



**NORTH CAROLINA RESPIRATORY CARE BOARD**

**1100 Navaho Drive, Suite 242**

**Raleigh, NC 27609**

**(919) 878-5595**

**FAX (919) 878-5565**

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

July 16, 2010

Wendy D. Campbell  
PO Box 704  
Spindale, NC 28160

**Re: Revocation of Your License as a Respiratory Care Practitioner**

Dear Ms. Campbell,

A hearing was conducted by the North Carolina Respiratory Care Board on July 8, 2010, regarding the matters described in the Order for Revocation and Notice of Hearing dated January 14, 2010 and the Notice of Hearing dated May 12, 2010. The Board sent the Order for Revocation and Notice of Hearing by certified mail, return receipt requested, to your last address of record. 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 determined to revoke your license to practice Respiratory Care, effective July 8, 2010, 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 WENDY D. CAMPBELL TO )  
PRACTICE RESPIRATORY CARE )  
LICENSE NO. 3781 )  
\_\_\_\_\_ )

**FINAL BOARD DECISION  
REVOKING LICENSE**

This matter came on for hearing came before the North Carolina Respiratory Care Board on July 8, 2010, pursuant to a Notice of Hearing Issued to Ms. Wendy Campbell, hereinafter referred to as the Licensee. That Notice of Hearing indicated that the Board had received complaints that in October of 2009, and without providing prior notice to patients or providing an alternative means for them to receive ongoing services, the Licensee had closed Air Care Medical Equipment, a business providing respiratory care services which had offices in Forest City and Hendersonville, North Carolina.

**I. APPEARANCES**

William R. Shenton  
Poyner Spruill LLP  
Counsel for the Board

No one appeared on behalf of the Licensee

**II. APPLICABLE LAW**

The procedural statutory law applicable to this contested case is found in Article 3A of the North Carolina Administrative Procedure Act, N.C.G.S. Chapter 150B.

The substantive statutory law applicable to this contested case is the Respiratory Care Practice Act, codified as Article 38 of N.C.G.S. Chapter 90.

The administrative regulations applicable to this contested case are the rules of the North Carolina Respiratory Care Board, 21 NCAC 61.

### **III. ISSUES**

The issues presented in this case arise from the closure of the Air Care Medical Equipment offices and discontinuation of respiratory care services to patients before those services were completed, and without ensuring that alternative or replacement services were arranged or ensuring that the client was given reasonable opportunity to arrange alternative or replacement services; and whether the Licensee:

- Committed an act of malpractice, gross negligence, or incompetence in the practice of respiratory care, in violation of N.C. Gen. Stat. § 90-659(a)(1)(b).
- Engaged in healthcare practices that are determined to be hazardous to public health, safety or welfare, in violation of N.C. Gen. Stat. § 90-659(a)(1)(d).
- Engaged in any act or practice that violates any of the provisions of this article or any rule adopted pursuant to this article, in violation of N.C. Gen. Stat. § 90-659(a)(4), and 21 NCAC 61 .0307(5), (10) and (16).

### **IV. PROCEDURAL HISTORY OF THIS CASE**

1. On or about May 27, 2004, the Board issued a license to practice respiratory care to the Licensee, license number 3781.
2. The Board invited the Licensee to attend an interview with the Board's Investigation and Informal Settlement Committee on January 13, 2010, and during the interview, the Board gathered additional information about this matter.
3. Based on information gathered by the Board in its investigation and in the course of the interview of the Licensee and others conducted by the Board's Investigation and Informal Settlement Committee, on January 14, 2010, the Board revoked her license.
4. On March 22, 2010, a certified letter was mailed to the Licensee's last address of record informing the Licensee of the Board's decision to Revoke her License to practice respiratory care in North Carolina for patient abandonment. The letter informed the licensee that the Hearing date was set for April 8, 2010. The certified letter was returned to the Board on April 8, 2010 marked "Unclaimed".
5. On March 25, 2010, the Notice of Hearing was mailed by certified letter to the Licensee's last address of record. The letter informed the licensee that the Hearing date was set for April 8, 2010. The certified letter was returned to the Board on April 10, 2010 marked "Unclaimed".
6. On March 25, 2010, the Notice of Hearing was also sent to the licensee's email address of record. The email informed the licensee that the Hearing date was set for April 8, 2010.

7. On April 6, 2010, a letter was received from the licensee by email requesting a continuation of the Hearing. The continuation was granted and the Hearing was continued until July 8, 2010.
8. On April 6, 2010, the Notice of Hearing was sent to the licensee's email address of record. The email informed the licensee that the continuation was granted and the Hearing was continued until July 8, 2010. An email notification was received that the message was delivered to the recipient and a second email notification was received that the message was read.
9. On May 12, 2010, the Notice of Hearing was again sent to the licensee's email address of record. The email informed the licensee that the Hearing date was set for July 8, 2010. An email notification was received that the message was delivered to the recipient.

#### **V. RECORD OF THE CASE**

At the hearing, the Licensee, Wendy D. Campbell, did not appear nor did any other person on her behalf. The Board proceeded with the hearing.

#### **Board Evidence:**

The Board called Floyd Boyer, Executive Director of the Board, Judy Green, Board Investigator and Mark Hill, RCP, to testify. The following Exhibits were offered by the Board and accepted into evidence:

Board Exhibit # 1 — Photos of exterior and interior of Hendersonville office of Air-Care Medical Equipment

Board Exhibit #2 — Photos of exterior of Forest City office of Air-Care Medical Equipment

Board Exhibit #3 — December 2, 2009 Sworn Statement of Linda Summey

Board Exhibit #5 — January 12, 2010 E-mail from Robert Treadway to Floyd Boyer

Board Exhibit #6 — Statement from Wendy Campbell

Board Exhibit #9 — November 17, 2009 Sworn Statement of Fannie Wilson

Board Exhibit #10 — November 17, 2009 Sworn Statement of Charles Greene

Board Exhibit #12 — Letter dated October 27, 2009 from Floyd Boyer to Wendy Campbell

Board Exhibit #13 — Letter dated January 11, 2010 from Wendy Campbell to Floyd Boyer

Board Exhibit #14 — NCRCB Order for Permanent Revocation of License of Wendy D. Campbell and Notice of Hearing dated January 14, 2010

Board Exhibit #15 — NCRCB Notice of Hearing to Wendy Campbell dated March 25, 2010

Board Exhibit #16 — Letter dated April 6, 2010 from Wendy Campbell to Floyd Boyer

Board Exhibit #17 — NCRCB Notice of Hearing to Wendy Campbell dated May 12, 2010

Board Exhibit #18 — Letter dated January 6, 2010 from Coley Sellars to Floyd Boyer

Board Exhibit #19 — E-mail dated October 21, 2009 from Mark Hill to Floyd Boyer

Portions of the following depositions were offered by the Board pursuant to N.C. Gen. Stat. § 150B-39 and Rule 33 of the North Carolina Rules of Civil Procedure and these segments were received into evidence:

**Board Exhibit A — Deposition of Walter Hanson — June 17, 2010**

- *Page 3, Lines 1-8*
- *Page 5, Lines 21-25*
- *Page 6, Lines 1-8*
- *Page 7, Lines 5-25*
- *Page 8, Lines 1-25*
- *Page 9, Lines 1-25*
- *Page 10, Lines 1-6*
- *Page 11, Lines 4-10*

**Board Exhibit B — Deposition of William Bodolay — June 7, 2010**

- *Page 4, Lines 1-5*
- *Page 6, Lines 22-25*
- *Page 7, Lines 1-25*
- *Page 8, Lines 1-25*
- *Page 9, Line 1*
- *Page 10, Lines 5-25*
- *Page 11, Lines 1-20*

**Board Exhibit C — Deposition of Charles William Greene — June 7, 2010**

- *Page 4, Lines 1-5*
- *Page 7, Lines 12-25*
- *Page 8, Lines 1-13*
- *Page 9, Lines 10-12 and Lines 23-25*
- *Page 10, Lines 1-15*
- *Page 13, Lines 6-25*
- *Page 14, Lines 1*

**Board Exhibit D — Deposition of Fannie Hogan Wilson — June 7, 2010**

- *Page 4, Lines 1-5*
- *Page 6, Lines 19-25*
- *Page 7, Lines 1-25*

- *Page 8, Lines 1-25*
- *Page 9, Lines 1-19*
- *Page 10, Lines 8-25*
- *Page 11, Lines 1-25*

**Board Exhibit E — Deposition of Amanda Rupp – June 7, 2010**

- *Page 4, Lines 3-9*
- *Page 6, Lines 15-25*
- *Page 7, Lines 1-25*
- *Page 8, Lines 1-25*
- *Page 9, Lines 1-16*
- *Page 10, Lines 6-13*
- *Page 18, Lines 4-25*
- *Page 19, Lines 1-25*
- *Page 20, Lines 1-25*
- *Page 21, Lines 1-9 and Lines 13-25*
- *Page 22, Lines 1-25*
- *Page 23, Lines 1-2 and Lines 10-25*
- *Page 24, Lines 1-7 and Lines 11-25*
- *Page 25, Lines 1-22*
- *Page 26, Lines 4-12*
- *Page 27, Lines 16-25*
- *Page 28, Lines 1-25*
- *Page 29, Lines 1-3 and Lines 9-14*

**Board Exhibit F — Deposition of Mike Conner — June 7, 2010**

- *Page 4, Lines 1-5*
- *Page 7, Lines 1-25*
- *Page 8, Lines 1-11*
- *Page 9, Lines 1-25*
- *Page 10, Lines 16-25*
- *Page 11, Lines 1-25*
- *Page 12, Lines 1-25*
- *Page 13, Lines 1-18*

**Board Exhibit G — Deposition of Lisa Keeter — June 7, 2010**

- *Page 4, Lines 1-5*
- *Page 6, Lines 18-25*
- *Page 7, Lines 1-25*
- *Page 8, Lines 1-25*
- *Page 9, Lines 1-25*
- *Page 10, Lines 1-16*

**Board Exhibit H — Deposition of Linda Summey — June 7, 2010**

- *Page 4, Lines 1-5*
- *Page 6, Lines 19-25*
- *Page 7, Lines 1-25*
- *Page 8, Lines 1-25*
- *Page 10, Lines 1-25*
- *Page 11, Lines 1-25*
- *Page 12, Lines 1-25*
- *Page 13, Lines 1-25*

**Board Exhibit I — Deposition of Martha Lynn Brown — June 7, 2010**

- *Page 4, Lines 1-5*
- *Page 6, Lines 11-25*
- *Page 7, Line 1 and Lines 12-25*
- *Page 14, Lines 4-7*
- *Page 15, Lines 8-15 and Lines 20-25*
- *Page 16, Lines 1-17*
- *Page 17, Lines 10-20*
- *Page 18, Line 25*
- *Page 19, Lines 1-19*
- *Page 22, Lines 1-4 and Lines 18-24*
- *Page 23, Lines 1-24*
- *Page 24, Lines 21-25*
- *Page 25, Lines 1-24*
- *Page 26, Lines 5-11*
- *Page 32, Lines 23-25*
- *Page 33, Lines 1-21*
- *Page 38, Lines 4-25*
- *Page 39, Lines 1-4*
- *Page 45, Lines 15-25*
- *Page 46, Lines 1-25*
- *Page 47, Lines 1-25 (Note: Clarification Line 8 and Line 24)*
- *Page 48, Lines 1-9 and Lines 13-25*
- *Page 49, Lines 1-25*
- *Page 50, Lines 1-23*

**Licensee Evidence:**

No evidence was offered by the Licensee.

**FINDINGS OF FACT**

1. The hearing of this matter was postponed from April 8, 2010 to July 8, 2010 at the request of the Licensee.
2. The Licensee failed to appear before the Board for the hearing on July 8, 2010.

3. At the beginning of the hearing and again at the conclusion of the evidence, Mr. Floyd Boyer, Executive Director of the Board, being under oath at each time, checked the Board offices and the hallway outside the Hearing Room and reported to the Board on each occasion that neither the Licensee nor anyone on her behalf was present.
4. The Licensee acknowledged the written statement she submitted, which was admitted in evidence as Board Exhibit 6 that the Air Care Medical Equipment offices in Forest City and Hendersonville, North Carolina were closed at her direction in late September and early October of 2009.
5. Mr. Walter Hanson was a patient who received services through the Air Care Medical Equipment office in Forest City which is depicted in the photograph that is Board Exhibit 2. Mr. Hanson has a collapsed trachea and was prescribed the use of a continuous positive airway pressure (CPAP) machine to ensure that he kept breathing while sleeping. Mr. Hanson discovered that the Forest City Office of Air Care Medical Equipment was closed when he called and found that the phone number was disconnected and drove to the office and found that it was closed. He received no prior notice of the closure of the Air Care Medical Equipment office in Forest City.
6. Mr. William Bodolay is a patient who has a CPAP device and received services through the Air Care Medical Equipment Office in Forest City depicted in Board Exhibit 2. Mr. Bodolay discovered that the Air Care Medical Equipment office in Forest City was closed as a result of what his physician told him, and by driving by the office. He had received no prior warning that the office was closing.
7. Mr. Charles William Green was a patient who received oxygen through the Air Care office in Forest City depicted in Board Exhibit 2. He received no prior communication that the Air Care Medical Equipment office was closing and discovered that it had closed when he drove up to the office. He saw the sign depicted in Board Exhibit 2 and called the number in Hendersonville and there was no answer at that number.
8. Ms. Fanny Hogan Wilson was a CPAP patient who received services through the Air Care Medical Equipment office in Forest City which is depicted in Board Exhibit 2. After a hospitalization, she attempted to call the Forest City office and found that its phone was no longer in service. She went to the Forest City office and called the number in Hendersonville listed on the sign of the Forest City office and also found that that phone number was disconnected. She had received no prior notice of the closure of the Air Care offices.
9. Mr. Mike Connor is a CPAP patient who received services through the Hendersonville office of Air Care Medical Equipment which is depicted in the photographs comprised in Board Exhibit 1. He had no prior notice that the Air Care Medical Equipment offices were closing and discovered this only when he went by the Hendersonville office to obtain a replacement cushion for his CPAP mask. He telephoned the number shown on the sign at the top of the door on page

\_\_\_ of Board Exhibit 1 and reached the landlord for the Hendersonville office, Ms. Martha Brown.

10. Ms. Lisa Keeter is a patient who received a CPAP mask through the Hendersonville office of Air Care Medical Equipment. She received no prior notice of the closure of that office and only learned that it had been closed when she drove there to get supplies and saw the sign on the door indicating that the office was permanently closed.
11. Ms. Linda Summey was a patient who received a CPAP mask and portable oxygen through the Hendersonville office of Air Care Medical Equipment which is depicted in Board Exhibit 1. She received no prior notice of the closing of the Air Care Medical Equipment office and only learned of this when she tried to reach the office by phone to arrange for the pickup of her CPAP mask and oxygen which was no longer needed per her physician.
12. Ms. Amanda Rupp was an employee of Air Care Medical Equipment in the Hendersonville office from October of 2008 until the office closed in October of 2009.
13. After the Forest City office of Air Care Medical Equipment was closed, all of the patient records that had been held there were transported to the Hendersonville office. The active patient files for patients who had received service through either office were kept in a separate location in the Hendersonville office.
14. Ms. Martha Brown was the building owner and landlord for the Hendersonville offices of Air Care Medical Equipment, and after several attempts during 2009 to get the rent paid for the building, she took steps to evict Air Care from the premises but went to court to start the eviction process and provided advance notice to Air Care of the eviction.
15. On October 9, 2009, the Licensee came to the Hendersonville office of Air Care Medical Equipment and stated that she was liquidating the merchandise at the office and it would be the last day of employment and instructed Ms. Rupp to box up the active files in the Hendersonville office for the Licensee to transport out of the office. The active files to be transported were located in a section in the back office which contained all of the Air Care Medical Equipment active files from the Hendersonville and Forest City offices.
16. The active patient files in the Hendersonville office were boxed by Ms. Rupp and others and by mid-morning on October 9, 2010, those files were ready for transport by the Licensee or persons acting at her direction.
17. On Friday, October 9, 2009, Ms. Brown went to the building and observed files being boxed on the morning but at about 4:00 that afternoon, all activity stopped. She also drove by the Hendersonville office of Air Care several times on Saturday, October 10, 2009 and observed no activity on that date.

18. The Licensee continued to have access to the premises of the Hendersonville Office through the day on Friday, October 9, as well as Saturday, October 10.
19. After the Air Care Medical Equipment Hendersonville office was closed, Ms. Rupp returned and encountered Ms. Martha Brown, the landlord of the building.
20. As a result of having several patients come to the Hendersonville Air Care offices, Ms. Brown and Ms. Rupp taped signs to the front door of the building indicating that the business was permanently closed and listing a telephone number for patients to call. After doing this, Ms. Rupp recalled getting calls from about 50 Air Care Medical Equipment patients.
21. An unsworn statement provided to the Board by the Licensee, and an unsworn statement provided by an Air Care Medical Equipment employee, Robert Treadway, assert that the Owner and Landlord of the Hendersonville premises, Ms. Martha Brown, had evicted Air Care Medical Equipment without reasonable notice and that the Landlord had denied the Licensee access to the premises to obtain patient records. In light of the sworn testimony of Ms. Brown, as well as the sworn testimony of Ms. Amanda Rupp, the Board does not find the unsworn statements of the Licensee or Mr. Treadway to be credible.

### **CONCLUSIONS OF LAW**

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

1. The licensee's conduct in closing the Air Care Medical Equipment offices and discontinuing professional services without notice to Mr. Hanson, Mr. Bodolay, Mr. Green, and Ms. Wilson in the Forest City office, and Mr. Connor and Ms. Keeter in the Hendersonville office, before services to those persons were completed, before those persons requested the discontinuation of the services, and without arranging alternative or replacement services, or giving those clients a reasonable opportunity to arrange alternative or replacement services, violates Board Rules codified at 21 NCAC 61 .0307(16).
2. The licensee's conduct in closing the Air Care Medical Equipment offices and discontinuing professional services without notice to Mr. Hanson, Mr. Bodolay, Mr. Green, and Ms. Wilson in the Forest City office, and Mr. Connor and Ms. Keeter in the Hendersonville office, before services to those persons were completed, before those persons requested the discontinuation of the services, and without arranging alternative or replacement services, or giving those clients a reasonable opportunity to arrange alternative or replacement services constitutes an act of gross negligence or incompetence in the practice of respiratory care in violation of N.C. Gen. Stat. § 90-659(a)(1)(b).
3. The licensee's conduct in closing the Air Care Medical Equipment offices and discontinuing professional services without notice to Mr. Hanson, Mr. Bodolay, Mr. Green, and Ms. Wilson in the Forest City office, and Mr. Connor and Ms. Keeter in the Hendersonville office, before services to those persons were completed, before those persons requested the discontinuation of the services, and

without arranging alternative or replacement services, or giving those clients a reasonable opportunity to arrange alternative or replacement services constitutes a healthcare practice that is hazardous to public health, safety, or welfare in violation of N.C. Gen. Stat. § 90-659(a)(1)(d).

4. The licensee's conduct in closing the Air Care Medical Equipment offices and discontinuing professional services without notice to Mr. Hanson, Mr. Bodolay, Mr. Green, and Ms. Wilson in the Forest City office, and Mr. Connor and Ms. Keeter in the Hendersonville office, before services to those persons were completed, before those persons requested the discontinuation of the services, and without arranging alternative or replacement services, or giving those clients a reasonable opportunity to arrange alternative or replacement services violates 21 NCAC 61 .0307(5) and (10).
5. 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).

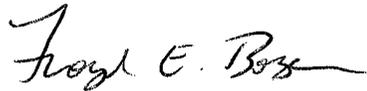
#### **FINAL DECISION AND ORDER PERMANENTLY REVOKING LICENSE**

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board has determined that the license of Wendy D. Campbell to practice respiratory care in North Carolina shall be permanently revoked effective July 8, 2010.

#### **RIGHT OF APPEAL**

Pursuant to N.C. Gen. Stat. § 150B-45, the Licensee may appeal the Board's decision and may commence such an appeal by filing a Petition for Judicial Review in Wake County Superior Court or in the Superior Court of the county in North Carolina where the Licensee resides. The petition must be filed within thirty (30) days after the Licensee is served with a copy of the Board's Final Decision and Order.

This the 8<sup>h</sup> day of July 2010



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