



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

January 23, 2013

Lisa B. Shook
344 Cooper Farm Road
Statesville, NC 28625

Re: Denial of Your Respiratory Care Practitioner License Application

Dear Ms. Shook,

As you know, the North Carolina Respiratory Care Board held a hearing on January 10, 2013, which you attended, concerning your application for an Active License to practice Respiratory Care. Based on its review of the testimony and exhibits introduced into evidence, the Board determined to deny your application. This letter and the attached Final Board Decision serve as official notice of the Board's Findings of Fact, Conclusions of Law, and its Final Board Decision, along 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 to the Board within thirty (30) days of your receipt of this letter. To compute the thirty day period, you should count the day after this letter is signed for by you or by anyone else at your address as the first of the 30 days, because the date of signature on the signature card that the Board receives will define the start of the 30-day period. The deadline for the actual receipt of your appeal at the Board Office is no later than **5 P.M. on the thirtieth day**, unless that day falls on a weekend or holiday recognized by North Carolina State Government. Please note putting the appeal in the mail or sending it by some other means by the deadline is not sufficient. ***Any appeal must be actually received at the Board Office before the deadline.*** Also note that North Carolina does not have the same holidays as other states or the United States Government. If the thirtieth day falls on a weekend, or on a holiday that is recognized by the State of North Carolina, then your appeal must be received at the Board office no later than 5 PM on the next business day. If you do not file an appeal on time, you will 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 LISA B. SHOOK TO)
PRACTICE RESPIRATORY CARE)
PENDING LICENSE NO. 6521)
_____)

**FINAL BOARD DECISION
DENYING LICENSE**

PROCEDURAL HISTORY OF THIS CASE

The subject of this case is the application for an Active License that was filed in July of 2012 by Lisa B. Shook (“the Applicant”) after Applicant’s Provisional License Number 6521 had expired on May 31, 2012.

This matter came on for hearing before the Board at its regular meeting on January 10, 2013. Previously, on September 6, 2012, a Cease and Desist Order was issued to the Applicant and to Lowry Drug and Company (“Lowry Drug”) in Statesville, North Carolina because the Board had received information which indicated that the Applicant had engaged in the practice of respiratory care at Lowry Drug after expiration of her Provisional License.

APPEARANCES & WITNESSES TESTIFYING AT THE HEARING

At the hearing, the Applicant Lisa B. Shook appeared on her behalf. The case for the Board was presented by its counsel, William R. Shenton. Mr. Shenton called the following witnesses on behalf of the Board: Mr. Floyd Boyer, Executive Director of the Board; Ms. Judy Green, Board Investigator; Ms. Grace Sparks, RCP of Frye; Ms. Cathy Bitsche, RCP of Catawba Valley Community College; and Mr. Roger Hames, RCP, formerly employed as a respiratory care practitioner by Lowry Drug.

The Applicant testified on her own behalf and also called Mr. Paul Lowry of Lowry Drug as a witness.

EXHIBITS

Board Exhibits:

Board Exhibit # 1 – A copy of the Applicant’s original application for provisional licensure dated March 11, 2011 and a copy of the NBRC confirmation that the Applicant had applied for the CRT exam.

Board Exhibit # 2 – A copy of the Applicant’s application for active licensure dated July 5, 2012. A copy of the NBRC verification form showing passage of the CRT exam on May 18, 2011. A copy of the checklist used by Board staff dated July 6, 2012 showing that the Applicant’s transcript from her respiratory care program was needed to complete the application.

Board Exhibit # 3 – A copy of a letter dated June 27, 2012 inviting the Applicant to an interview with the Board’s Investigation and Informal Settlement Committee concerning practicing respiratory care without a license. A copy of the certified mail receipt and signature card signed by the Applicant. [*Offered and accepted in evidence for the limited purpose of establishing that this letter was sent and received by the Applicant but not to prove the conduct of the Applicant that is described in the letter.*]

Board Exhibit # 4 – A Copy of Cease and Desist Order sent by overnight carrier to the Applicant's address of record. A copy of the FedEx Airbill. [*Offered and accepted in evidence for the limited purpose of establishing that this Order was sent and received by the Applicant but not to prove the conduct of the Applicant that is described in it.*]

Board Exhibit # 5 – A copy of the Board's database print screen of the Applicant with notes from the Board's Investigator.

Board Exhibit # 6 – A copy of an email from Grace Sparks, RCP of Frye Regional Medical Center, and copies of work schedules and time cards showing the Applicant practiced respiratory care for eleven days after her provisional license had expired.

Board Exhibit # 7 – A copy of the subpoena faxed to Lowry's Drug and Company on October 17, 2012 requesting a copy of the Applicant's job description, certificates, licenses, diplomas and degrees contained in the Applicant's personnel file.

Board Exhibit # 8 – A copy of the fax response from Lowry's Drug and Company dated October 17, 2012 containing the information in the Applicant's personnel file.

Board Exhibit # 9 – A copy of the Board's database print screen of the Applicant with notes from the Board's staff including notes: 7/6/12 -Waiting on transcript and 8/29/12 Left voice mail for her to call me-need to see if she is going to send transcript.

Board Exhibit # 10 – A copy of an email from Cathy Bitsche, RCP of Catawba Valley Community College, dated September 13, 2012 informing the Board that the Applicant did not meet graduation requirements for the respiratory care program. The email informed the Board of the error of the college and that the Applicant should not have been allowed to take the CRT test last year. Ms. Bitsche has informed the NBRC of the error.

Board Exhibit # 11 – A copy of an email from Cathy Bitsche, RCP of Catawba Valley Community College, dated October 17, 2012 informing the Board that the Applicant did not meet graduation requirements for the respiratory care program because she lacked a Microbiology course and a Humanities course.

Board Exhibit # 12 – A copy of the Notice of Hearing mailed to the Applicant's address of record on October 22, 2012. A copy of the certified mail receipt and signature card signed by the Applicant [*Offered and accepted in evidence for the limited purpose of establishing that this Notice was sent and received by the Applicant but not to prove the conduct of the Applicant that is described in it.*]

Board Exhibit # 13 – A copy of an email from Cathy Bitsche, RCP of Catawba Valley Community College, dated September 13, 2012 to the Applicant informing her to contact Ms. Bitsche as soon as possible.

Board Exhibit # 14 – A copy of a Catawba Valley Community College Application for Graduation and Respiratory Care catalog page of course work for Lisa Shook dated March 10, 2012. The application shows Requirements Not Met by the Registrar's Office.

Board Exhibit # 15 – A copy of a Catawba Valley Community College memo to "Spring 2011 Graduation Applicant" dated June 28, 2011. The memo states graduation requirements have not been met.

Board Exhibit # 16 – A copy of a Frye Regional Medical Center HR Change Notice dated August 27, 2012 for Lisa Shook showing termination from her respiratory therapy position for a lapsed NC RCP license.

Board Exhibit # 17 – Copies of reference letters received by the Board for the Applicant from Amanda Coffey, RCP and Dianne Coffey, RCP.

Board Exhibit # 18 – Copy of a reference letter received for the Applicant from Miranda Tarvainen.

Board Exhibit # 19 – A copy of a handwritten statement from the Applicant that was submitted on September 5, 2012 by the Applicant during her interview with the Board’s Investigation and Informal Settlement Committee.

Applicant Exhibits:

Applicant Exhibit # 1 – A copy of an email dated November 8, 2012 from Rita Rogers of Roanoke Chowan Community College stating that the Applicant had taken and passed a BIO 175 online course.

Applicant Exhibit # 2 – A copy of a transcript from Catawba Valley Community College dated October 18, 2012 showing the Applicant had failed BIO 175.

Applicant Exhibit # 3 – A handwritten statement from the Applicant dated January 13, 2013.

FINDINGS OF FACT

1. On or about May 12, 2011, the Board issued Provisional License Number 6521 to the Applicant to practice respiratory care. The Applicant obtained Provisional License Number 6521 after submitting an application to the Board in which she stated that she would complete the Respiratory Care Program at Catawba Valley Community College.
2. The Board issued a License Card to the Applicant, which was admitted as part of Board Exhibit 8; and as clearly stated on the License Card , the Applicant’s Provisional License Number 6521 expired on May 31, 2012.
3. Once it became clear to the Board from its database that the Applicant’s Provisional License had expired, Ms. Green contacted the Applicant’s practice site at Frye Medical Center (“Frye”) , in Hickory, North Carolina on June 25, 2012 to investigate whether the Applicant had continued to practice respiratory care at Frye after expiration of her Provisional License.
4. Grace Sparks, the supervisor of Respiratory Care at Frye confirmed to Ms. Green that the Applicant had worked as a respiratory care practitioner on 11 shifts in June of 2012, after her Provisional License expired, as documented in the work schedules and time cards that were identified by Ms. Sparks and are contained in Board Exhibit 6.
5. Ms. Green also telephoned Lowry Drug and Company (“Lowry Drug”), in Statesville, North Carolina on September 5, 2012 and the person who answered identified the Applicant as a respiratory care practitioner.
6. Mr. Roger Hames was employed by Lowry Drug as a respiratory care practitioner until the month of May, 2012 and Mr. Hames provided some training to the Applicant during her initial employment there.
7. Mr. Paul Lowry of Lowry Drug testified that he had hired the Applicant to replace Mr. Hames. Mr. Lowry also testified that the Applicant had provided the material from her personnel file that is contained in Board Exhibit 8, including a copy of her License Card.
8. The Applicant attended an interview with the Board’s Investigation and Informal Settlement Committee on September 5, 2012, at which time the Applicant initially denied that she was currently practicing respiratory care, until she was confronted with the fact of her employment at Lowry Drug. In Applicant Exhibit 3, the Applicant admits that “I know I was not totally truthful in our last meeting. . . .”
9. After the Applicant’s interview with Board’s Investigation and Informal Settlement Committee, the Board received information indicating that the Applicant lacked two courses needed to complete the Respiratory Care Program at Catawba Valley Community College. The transcript and other information from Catawba Valley Community College which were admitted in Board Exhibit 14 show the Applicant had not completed a microbiology course and one elective humanities course, each of which was required to complete the Respiratory Care Program.

10. The Applicant presented evidence which showed that she had attended and completed a biology course through the distance learning program at Roanoke Chowan Community College during the Spring Semester of 2011. However, no evidence was presented to show that this course would satisfy the microbiology course which was lacking on her transcript and was required to complete the Respiratory Care Program at Catawba Valley Community College.
11. No evidence was presented to show that the Applicant had made any arrangement to attend a course that would satisfy the missing humanities course requirement for the Respiratory Care Program at Catawba Valley Community College.
12. Although the Applicant did receive a certificate indicating that she had completed the coursework required to graduate from the Respiratory Care Program at Catawba Valley Community College, and this certificate was submitted with the Applicant's application for a Provisional License, that certificate was issued in error. In fact, Applicant has not completed the coursework required to graduate from the program.

CONCLUSIONS OF LAW

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

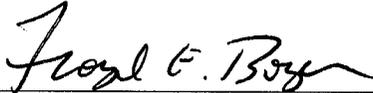
1. The Applicant's continued practice of respiratory care at Frye Medical Center after her Provisional License expired violates N.C. Gen. Stat. § 90-659(a)(1)(c) and N.C. Gen. Stat. § 90-661(1), (2), (3) and (4).
2. The Applicant's continued practice of respiratory care at Lowry Drug and Company after her Provisional License expired violates N.C. Gen. Stat. § 90-659(a)(1)(c) and N.C. Gen. Stat. § 90-661(1), (2), (3) and (4).
3. The Applicant's continued practice of respiratory care at Frye Medical Center and at Lowry Drug and Company after her Provisional License expired constitutes unprofessional conduct which violates 21 N.C.A.C. 61 .0307(10), and therefore also violates N.C. Gen. Stat. § 90-659(a)(4).
4. The Applicant's failure to complete the coursework required to complete the Respiratory Care Program at Catawba Valley Community College renders her ineligible to receive any license from this Board because she cannot demonstrate that she meets the educational requirements of N.C. Gen. Stat. § 90-653(a)(3).

FINAL DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board denies the application of Lisa B. Shook to practice respiratory care in North Carolina.

IT IS SO ORDERED:

This the 10th day of January 2013



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