

Before the  
N.H. Governing Board of Respiratory Care Practitioners  
Concord, NH

In the Matter of:

Diane Raheb, R.C.P.  
(Application for Reinstatement)

Docket #98-01

Decision and Order

By: James R. Daley, R.C.P., *Chair*, Thomas Akey, M.D., and Mark E. Favorite, R.C.P., *Board Members*. Carl J. Rod, R.C.P., not participating.

Appearances: Carl J. Rod, R.C.P., *as Hearing Counsel*  
Robert I. Morgan, Esq. *Counsel for the Applicant*

On February 3, 1998 Diane Raheb, R.C.P. (the "Applicant" or "Ms. Raheb") submitted an application for reinstatement of her license to practice respiratory care in New Hampshire to the N. H. Governing Board of Respiratory Care Practitioners (the "Board"). On April 14, 1998, the Board conditionally denied that license application subject to the Applicant's right to request a hearing. The Applicant requested that hearing on May 15, 1998 and this adjudicatory proceeding was commenced on June 12, 1998 when the Board issued a "Notice of Hearing".

The Notice of Hearing alleged that Ms. Raheb had engaged in dishonest or unprofessional conduct pursuant to RSA 328-F:23, IV (d) by submitting fraudulent license credentials to Valley Regional Hospital and knowingly practiced without a valid license between January 1, 1998 until February 17, 1998.

A hearing was held on July 8, 1998 at which the Applicant appeared with legal counsel and provided testimony.

### Findings of Fact

The Applicant was first licensed in New Hampshire on December 4, 1991, and remained licensed until December 31, 1995, the date on which the license automatically expired for failing to file a timely renewal application.

The Applicant's license was reinstated on June 7, 1995 and she was licensed until December 31, 1997 when the license again automatically expired when she failed to file a timely renewal application.

Between November, 1994 and February, 1998 she was employed at Valley Regional Hospital in Claremont, New Hampshire as a respiratory therapist.

The Applicant's license expired on December 31, 1997 because she had failed to file a timely renewal application.

The Applicant was on vacation until approximately January 8, 1998. When she returned to work, on or about January 8<sup>th</sup>, the Applicant's direct supervisor at Valley Regional Hospital requested that she submit a copy of her 1998 license.

Later that day, she provided the supervisor with the document marked as exhibit A--a photocopy of a previous license which was altered to look like a 1998 license.

Upon receipt of this she was allowed to return to work.

On February 2, 1998, Ms. Raheb contacted the Board's office to determine the status of her license and was informed that her license was lapsed and that she would be required to make application for reinstatement of her license.

On February 3, 1998 the Applicant submitted a reinstatement application with the Board.

Sometime in the middle of February, 1998, Valley Regional Hospital contacted the Board to inquire as to why Ms. Raheb's name was included on a list of persons without a valid license and were informed that the Board had no record that a renewal application had been filed and that the license had lapsed on December 31, 1998.

On February 26, 1998 the Hospital suspended her from employment because she did not appear to have a 1998 license.

Ms. Raheb practiced respiratory care at Valley Regional Hospital from approximately January 8, 1998 until February 26 without a license.

Ms. Raheb acknowledged that from at least February 2, 1998 she knew she could not lawfully practice respiratory care but she continued to do so.

The Board has not previously taken any disciplinary action against the Applicant.

#### Discussion and Conclusions

RSA 328-F:23, IV (d) provides that the Board may take disciplinary action against a license who has engaged in "dishonest or unprofessional conduct". Any misconduct which would be grounds for disciplinary action under this section would similarly constitute grounds for denying a license application based on failure to prove the necessary character qualifications for licensure in New Hampshire.

The Applicant testified that she did not prepare that altered "1998 license" which she gave to Valley Regional Hospital on January 8, 1998 and that some person, or persons, unknown had supplied her with that document and fooled her into believing that it was a valid license. This testimony is not credible. The Applicant knew she had not received a valid license and that she initiated contact with the Board on February 2, 1998 to find out why she had not received her license.

Regardless of whether she created the fraudulent document, the Applicant clearly submitted a document to Valley Regional Hospital that she knew to be false and continued to practice knowing she did not have a valid license.

Accordingly, Ms. Raheb committed dishonest or unprofessional conduct within the meaning of RSA 328-F:23, IV (d) both by submitting the fraudulent document to Valley Regional Hospital and by practicing under the purported authority of that document. Willfully practicing without the license required by RSA 328-F:27, II also violates RSA 328-F:23, IV (h).

Yet, the licensee continued to practice respiratory care without being licensed from approximately January 8, 1998 until February 26, 1998. This was acknowledged by the Applicant. This failure to observe one of the basic tenets of professional responsibility represents a significant lapse in professional character by the Applicant and a violation of RSA 328-F:23, IV (h).

Despite the seriousness of the misconduct, the Board has determined to grant the reinstatement application subject to certain conditions. These conditions are:

- 1) The new license shall take effect on October 1, 1998.
- 2) That prior to October 1, 1998, the applicant shall pay a fine of \$500.00 representing a penalty for practicing respiratory care from January 8, 1998 to February 26, 1998.
- 3) That the Applicant shall complete twenty (20) hours of continuing education in professional ethics and responsibilities on or before April 1, 1999. Such continuing education shall be in addition to the continuing education hours required for annual renewal and shall be reported separately to the Board immediately upon completion; and
- 4) Commencing on October 1, 1998 the license shall be suspended for one year with the suspension stayed in its entirety if the Applicant complies with the license restrictions stated above and with all rules and statutes administered by the Board. Any violation of license restrictions rules or statutes shall, after notice and

an opportunity to be heard, result in the immediate imposition of a full one year suspension in addition to any other sanction which may be imposed for the underlying offense.

THEREFORE IT IS ORDERED, That the reinstatement application of Diane Raheb, R.C.P. is granted subject to the terms and conditions stated above.

BY ORDER OF THE BOARD

  
Karen W. Lamoureux  
Administrator

DATE: 9/14/98