

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

In the Matter of:  
Randall D. Buckley, RCP  
(Application for Initial Licensure)

**ORDER ON APPLICATION DENIAL**

The New Hampshire Governing Board of Respiratory Care Practitioners (“Board”) received an application on February 3, 2009 from Mr. Randall D. Buckley, RCP (“Mr. Buckley” or “Petitioner”) for initial licensure to practice respiratory care in the State of New Hampshire. For the following reasons, the Board has voted to **DENY** the Petitioner’s request for licensure.

**Background**

Upon its initial review of the Petitioner’s application, the Board noted Mr. Buckley’s response to the following two questions. For the question:

Whether the applicant has ever been the subject of any disciplinary action by any professional licensing authority?

The Petitioner visibly changed his answer from “Yes” to “No.” For the question:

Whether the applicant has ever surrendered a license or other authorization to practice in order to avoid or settle disciplinary charges?

The Petitioner answered, “Yes.”

In a letter dated February 3, 2009, Mr. Buckley provided a written explanation to this Board of his “Yes” response. In the letter, he stated that in June 2008 he had been asked to surrender his Massachusetts respiratory care practitioner’s license after he had been found guilty of practicing without a valid license.

Petitioner provided this Board with a Letter of Verification from the Massachusetts Board of Respiratory Care. The Letter of Verification supported the fact that Mr. Buckley has voluntarily surrendered his license in a Voluntary Surrender Agreement with the Massachusetts Board. The Letter of Verification also stated that Mr. Buckley had engaged in unlicensed practice as a respiratory therapist from May 31, 1996 through May 8, 2008. It stated that Mr.

Buckley had altered his expired license, or other professional license, so that it appeared that he held a current respiratory therapist license.

The Massachusetts Board of Respiratory Care included with the Letter of Verification a copy of the Voluntary Surrender Agreement dated June 23, 2008. The Voluntary Surrender Agreement further stated that Mr. Buckley

acknowledges that the check that he submitted to the Board on or about June 9, 1994, in payment for the renewal of his Respiratory Therapist License for June 1, 1994 - May 31, 1996 renewal period was returned to the Board for insufficient funds ("bounced") on or about June 21, 1994, and that the licensee has not at any subsequent time resubmitted a license renewal fee to the Board for the stated license renewal period.

The Petitioner did not provide an explanation of this violation in his letter of explanation to this Board.

**Relevant Law:**

RSA 326-E:3:

- I. An applicant for an initial licensure to practice respiratory care shall be of good professional character....
- III. An applicant for initial licensure shall be required to certify under oath that the applicant is not under investigation by any professional licensing board and that the applicant's credentials have not been suspended or revoked by any professional licensing board.

RSA 328-F:23:

- II. Misconduct sufficient to support disciplinary proceedings shall include:
  - 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 a license....
  - g. Disciplinary action by a regulatory authority in another domestic or foreign jurisdiction.
  - h. (Practice without a currently valid license).

Resp 302.02:

- (i) On part 2 of the application form the applicant shall indicate by using the "yes" and "no" columns provided: ...
  - (2) Whether the applicant has ever been the subject of any disciplinary action by any professional licensing authority;
  - (3) Whether the applicant has ever been denied a license or other authorization to practice in any state or jurisdiction;
  - (4) Whether the applicant has ever surrendered a license or other authorization to practice issued by any state or jurisdiction in order to avoid or settle disciplinary charges. ...

Resp 302.03:

The effect of the applicant's notarized signature on part 2 of the form shall be:

- (a) The applicant's acknowledgement that knowingly making a false statement on the application form is a misdemeanor under RSA 641:2, I;
- (b) The applicant's certification that:
  - (1) The information provided on all of the parts of the application form and in the documents personally submitted to support the application is complete and accurate to the best of the applicant's knowledge and belief; and
  - (2) The applicant has read the statutes and administrative rules of the board; and
- (c) The applicant's promise to abide by the statutes and administrative rules of the board.

Resp 405.01

Pursuant to RSA 328-F:23, II, misconduct shall be:

- (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 a license, license renewal, or license reinstatement; ...
- (c) Violation of the ethical standards adopted by the board;
- (g) Disciplinary action by a regulatory authority in another domestic or foreign jurisdiction;
- (i) (Practice without a currently valid license; and)
- (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.

Findings of Fact and Rulings of Law:

- The Petitioner changed his answer from "Yes" to "No" on his application on the first question described above. This is a violation of RSA 326-E:3, III; RSA 328-F:23, II (a); Resp 302.03(a), (b) and (c); and Resp 405.01(a).
- The Petitioner's professional licensing credentials have been suspended in Massachusetts. This is a violation of RSA 326-E:3, III; RSA 328-F:23, II (g); Resp 302.02(i)(2) and (4); Resp 405.01(g); and Resp 405.01(j).
- The Petitioner practiced in another state for 12 years without a valid license. This is in violation of RSA 326-E:3, I . While this is not a violation of RSA 328-F:23, II(h) and Resp 405.01(i) because the practice occurred in another state, these statutes are

significant that practicing without a valid licenses is indicia of an applicant not being of good professional character.

- The Petitioner forged the required documents to reflect current licensure of the Massachusetts regulatory board over a twelve (12) year period. Resp 405.01(c). This is indicative that the Petitioner has no respect for the authority of the regulatory agency that is responsible for the regulation of his profession and is authorized by the state legislature to protect the safety, health and welfare of the public. The Petitioner has not offered any indication that his attitude and/or conduct before this Board would be different. See RSA 328-F:1.
- The Petitioner “bounced” his check to the Massachusetts licensing Board in 1994. He apparently failed to ‘make good’ on the check for over a decade and only addressed the issue when the Massachusetts Board initiated an adjudicatory proceeding against him for the unlicensed practice and the forged license. Mr. Buckley did not provide an explanation (of his bounced check or his failure to resubmit a licensed renewal fee to the Massachusetts Board) to this Board. See generally RSA 328-F:23, II(a); Resp 302.02; Resp 405.01(a) and (c). The Petitioner’s acts are indicia of the applicant not being of good professional character. Moreover, they are indicia that the Petitioner has no respect for the Massachusetts regulatory agency that is responsible for the regulation of his profession and is authorized by the state legislature to protect the safety, health and welfare of the public. The Petitioner has not offered any indication that his attitude or conduct before this Board would be different. See RSA 328-F:1.

**Conclusion:**

For the reasons stated above, 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 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-E; 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 issues a ‘final order’ within the statutory amount of time; and

IT IS FURTHER ORDERED that by analogy to RSA 318:31, V, a 'final order' is a public document; and

IT IS FURTHER ORDERED that once a Board order is a 'final order' in accordance with either of the circumstances outlines above, 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

May 14, 2009

  
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Tina M. Kelley  
Authorized Representative of the Board