[.]

The Board informed the Applicant that a Final Order would be executed **THIRTY (30) DAYS** from the Applicant's receipt of the Board's notice, unless the Applicant requested a hearing.

In order for the Board not to execute this Final Order, a written request for hearing had to be received from the Applicant on or before November 3, 2014. The Applicant failed to request a hearing on or before this date.

### FINDINGS OF FACT

1. On or about January 22, 2014, the Applicant submitted to the Board an Application for Respiratory Care Practitioner Licensure ("Application"). The Applicant holds an active Respiratory Care Practitioner license in Virginia.

2. On the Application, the Applicant answered "YES" to the following Character and Fitness Questions:

...

(d) Has your employment by any health care employer been affected by disciplinary actions including probation, suspension, loss of privileges, transfer to other duties, or termination of employment or contract? **(ex: provide name of institution, correspondence received or sent, related documents).[]**

3. The Applicant appended to his Application a letter in which he explained that he had been terminated from a hospital in Virginia ("Hospital A") "because I tested positive during a urine screening for small levels of cannabis[.]" The Applicant denied that he smokes marijuana and stated that the tested positive "from breathing heavy fumes in an enclosed room for hours."

4. In his letter, the Applicant offered to enroll in “any kind of random drug screening program with future employers or licensure boards to prove I am consistently clean of all illegal drugs.”
5. The Applicant also appended to his Application a letter dated October 10, 2013, from the Executive Director of the Virginia Board of Medicine (“Virginia Board”). The letter stated that the Virginia Board had completed its review of the investigative report regarding allegations of unprofessional conduct<sup>1</sup> and determined that it would not take disciplinary action.
6. By electronic mail dated February 10, 2014, Board staff notified the Applicant that he had not submitted documentation of his termination and that the Board was requesting from Hospital A a copy of his personnel file.
7. The Applicant’s personnel file obtained from Hospital A revealed that his employment had been terminated effective June 23, 2013 because of a positive drug test.
8. The Applicant’s conduct that resulted in his termination from Hospital A constitutes, in whole or in part, violations of H.O. § 14-5A-09(b) and H.O. § 14-5A-17(a)(3).

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Applicant is not of good moral character and that his conduct, as set forth above constitutes, in whole or in part, unprofessional conduct in the practice of medicine, in violation of H.O. § 14-404-5A-17(a)(3).

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<sup>1</sup> Hospital A had reported the Applicant’s termination to the Virginia Board.

**ORDER**

It is this 10<sup>th</sup> day of December, 2014, by a majority of a quorum of the Board considering this case:

**ORDERED** that the Application for Respiratory Care Practitioner licensure for Robert B. Allen, RCP, in the State of Maryland is hereby **DENIED**; and it is further

**ORDERED** that this Final Order is a public document pursuant to Md. State Gov't Code Ann. § 10-611 *et seq.* (2010 Repl. Vol. & 2013 Supp.).

12/10/14  
Date

  
Christine A. Farrelly  
Executive Director  
Maryland State Board of Physicians

**NOTICE OF RIGHT TO APPEAL**

Pursuant to Md. Code Ann., Health Occ. § 14-408(b), the Applicant has the right to seek judicial review of this Final Order. Any petition for judicial review shall be filed within 30 days from the date of mailing of this Final Order. The cover letter accompanying this Final Order indicates the date the decision is mailed. Any petition for judicial review shall be made as provided for in the

Maryland Administrative Procedure Act, State Gov't Article § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Applicant files an appeal, the Board is a party and should be served with the court's process at the following address:

**Maryland State Board of Physicians  
Christine A. Farrelly, Executive Director  
4201 Patterson Avenue  
Baltimore, Maryland 21215**

Notice of any petition should also be sent to the Board's counsel at the following address:

**Noreen M. Rubin  
Assistant Attorney General  
300 West Preston Street, Suite  
Baltimore, Maryland 21201**