



NORTH CAROLINA RESPIRATORY CARE BOARD
1100 Navaho Drive, Suite 242
Raleigh, NC 27609
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VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

February 3, 2009

Samuel W. Howard
3176 Carolina Country Club Road
Spartanburg, SC 29306

Re: Revocation of Your License as a Respiratory Care Practitioner

Dear Mr. Howard,

A hearing was held by the North Carolina Respiratory Care Board on January 8, 2009, regarding the matters described in the Order for Summary Suspension and Notice of Hearing dated November 24, 2008. The Board sent that notice by certified mail, return receipt requested, to your last address of record.

Based on the Notice of Hearing, your case was called during the Board meeting, but you did not appear and no one else appeared on your behalf. The Board proceeded with the hearing.

The Board considered the testimony and exhibits that were submitted at the hearing. From its review of this evidence, the Board entered the Findings of Fact and Conclusions of Law that are set out in the attached decision. Based on the evidence presented at the hearing, the Board has determined that it should revoke your license to practice Respiratory Care, effective January 8, 2009, the date of the hearing. This letter and the attached decision serve as official notice of the Board's Findings of Fact, Conclusions of Law, and its decision, together with notice of your appeal rights under the North Carolina Administrative Procedure Act.

Appeal Right – You have the right to appeal the Board's decision by filing a petition in the Superior Court of Wake County, North Carolina within thirty (30) days of your receipt of this letter. To compute the thirty days, start counting on the day after this letter is signed for by you or anyone else, because the Board will use the date of signature on the signature card that we will get back to define the start of the 30-day period. Your appeal must be **FILED** in the Office of the Clerk of Court at the Wake County Courthouse in Raleigh, North Carolina, no later than 5 P.M. on the thirtieth day, unless that day falls on a weekend or a holiday recognized by North Carolina State Government, and please note that North Carolina does not share the same holiday schedule as other states or the Federal government. If the thirtieth day falls on a weekend or recognized North Carolina state holiday, then you must file before 5 PM on the next business day. If you do not file an appeal within this thirty-day period, you lose your right to appeal.

Should you have any questions regarding any aspect of this letter, please do not hesitate to contact me.

Sincerely,

Floyd E. Boyer, RRT, RCP
Executive Director



BEFORE THE NORTH CAROLINA RESPIRATORY CARE BOARD

IN THE MATTER OF THE LICENSE)
OF SAMUEL W. HOWARD TO)
PRACTICE RESPIRATORY CARE)
LICENSE NO. 5057)
_____)

**FINAL BOARD DECISION
REVOKING LICENSE**

This hearing came before the North Carolina Respiratory Care Board on January 8, 2009, as part of the Board's regularly scheduled meeting on that date.

PROCEDURAL HISTORY OF THIS CASE

The subject of this hearing is the Licensee's failure to appear at the Board's Investigation and Informal Settlement Committee interviews to answer to the charges of patient abandonment arising from a complaint received from Margaret Pardee Hospital, Hendersonville, NC. On or about March 23, 2007, the Board issued a license to practice respiratory care to the Licensee, license number 5057. A certified letter was mailed on May 30, 2008 to the Licensee's address of record, requesting the licensee to appear for an informal interview at the Board office on July 9, 2008. The certified letter mailed May 30, 2008 was returned to the Board "Unclaimed", "Unable to Forward" on July 12, 2008. A second certified letter was mailed on July 23, 2008 to the Licensee's address of record, requesting the licensee to appear for an informal interview at the Board office on October 8, 2008. The certified letter mailed July 23, 2008 was returned to the Board signed by "Samuel W. Howard" on August 5, 2008. The second letter expressly indicated that, "Failure to Appear May Result in License Suspension". The Licensee failed to appear at the appointed time for the interview, failed to communicate to the Board that he would be unable to attend, and failed to respond in any fashion to the Board's multiple communications on this matter. On October 24, 2008 a certified letter was mailed to the Licensee's last address of record informing the Licensee of the Board's decision to Summarily Suspend his License to practice respiratory care in North Carolina for failure comply with the Consent Order.

The Licensee failed to appear at the Board's Investigation and Informal Settlement Committee interviews to answer to the charges of patient abandonment, failed to appear at the appointed time for the interview, failed to communicate to the Board that he would be unable to attend, and failed to respond in any fashion to the Board's multiple communications on this matter.

APPEARANCES/WITNESSES

At the hearing, neither the Licensee, Samuel W. Howard, nor any other person appeared on his behalf. The case for the Board was presented by its counsel, William R. Shenton. Mr. Shenton called Mr. Floyd Boyer, Executive Director of the Board and Ms. Judy Green, Inspector, as the Board's witnesses.

EVIDENCE/EXHIBITS

Board Evidence:

Mr. Boyer's testimony and the following Exhibits were accepted into the record without objection.

Board Exhibit # 1 – A Notice of Hearing mailed to the Licensee at his address of record on November 24, 2008.

Board Exhibit # 2 – An Order for Summary Suspension and Permanent Revocation of License of Samuel W. Howard and Notice of Hearing. The Notice was mailed to the Licensee at his address of record on October 24, 2008.

Board Exhibit # 3 – A copy of a letter sent to the Licensee at his address of record dated July 23, 2008 inviting the Licensee to attend an interview with the Investigation and Informal Settlement Committee on October 8, 2008 to answer to the allegation of patient abandonment. The letter expressly stated that “Second Notice: Failure to Appear May Result in License Suspension”. A copy of the certified mail receipt dated July 24, 2008 and a copy of the signature request that was signed by “Samuel W. Howard” and dated August 5, 2008 which was returned to the Board by the postal service.

Board Exhibit # 4 – A copy of a letter sent to the Licensee at his address of record dated May 30, 2008 inviting the Licensee to attend an interview with the Investigation and Informal Settlement Committee on July 9, 2008 to answer to the allegation of patient abandonment. A copy of the certified letter envelope marked “Unclaimed” by the postal service and returned to the Board. A copy of the certified mail Receipt dated May 30, 2008.

Board Exhibit # 5 – A copy of the Complaint Form from Janie Nestor, RCP of Margaret Pardee Hospital, Hendersonville, NC dated May 19, 2008 alleging the Licensee abandoned his patients at the hospital by leaving the facility without informing his supervisor.

Ms Green’s testimony and the following Exhibits were accepted into the record without objection.

Board Exhibit # 6 – A copy a subpoena served on Janie Nestor, RCP at Margaret Pardee Hospital, Hendersonville, NC on May 29, 2008 requesting documentation corroborating the allegation of patient abandonment.

Board Exhibit # 7 – A copy of “Events of Samuel Howard’s Termination” received from Janie Nestor, RCP on May 29, 2008.

Board Exhibit # 8 – A copy of a handwritten note left by the Licensee at the hospital received from Janie Nestor, RCP on May 29, 2008.

Board Exhibit # 9 – A copy of the Licensee’s Time Card received from Janie Nestor, RCP on May 29, 2008.

Board Exhibit # 10 – A copy of “Patient Care Manual,” the hospital policy requiring a report during hand off of patients, received from Janie Nestor, RCP on May 29, 2008.

Mr. Boyer’s testimony and the following Exhibits were accepted into the record without objection.

Board Exhibit # 11 – A copy certified signature request for the letter mailed to the Licensee’s address of record on November 24, 2008. The signature request was signed by “Amanda Cliff” and dated November 24, 2008 and was returned to the Board by the postal service.

Licensee Evidence:

Neither the Licensee nor a representative appeared.

FINDINGS OF FACT

1. The Licensee failed to appear before the Investigation and Informal Settlement Committee on July 9, 2008 and October 8, 2008 as requested by the Board.
2. The Licensee failed to appear before the Board for Hearing on January 8, 2009 as requested by the Board.
3. The Licensee has not contacted the Board office to attempt to arrange different dates or times to appear, and did not appear for the hearing.

CONCLUSIONS OF LAW

Based upon the foregoing Finding of Fact, the Board enters the following Conclusions of Law:

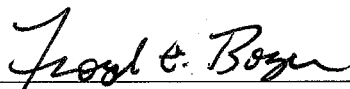
1. The Licensee's failure to respond to repeated requests to appear before the Board constitutes conduct that presents an imminent hazard to public health, safety, and welfare, and this conduct is prohibited by N.C. Gen. Stat. § 90-659(a)(1).
2. The Licensee's conduct also constitutes unprofessional conduct in the delivery of respiratory care and therefore violates N.C. Gen. Stat. § 90-659(a)(1)(d) and 21 N.C.A.C. 61.0307(10).

FINAL DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board has determined that the license of Samuel W. Howard to practice respiratory care in North Carolina shall be permanently revoked effective January 8, 2009.

IT IS SO ORDERED:

This the 8th day of January, 2009



Floyd E. Boyer, RCP
Executive Director
North Carolina Respiratory Care Board