

shall remain in force and effect unless or until such time as the Administrative Hearing Commission issues an Order to the contrary.

I.

Based upon the foregoing, the Board hereby states:

FINDINGS OF FACT

1. The Board is an agency of the state of Missouri created and established pursuant to § 334.830, RSMo, for the purpose of licensing all persons engaged in the practice of respiratory care in this state. The Board has control and supervision of the licensed occupations and enforcement of the terms and provisions of Sections 334.800 to 334.930, RSMo.

2. Melanie J. Browne currently resides at 1910 N. 73rd Terrace, #7, Kansas City, Kansas 66112.

3. On or about November 5, 2012, Browne completed an application form for a respiratory care educational license.

4. On her application, Browne answered “yes” to the following questions:

- a. Have you ever been convicted, adjudged guilty by a court, pled guilty or pled nolo contendere to any crime whether or not sentence was imposed, or are such actions currently pending (excluding traffic violations)?; and
- b. Are you now being treated, or have you been treated within the past five years, through a drug or alcohol rehabilitation program? If yes, explain fully in a separate notarized statement and attach verification of chemical or alcohol dependency treatment.

5. With her application, Browne included the following signed and notarized statement:

I Melanie J. Browne pled guilty to DUI in August 2011. I also had to attend and successfully complete the SATOP program (alcohol classes).

6. Browne's fingerprint results and documentation reveal the following criminal history: On or about April 3, 2012, Browne pled guilty to the class B misdemeanor of driving while intoxicated in the Circuit Court of Jackson County, Missouri, case number 1116-CR03938 as a result of an August 2011 arrest. The Court sentenced Browne to 90 days in jail but suspended the execution of sentence and placed Browne on two years supervised probation. Browne's probation is scheduled to end April 3, 2014.

II.

CONCLUSIONS OF LAW

7. The Board has authority to deny or refuse a license application pursuant to § 334.920.1, RSMo, which provides:

The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to sections 334.800 to 334.930 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

8. The Board has cause to deny or refuse Browne's application for a respiratory care practitioner license pursuant to § 334.920.2 RSMo, which provides:

The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit or license required by sections 334.800 to 334.930 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

...

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a respiratory care practitioner, for any offense an essential element is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed[.]

9. As a result of Browne pleading guilty to the class B misdemeanor of driving while intoxicated, the Board has cause to deny or refuse Browne's application for a respiratory care practitioner license pursuant to § 334.920.1, RSMo, and § 334.920.2(2), RSMo.

10. As an alternative to refusing to issue a license, the Board may, at its discretion, issue a license subject to probation, pursuant to § 324.038.1, RSMo, which provides:

Whenever a board within or assigned to the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of a license, the board, as an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

11. The Board issues this Order in lieu of denial of Browne's application for a respiratory care practitioner license. The Board has determined that this Order is necessary to ensure the protection of the public.

III.

ORDER

Based on the foregoing, Melanie J. Browne is granted a respiratory care practitioner license, which is hereby placed on **PROBATION to run concurrently with her probation ordered by the Circuit Court of Jackson County, Missouri, case number 1116-CR03938,** subject to the terms and conditions set forth below.

IV.

TERMS AND CONDITIONS

During the aforementioned probation, Browne shall be entitled to present herself and serve as a licensed respiratory care practitioner subject to the following terms and conditions:

- A. During the disciplinary period, Browne shall comply with all terms and conditions of her criminal probation ordered by the Circuit Court of Jackson County, Missouri in case number 1116-CR03938.
- B. During the disciplinary period, Browne shall keep the Board informed of her current work and home telephone numbers. Browne shall notify the Board in writing within ten days (10) of any change in this information.
- C. During the probationary period, Browne shall timely renew her license granted hereby and shall timely pay all fees required for licensure and comply with all other Board requirements necessary to maintain said license in a current and active state.
- D. During the probationary period, Browne shall accept and comply with unannounced visits from the Board's representatives to monitor compliance with the terms and conditions of this Order.
- E. During the disciplinary period, Browne shall appear in person for interviews with the Board or its designee upon request.
- F. Browne shall cause an employment evaluation form from each and every respiratory care employer of hers to be submitted to the board within six weeks of the effective date of this order. Thereafter, employment evaluation forms will be due, in the Board's office, on the 1st days of February, May, August and November of every year that this order is in force. The evaluation form shall be completed by Browne's supervisor within a four week period prior to the date it is due. If Browne ends employment with a healthcare employer, she shall, in addition, cause a final evaluation form from that supervisor to be submitted to the board within six weeks following the last day of employment.
- G. The evaluation shall be sent by the supervisor to:

Missouri Board for Respiratory Care
P.O. Box 1335
Jefferson City, Missouri 65102.

- H. Browne shall submit written reports to the Board on or before January 1 and July 1 during each year of the probationary period stating truthfully whether there has been compliance with all terms and conditions of this Order. The first such report shall be received by the Board on or before July 1, 2013.

- I. Browne shall execute any release or provide any other authorization necessary for the Board to obtain records of her employment during the terms of the license.
- J. Browne shall comply with all provisions of §§ 334.800-.930 RSMo; all federal and state drug laws, rules, and regulations; and all federal and state criminal laws. "State" here includes the state of Missouri, all other states and territories of the United States, and the ordinances of political subdivisions of any state or territory. Browne shall immediately report any violation of this provision to the board in writing. Browne shall also immediately report any allegation that he has violated this provision to the Board, in writing. Examples of allegations of such a violation include, but are not limited to, any arrest, summons, inquiry by any law enforcement official into these topics, or inquiry into these topics by a health oversight agency. Browne shall sign releases or other documents authorizing and requesting the holder of any closed record related to this paragraph to release such records to the Board.
- K. Browne shall provide all current and future employers in the healthcare field a copy of this Order within five (5) business days of the effective date or the beginning date of each employment, whichever is earlier. Browne shall cause each employer to send written acknowledgment of receipt of a copy of this Order directly to the Board addressed as follows:

Missouri Board for Respiratory Care
P.O. Box 1335
Jefferson City, Missouri 65102
- L. Browne shall immediately submit documents showing compliance with the requirements of this Order to the Board when requested.
- M. No Order shall be entered by the Board pursuant to the preceding paragraph of this Order without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.
- N. If, at any time during the probationary period, Browne changes her address from the state of Missouri, or ceases to maintain her respiratory care practitioner license current or active under the provisions of Chapter 324, RSMo (as amended), or fails to keep the Board advised of all current places of residence, the time of such absence, unlicensed or inactive status, or unknown whereabouts shall not be deemed or taken to satisfy any part of the probationary period.
- O. The Board retains jurisdiction to hold a hearing at any time to determine if a violation of this Order has occurred and, if a violation of this Order has occurred, may seek to amend this Order or impose further disciplinary or appropriate action at the discretion of the Board. No order shall be entered by the Board pursuant to this paragraph without any required notice and opportunity for a hearing before the Board as provided by Chapter 536, RSMo (as amended).

- P. Unless otherwise specified by the Board, all reports, documentation, notices, or other materials required to be submitted to the Board shall be forwarded to: Missouri State Board for Respiratory Care, P.O. Box 1335, Jefferson City, Missouri 65102.
- Q. Any failure by Browne to comply with any condition of discipline set forth herein constitutes a violation of this Order.

This Order does not bind the Board or restrict the remedies available to it concerning any violation by Respondent of the terms and conditions of this Order, Chapter 334, RSMo, or the regulations promulgated thereunder.

The Board will maintain this Order as an open, public record of the Board as provided in Chapters 324, 334 and 610, RSMo.

SO ORDERED, EFFECTIVE THIS 17th DAY OF DECEMBER, 2012.

MISSOURI STATE BOARD FOR RESPIRATORY CARE



Vanessa Beauchamp, Executive Director