

IN THE MATTER OF	*	BEFORE THE
SHEILA R. HOOVER, RCP	*	MARYLAND STATE
Applicant	*	BOARD OF PHYSICIANS
License Number: L00365	*	Case Number: 2220-0251B
* * * * *	*	* * * * *

FINAL ORDER

On October 28, 2020, Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") notified **SHEILA R. HOOVER, RCP** (the "Applicant"), License Number L00365, of its intent to deny her Application for Reinstatement of Respiratory Care Practitioners license under the Maryland Respiratory Care Practitioners Act (the "Act") Md. Code Ann., Health Occ. §§ 14-5A-01 *et seq.* (2014 Repl. Vol. and 2019 Supp.).

The pertinent provisions of the Act provide:

Health Occ. § 14-5A-05. Respiratory Care Professional Standards Committee.

There is a Respiratory Care Professional Standards Committee within the Board.

Health Occ. § 14-5A-07. Additional powers and duties of Committee.

(a) *Recommendations relating to regulations, code of ethics, and licensing requirements.* In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

- ...
- (5) Evaluate the credentials of applicants as necessary and recommend licensure of applicants who fulfill the requirements for a license to practice respiratory care.

Health Occ. § 14-5A-09 License qualifications.

- (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.

Health Occ. § 14-5A-17. Denial, suspension, or revocation of licensee

- (a) *In general.*--Subject to the hearing provisions of § 14-405 of this title, a disciplinary panel, on the affirmative vote of a majority of a quorum of the disciplinary panel, may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license, if the applicant or licensee:

- ...
(3) Is guilty of unprofessional or immoral conduct in the practice of respiratory care; [and/or]
...
(10) Willfully makes or files a false report or record in the practice of respiratory care[.]

In its Notice, Disciplinary Panel B informed the Applicant that she had the opportunity to request a hearing by submitting a request in writing to the Board's Executive Director within thirty (30) days of service of the Notice. More than thirty (30) days have elapsed since the service of the Notice on the Applicant, and the Applicant has not requested a hearing.

FINDINGS OF FACT

Disciplinary Panel B makes the following Findings of Fact:

I. BACKGROUND

1. The Board originally issued the Applicant a license to practice respiratory care on April 16, 1992 under License Number L00365. The Applicant allowed her license to expire on May 30, 2002 without filing for renewal.
2. At all times relevant to these charges, the Applicant was employed as a respiratory therapist by a hospital¹ (the "Hospital") in West Virginia.

II. THE APPLICATION

3. On or about April 8, 2020, the Applicant submitted an *Application for*

¹ To maintain confidentiality, the names of all witnesses, facilities, employees, and patients will not be used in this document, but will be provided to the Applicant upon request.

Reinstatement of Respiratory Care Practitioners License (the "Application") to the Board.

4. In the Application, the Board directed the Applicant to answer "YES" or "NO" to a series of "Character and Fitness" questions and to provide explanations for all "YES" responses. The Applicant responded "YES" to the following questions which asked:
 - a) Question 12e, "Has a hospital, related health care institution, HMO, or alternative health care system investigated you or brought charges against you?"
 - b) Question 12n, "Has your employment or contractual relationship with any hospital, HMO, other health care facility, health care provider, institution, armed services, or the Veterans Administration been terminated for disciplinary reasons?"
5. The Applicant provided an explanation for her affirmative responses, stating that she had been terminated in January from her employment with the Hospital over a worker's compensation claim. She explained that she "was just bartending for tips" while on leave for medical reasons.

III. BOARD INVESTIGATION

6. The Board initiated an investigation of the Applicant based on her responses to the Character and Fitness questions. The Board subpoenaed the Applicant's personnel records from the Hospital. The results of the Board's investigation are set forth *infra*.
7. On or about June 11, 2013, the Applicant began her employment with the Hospital. On or about May 9, 2019, the Applicant was found sleeping on the job "covered up with a blanket." The Hospital had information that the Applicant had worked her second job the night prior. On or about June 3, 2019, the Applicant was again

found sleeping on duty. On or about June 5, 2019, the Applicant's supervisor asked her to put away a blanket with which she was covered. Based on the incidents, on or about June 18, 2019, the Hospital suspended the Applicant for three (3) shifts and cited her for having violated its policy on work negligence and carelessness.

8. On or about December 10, 2019, the Applicant reported an injury to her left arm at the Hospital after she had been carrying oxygen tanks and pushing a ventilator. On or about December 23, 2019, the Applicant submitted a request for medical leave, from December 10, 2019 to January 24, 2020, under the Family Medical Leave Act ("FMLA").
9. On or about December 26, 2019, the Applicant submitted a "Certification of Health Care Provider for Employee's Serious Health Condition" in which her primary care practitioner requested that the Applicant be excused from work until her appointment with a specialist on December 27, 2019. When asked to identify job functions that the employee could not perform, the primary care practitioner noted that the Applicant was "not able to use left arm at this time." On or about December 27, 2019, the Applicant submitted documentation signed by an orthopedic specialist requesting that the Applicant be excused from work for four weeks. The Hospital granted the Applicant's request for FMLA leave effective December 10, 2019 through January 9, 2020.
10. On or about December 26, 2019, the Applicant applied for worker's compensation stating that she suffered an injury to the muscle or tendon of her left upper arm. A worker's compensation investigator began a surveillance operation on or about December 31, 2019 outside the Applicant's home in Frostburg, Maryland. At

approximately 9:45 p.m., the surveillance operation relocated to a local bar in which the Applicant was observed to be working behind the bar using both hands and arms to serve drinks and collect money from patrons. The Applicant was seen moving and lifting bags of ice and cases of beer with both hands and arms. Over twenty-nine minutes of surveillance video was taken of the Applicant at the bar.

11. On or about January 7, 2020, the Applicant's claim for worker's compensation was denied because she had been "able to perform a second job with no limitations and no evidence of injury or disability." On the same day, the Applicant provided the Hospital documentation that she had been cleared to return to work.
12. The Hospital was informed of the results of the worker's compensation investigation. On or about January 14, 2020, the Hospital terminated the Applicant's employment for dishonesty and for accepting other employment while on a leave of absence.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel B concludes as a matter of law that the Applicant's conduct, including, but not limited to, violating the Hospital's policy regarding work negligence and carelessness, dishonesty, and leave and submitting to the Hospital an FMLA claim containing false statements, constitutes a violation of the Act under Health Occ. § 14-5A-17(a): (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, which is grounds for denial of her Application.

ORDER

It is, on the affirmative vote of a majority of the quorum of Disciplinary Panel B,

hereby:

ORDERED that the Application of Sheila R. Hoover, RCP, License Number L00365, for reinstatement of a license to practice respiratory care in Maryland, filed on April 8, 2020, is **DENIED**, and it is further

ORDERED that this Final Order is a public document. *See* Md. Code Ann., Health Occ. §§ 1-607, 14-5A-18.1(b)(2) and Gen. Prov. § 4-333(b)(6).

12/04/2020
Date

Signature on File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 14-5A-17.1(a)(1) (2018 Repl. Vol.), you have a right to take a direct judicial appeal. A Petition for Judicial Review must be filed within thirty (30) days of service of this Order and shall be made as provided for judicial review of a final decision in the Md. Code Ann., State Gov't §§ 10-201 *et seq.* (2014 Repl. Vol.) and Title 7, Chapter 200 of the Maryland Rules.