

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

JUL 22 2015

ADMINISTRATIVE HEARING
COMMISSION

MISSOURI BOARD FOR)
RESPIRATORY CARE,)
3605 Missouri Blvd.)
P.O. Box 1335)
Jefferson City, MO 65102-1335,)

Petitioner,)

v.)

TAMIKA JOHNSON)
11630 Carolview Drive)
Florissant, MO 63033)

Respondent.)

Case No. _____

COMPLAINT

Petitioner, the Missouri Board for Respiratory Care, by and through the Missouri Attorney General's Office, states for its cause of action against Respondent, Tamika Johnson ("Johnson"), as follows:

1. The Missouri Board for Respiratory Care (the "Board") was established pursuant to § 334.830, RSMo 2000,¹ for the purpose of executing and enforcing the provisions of §§ 334.800 through 334.930, RSMo, as amended.

2. Johnson is a respiratory care practitioner licensed by the Missouri Board for Respiratory Care, license no. 2000168934. At all relevant times

¹ All statutory references are to the 2000 Revised Statutes of Missouri unless otherwise noted.

herein, Johnson was licensed, and is currently licensed, as a respiratory care practitioner.

3. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045 and 334.920, RSMo.

4. Johnson's license was suspended on December 19, 2012 due to noncompliance issues with the Missouri Department of Revenue regarding state taxation, in violation of Section 324.010, RSMo, Supp. 2004. On February 15, 2013, Johnson received notice from the Department of Revenue stating she was compliant with Section 324.010, RSMo, Supp. 2004.

5. Johnson continued to work as a respiratory care practitioner from December 2012 to February 2013 during her suspension.

6. Johnson's license was once again suspended on December 27, 2014 due to noncompliance issues with the Missouri Department of Revenue regarding state taxation, in violation of Section 324.010, RSMo, Supp. 2004. Johnson's license remains in suspended status presently.

7. Section 324.010, RSMo, Supp. 2004, states:

All governmental entities issuing professional licenses, certificates, registrations, or permits pursuant to sections 209.319 to 209.339, sections 214.270 to 214.516, sections 256.010 to 256.453, section 375.014, sections 436.005 to 436.071, and chapter 317 and chapters 324 to 346 shall provide the director of revenue with the name and Social Security number of each applicant for licensure with or licensee of such

entities within one month of the date the application is filed or at least one month prior to the anticipated renewal of a licensee's license. If such licensee is delinquent on any state taxes or has failed to file state income tax returns in the last three years, the director shall then send notice to each such entity and licensee. In the case of such delinquency or failure to file, the licensee's license shall be suspended within ninety days after notice of such delinquency or failure to file, unless the director of revenue verifies that such delinquency or failure has been remedied or arrangements have been made to achieve such remedy. The director of revenue shall, within ten business days of notification to the governmental entity issuing the professional license that the delinquency has been remedied or arrangements have been made to remedy such delinquency, send written notification to the licensee that the delinquency has been remedied. Tax liability paid in protest or reasonably founded disputes with such liability shall be considered paid for the purposes of this section.

8. Section 334.920, RSMo, Supp. 1999, states, in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, 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:

.....

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions and duties of a respiratory care practitioner;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 334.800 to 334.930 or any lawful rule or regulation adopted pursuant to sections 334.800 to 334.930;

.....

(12) Violation of any professional trust or confidence[.]

9. Section 334.820, RSMo, states, in pertinent part:

1. No person in the state of Missouri, unless such person holds a current and valid license issued pursuant to sections 334.800 to 334.930, shall:

(1) Provide the services of a respiratory care practitioner, unless such person is otherwise exempt pursuant to section 334.900; and

(2) Represent himself or herself as, or hold himself or herself out, to the public by any title or description including the words, respiratory therapist, respiratory therapy technician, or inhalation therapist, or as having any similar description; and

(3) Advertise as, or take any action that would imply or lead the public to believe that such person is, a legitimate provider of respiratory care.

10. Based on the conduct described above, grounds exist for the Board to discipline Johnson's respiratory care practitioner license pursuant to § 334.920(5) and (12), RSMo, Supp. 1999.

11. Based on Johnson's violation of Section 334.820, RSMo, grounds exist for the Board to discipline Johnson's respiratory care practitioner license pursuant to § 334.920(6), RSMo, Supp. 1999.

WHEREFORE, Petitioner requests that the Administrative Hearing Commission conduct a hearing in this case pursuant to § 621.015, RSMo, and issue its Findings of Fact, Conclusions of Law, and decision determining that Respondent's respiratory care practitioner license is subject to disciplinary action under § 334.920, RSMo, by Petitioner, Missouri Board for Respiratory Care, for violations of Chapter 334, RSMo, and for such other relief as the Commission deems appropriate.

Respectfully submitted,

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MISSOURI STATE BOARD FOR RESPIRATORY CARE

MISSOURI STATE BOARD FOR)	
RESPIRATORY CARE,)	
)	
Petitioner,)	
v.)	Case No. 15-1168 RC
)	
TAMIKA JOHNSON,)	
)	
Respondent.)	

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DISCIPLINARY ORDER**

I.

Statement of the Case

On or about October 2, 2015, the Administrative Hearing Commission entered its Default Decision in the case of *State Board for Respiratory Care v. Tamika Johnson*, Case No. 15-1168RC. The Administrative Hearing Commission certified the records of its proceedings and its Default Decision in *State Board for Respiratory Care v. Tamika Johnson*, Case No. 15-1168RC, to the Missouri State Board for Respiratory Care (the "Board") on approximately November 3, 2015. In its Default Decision, the Administrative Hearing Commission found that Respondent Johnson's respiratory care practitioner license (license number 200168934) is subject to disciplinary action by the Board pursuant to § 334.920.2(5), (6) and (12) RSMo.¹

The Board has received and reviewed the record of the proceedings before the Administrative Hearing Commission, including the properly pled complaint filed before the

¹ All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

Administrative Hearing Commission on October 15, 2013 and the Default Decision of the Administrative Hearing Commission. The record of the Administrative Hearing Commission, including the properly pled complaint and Default Decision, is incorporated herein by reference in its entirety.

Pursuant to notice and § 621.110 and § 334.920.3, RSMo, the Board scheduled a hearing to be held on December 3, 2015, at approximately 11:15 a.m. at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining the appropriate disciplinary action against Johnson's license. The Board was represented by Assistant Attorney General Daryl Hylton. Johnson was present for the hearing and was not represented by counsel. After being present and considering all of the evidence presented during the hearing, the Board issues the following Findings of Facts, Conclusions of Law and Order.

II.

Findings of Fact

1. Johnson holds a license to practice respiratory care from the Board. Johnson's license is current and active, but was not so at all times relevant to the facts relied upon in this Order.

2. The Board hereby adopts and incorporates herein the properly pled complaint and Default Decision of the Administrative Hearing Commission in *State Board for Respiratory Care v. Tamika Johnson*, Case No. 15-1168RC, in its entirety. In that Default Decision, the Administrative Hearing Commission determined that the Board filed a properly pled complaint before the Administrative Hearing Commission on or about July

22, 2015, that Johnson was properly served with the complaint and that Johnson never filed an answer or otherwise responded to the complaint.

3. In its October 2, 2015, Default Decision the Administrative Hearing Commission found the Board has grounds to discipline Johnson's license pursuant to § 334.920.2(5), (6) and (12) RSMo as established in the properly pled complaint, as a result of Johnson's licensure suspensions of December 19, 2012 and December 27, 2014, due to non-compliance issues with the Missouri Department of Revenue and § 324.010, RSMo and her continued practice as a respiratory care practitioner during the times of her suspension.

4. The Board set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Johnson in a proper and timely fashion.

5. At hearing, Johnson acknowledged her continued practice, denying she was aware of the suspension..

III.

Conclusions of Law

6. The Board has jurisdiction over this proceeding pursuant to § 621.110 and § 334.920.3, RSMo.

7. The Board expressly adopts and incorporates by reference the properly pled complaint and the Default Decision of the Administrative Hearing Commission in in *State Board for Respiratory Care v. Tamika Johnson*, Case No. 15-1168RC, finding cause to discipline Johnson's license pursuant to § 334.920.2(5), (6) and (12) RSMo.

8. As a result of the foregoing, and as identified in the Default Decision of the Administrative Hearing Commission, Johnson's license is subject to disciplinary action by the Board, pursuant to § 334.920.2(5), (6) and (12) RSMo

9. The Board has determined that this Order is necessary to ensure the protection of the public.

IV.

ORDER

10. Having fully considered all the evidence before the Board, and giving full weight to the Default Decision of the Administrative Hearing Commission, it is the **ORDER** of the Board that Respondent Tamika Johnson's respiratory care practitioner license (license number 200168934) shall immediately be placed on **PROBATION** for a period of one (1) year ("probationary period"), subject to the following terms and conditions.

IV.

TERMS AND CONDITIONS

During the aforementioned probation, Respondent shall be entitled to perform respiratory care practitioner services subject to the following terms and conditions:

- A. Licensee shall meet with the Board or its representatives at such times and places as required by the Board after notification of a required meeting.
- B. Licensee shall submit reports to the Missouri Board for Respiratory Care, P.O. Box 1335, Jefferson City, Missouri 65102, stating truthfully whether Licensee has complied with all the terms and conditions of this Settlement Agreement by no later than January 1 and July 1 during each year of the disciplinary period.
- C. Licensee shall keep the Board apprised of Licensee's current home and work addresses and telephone numbers. Licensee shall inform the Board within ten days of any change of home or work address and home or work telephone number.

- D. Licensee shall comply with all provisions of the Respiratory Care Practice Act, Sections 334.800 through 334.930, RSMo; all applicable federal and state drug laws, rules, and regulations; and all federal and state criminal laws. "State" here includes the state of Missouri and all other states and territories of the United States.
- E. During the disciplinary period, Licensee shall timely renew Licensee's license and timely pay all fees required for licensing and comply with all other board requirements necessary to maintain Licensee's license in a current and active state.
- F. If at any time during the disciplinary period, Licensee removes Licensee from the state of Missouri, ceases to be currently licensed under provisions of Sections 334.800 through 334.930, RSMo, or fails to advise the Board of Licensee's current place of business and residence, the time of Licensee's absence, unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed in accordance with § 334.920.3, RSMo.
- G. During the disciplinary period, Licensee shall accept and comply with unannounced visits from the Board's representatives to monitor Licensee's compliance with the terms and conditions of this Disciplinary Order.
- H. If Licensee fails to comply with the terms of this Disciplinary Order, in any respect, the Board may impose such additional or other discipline that it deems appropriate, (including imposition of the revocation).
- I. This Disciplinary Order does not bind the Board or restrict the remedies available to it concerning any other violation of Sections 334.800 through 334.930, RSMo, by Licensee not specifically mentioned in this document.

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

SO ORDERED, THIS 18th day of December, 2015.

**MISSOURI STATE BOARD FOR
RESPIRATORY CARE**


Vanessa Beauchamp,
Executive Director