

**State of New Hampshire
Office of Licensed Allied Health Professionals
Respiratory Care Practitioners Governing Board
Concord, New Hampshire**

In the Matter of:
David M. Scharold, RCP
(Application for License)

ORDER ON APPLICATION DENIAL

The New Hampshire Governing Board of Respiratory Care Practitioners ("Board") received a completed application for licensure as a Respiratory Care Practitioner from David M. Scharold ("Mr. Scharold" or "Petitioner") on July 10, 2014. Mr. Scharold provided the documentation required for initial licensure between June 30, 2014 and October 6, 2014. During the submission of the supporting documents Mr. Scharold submitted 3 letters of reference from Beth Brooks, RN. It appeared that the signatures on each of the letters were different. The Board attempted to verify with both individuals who wrote letters of reference that they had actually written and signed the letters but were unable to contact either individual. For the following reasons, the Board has voted to **DENY** the Petitioner's request for licensure.

Background

On July 10, 2014 Mr. Scharold provided the Board with a completed application, ***Exhibit #1***, for licensure as a Respiratory Care practitioner.

On September 22, 2014 the Board received a letter of reference, ***Exhibit #2***, from Beth Brooks, RN. The letter was not accepted because it was not dated.

On August 4, 2014 Mr. Scharold provided the Board with a letter of reference from Caryl Debishire, BSN/EMP-P, ***Exhibit #3***. The letter was not accepted because it did not contain the address and phone number of the writer, the writer's license number, and the State the writer was licensed in.

On August 18, 2014 Mr. Scharold provided the Board with a second letter of reference, ***Exhibit #4***, from Beth Brooks, RN. The letter was not accepted because it was not dated and the letter only provided the first name, Dave, of the person the letter of reference was being written for.

On August 18, 2014 Mr. Scharold provided the Board with a letter of reference from Todd Perkins, RCP, **Exhibit #5**. The letter was not accepted because it only providing the first name of the individual the letter was written for, "Dave".

On September 22, 2014 Mr. Scharold submitted a second letter of reference from Todd Perkins, RRT, **Exhibit # 6**. This letter was not accepted because it did not contain the date the letter was written.

On October 6, 2014 Mr. Scharold provided the Board with a third letter of reference from Beth Brooks, RN, **Exhibit #7**. This letter of reference contained all the elements described in Resp 302.05.

On October 6, 2014 Mr. Scharold provided the Board with a letter of reference from Todd Perkins, RCP, **Exhibit #8**. This letter of reference contained all the elements described in Resp 302.05.

The Board receive an additional letter of reference from Todd Perkins, RRT which was not date stamped by the Board's staff, **Exhibit #9**. This letter was not accepted because it did not contain the address and phone number of the writer, the writer's license number, the state the writer was licensed in, and only referred to the person who the letter was referring to as "Dave".

The Board reviewed Mr. Scharold's application for licensure and supporting documents at their meeting held October 9, 2014. At that time the Board noted that it appeared that the signatures of Beth Brooks were different on each of the letters submitted. The Board instructed their Administrator, Tina M. Kelley ("Ms. Kelley"), to send Ms. Brooks a letter requesting she provide confirmation that the signatures on all letters submitted were actually hers.

On October 9, 2014 the Board's Administrator, Ms. Kelley, sent Ms. Brooks a letter requesting she provide written statement that she did or did not sign the letters, **Exhibit #10**. The information was due in the Board's office no later than October 24, 2014.

Ms. Brooks did not respond to the Board's letter dated October 9, 2014.

On November 6, 2014 the Board held their regularly scheduled Board meeting. During the non-public portion of the meeting the Board was provided with the information that Ms. Brooks had not responded to the letter sent October 9, 2014. The Board instructed their Administrator to call Ms. Brooks to confirm that she had received the letter and try to obtain the information verbally. The Board further instructed their Administrator to call Todd Perkins to confirm that he signed the letters submitted bearing his name.

On November 6, 2014 Ms. Kelley called both Ms. Brooks and Mr. Perkins and left messages on their respective voice mails. The message provided the Board's office phone number and requested a telephone call from each. Neither Ms. Brooks nor Mr. Perkins ever returned the telephone call.

On December 3, 2014 Ms. Kelley sent Mr. Scharold a letter requesting that he contact both Ms. Brooks and Mr. Perkins and request that they call the Board's office so that the information could be obtained, *Exhibit #11*. Mr. Scharold never responded to the Board's letter nor did either Ms. Brooks or Mr. Perkins ever call the Board's office.

Relevant Law:

RSA 328-F:23, II, (a):

"Knowingly or negligently providing inaccurate material information to the board or failing to provide complete and truthful material information upon inquiry by the board, including during the process of applying for license, license renewal, and license reinstatement."

RSA 328-F:23, II., (c)

"Violation of the ethical standards adopted by the governing board."

RSA 328-F:23, II., (j)

"Violation of any provision of this chapter, of any governing board's practice act or rule adopted pursuant to RSA 541-A, or of any state or federal law reasonably related to the licensee's authority to practice or ability to practice safely."

RSA 326-E:3, I:

"An applicant for an initial license to practice respiratory care shall be of good professional character and shall:"

Resp 405.01 (a):

"(a) Knowingly or negligently providing inaccurate material information to the board or failing to provide complete and truthful material information upon inquiry by the board, including during the process of applying for license, license renewal, and license reinstatement."

Resp 405.01 (c)

"(c) Violation of the ethical standards adopted by the board;"

Resp 405.01 (j):

“Violation of:

- (1) Any provision of RSA 328-F;
- (2) Any provision of RSA 326-E;
- (3) Any rule adopted by the board; or
- (4) Any state or federal law reasonably related to the licensee’s authority to practice or the licensee’s ability to practice safely.”

AARC Statement of Ethics and Professional Conduct:

“Refuse to participate in illegal or unethical acts.”

Findings of Fact and Rulings of Law:

- Mr. Scharold applied for licensure with the New Hampshire Respiratory Care Practitioners Governing Board by submitting a completed application for licensure on July 10, 2014.
- Mr. Scharold submitted for the Board’s review 3 letters of reference all appearing to contain the signature of Beth Brooks, RN.
- Mr. Scharold submitted for the Board’s review 4 letters of reference all appearing to contain the signature of Todd Perkins, RCP or RRT.
- The Board’s staff was unable to contact Beth Brooks, RN and Todd Perkins, RCP.
- Mr. Scharold did not respond to the letter dated December 3, 2014.
- Mr. Scharold knowingly or negligently provided inaccurate material information to the Board by submitting letters of reference from individuals who could not be contacted for additional information in violation of RSA 328-F:23, II, (a), RSA 328-F:23, II (c), RSA 328-F:23, II., (j), Resp 405.01(a), Resp 405.01(c), Resp 405.01(j), AARC Statement of Ethics and Professional Conduct, and not being of good professional character as required by RSA 326-E:3, I.

Conclusion:

For the reasons stated above, and in light of RSA 328-F:23, V, the Petitioner's application for licensure is **DENIED**.

THEREFORE IT IS ORDERED this Order on Application Denial ("Order") will become a 'final order' within fifteen (15) days of the effective date of this Order, as defined further below, unless prior to 4:00 p.m. on the fifteenth day of the effective date of this Order, unless the Board receives a written request for a hearing; and

IT IS FURTHER ORDERED that receipt of a timely filed hearing request shall automatically stay this Order and a further order shall be issued in due course in which the Board establishes a date and time of the hearing, and specifies the issues to be heard; and

IT IS FURTHER ORDERED that any hearing held in response to this Order shall be a non-adjudicatory hearing conducted pursuant to RSA chapter 326-F; RSA chapter 328-F and RSA chapter 541-A. The Petitioner may request to be heard on any relevant matter of law or fact, but evidentiary proceedings shall be conducted only to the extent the Petitioner has identified disputed factual issues which require resolution. This non-adjudicatory hearing will be conducted in non-public session unless the Petitioner makes a timely written request to conduct it in public session. Subsequent to such hearing, the Board will issue a 'final order' within the statutory amount of time; and

IT IS FURTHER ORDERED that once a Board order is a 'final order' in accordance with either of the circumstances outlined above, such order shall become a public document and the petitioner has thirty (30) days to file a request for reconsideration pursuant to RSA 541:3. Such motion shall comply with RSA 541:4.

IT IS FURTHER ORDERED that this order shall take effect as an Order of the Board on the date it is signed by an authorized representative of the New Hampshire Governing Board of Respiratory Care Practitioners.

BY ORDER OF THE BOARD

Date: January 15, 2015


Richard W. Mozier, RCP
Authorized Representative of the
Respiratory Care Practitioners Governing Board