

MISSOURI BOARD FOR RESPIRATORY CARE

MISSOURI BOARD FOR RESPIRATORY CARE,)	
)	
)	
v.)	Case No. 2013-001826PV
)	
DAVID WOFFORD,)	
)	
Respondent.)	

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

At its regularly scheduled meeting on December 2, 2013, and pursuant to proper notice, the Missouri Board for Respiratory Care took up the probation violation complaint alleging that David Wofford had failed to comply with the terms of his probation.

The board appeared through Assistant Attorney General Curtis Schube. Wofford appeared in person. Division of Professional Registration Legal Counsel Sarah Ledgerwood served as the Board’s legal advisor at the hearing, during deliberations, and in the preparation of this order.

Findings of Fact

1. The Missouri Board for Respiratory Care is an agency of the State of Missouri, created and established pursuant to § 334.830 RSMo,¹ for the purpose of executing and enforcing the provisions of §§ 334.800-.930 of the Revised Statutes of Missouri.

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

2. Wofford is licensed by the Board as a respiratory care therapist, license number 101470. Wofford's license is current and active and was at all time relevant herein. As described in paragraph 3 below, Wofford's license is currently on probation until April 2, 2015.

3. On or about March 18, 2013, Wofford and the Board entered into a Settlement Agreement placing Wofford's license on probation for a period of two years. The Settlement Agreement became effective fifteen days later, on or about April 2, 2013.

4. Section II, paragraph H of the Settlement Agreement states:

If Licensee fails to comply with the terms of this Settlement Agreement, in any respect, the Board may impose such additional or other discipline that it deems appropriate, (including imposition of the revocation).

5. Section III.C. of the Settlement Agreement requires Wofford to submit to the Board an employment evaluation form on the first days of February, May, August and November of every year that the Settlement Agreement is effective.

Wofford shall cause an employment evaluation for from each and every respiratory care employer of Licensee's to be submitted to the board within six weeks of the effective date of this order. That evaluation shall include information as to Licensee's orientation and training and overall competency in practicing respiratory care therapies. Thereafter, employment evaluation forms will be due, in the MBRC'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 Licensee's supervisor within a four week period prior to the date it is due. If Licensee ends employment with a healthcare employer, Licensee shall, in addition, cause a final evaluation form from that supervisor [] be submitted to the board within six weeks following the last day of employment.

6. Licensee did not timely provide the Board an employment evaluation for the month of August 2013 as required by the Settlement Agreement. On or about the morning of the probation violation hearing, December 2, 2013, Licensee provided employment evaluations dated August 2, 2013 and September 1, 2013.

7. Section II.B. of the Settlement Agreement required Wofford to submit written reports to the Board stating truthfully whether there has been compliance with all terms and conditions of the Settlement Agreement. Section II.B. required Licensee to submit the written reports on or before January 1 and July 1 during each year of the probationary period.

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.

8. Licensee failed to timely submit his July 1, 2013 compliance report to the Board in violation of Section II.B.

9. On or about July 22, 2013, the Board sent Wofford a reminder about the compliance report. The letter gave Wofford until August 1, 2013 to provide the report. The Board did not receive the report by August 1, 2013.

10. On or about the morning of the probation violation hearing, December 2, 2013, Licensee provided a compliance report dated August 2, 2013.

11. Wofford appeared at the December 2, 2013 probation violation hearing. Wofford apologized to the Board. Wofford testified that it was "purely my fault" in not timely providing the employer evaluation and compliance report.

Wofford stated it would not happen again. Wofford also provided the Board with his plan of action to remain current with the terms of his probation.

12. Wofford's conduct violated the terms and conditions of his probation, as described in paragraphs 3 through 11 above, in that Wofford failed to timely provide the Board an employer evaluation and compliance report as required by the Settlement Agreement.

Conclusions of Law

13. The Board has jurisdiction in this proceeding, pursuant to the Settlement Agreement, Section II, paragraph H, and § 324.042 RSMo, to determine whether Wofford has violated the terms and conditions of the Settlement Agreement.

14. Section 324.042, RSMo, states:

Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline any discipline it would be authorized to impose in an initial disciplinary hearing.

15. Wofford violated the terms of discipline set forth in the Settlement Agreement, as described in the Findings of Fact of this Order by failing to comply with the requirements contained in Section II.B. and II.C. of the Settlement Agreement in that Wofford failed to timely file an employer evaluation and compliance report.

16. The Settlement Agreement and § 324.042 RSMo, allow the Board to take such disciplinary action that the Board deems appropriate for failure to comply with the terms of the Settlement Agreement.

Decision and Order

17. It is the decision of the Missouri Board for Respiratory Care that Wofford has violated the terms of the Settlement, and that his license is, therefore, subject to further disciplinary action.

The Missouri Board for Respiratory Care orders that the respiratory care practitioner license of David Wofford, number 101470, be and is hereby placed on **TWO (2) additional years of probation** to end April 2, 2017. This probation shall be subject to the following terms and conditions:

I. GENERAL REQUIREMENTS

- 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, 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 Settlement Agreement.
- H. If Licensee fails to comply with the terms of this Settlement Agreement, in any respect, the Board may impose such additional or other discipline that it deems appropriate, (including imposition of the revocation).
- I. This Settlement Agreement 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.

II. ADDITIONAL REQUIREMENTS

- A. Licensee shall not allow Licensee's license to lapse.
- B. Licensee shall notify, within 15 days of the effective date of this Settlement Agreement, all hospitals, nursing homes, out-patient centers, surgical centers, clinics, and all other facilities where Licensee practices or has privileges of Licensee's disciplinary status. Notification shall be in writing and Licensee shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Board for verification by the Board or its designated representative.
- C. Licensee shall cause employment evaluation forms from each and every respiratory care employer of Licensee's to be submitted to the board within six weeks of the effective date of this order. That evaluation shall include information as to Licensee's orientation and training and overall competency in practicing respiratory care therapies. 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 both:**
 - 1. Licensee's clinical supervisor at the location where Licensee practiced a majority of time during the relevant quarter and shall be completed within a four week period prior to the date it is due; and
 - 2. Licensee's employer, the staffing company by whom Licensee is employed, within a four week period prior to the date it is due.

If Licensee ends employment with a healthcare employer, Licensee 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.

D. The evaluation shall be sent by each supervisor to:

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

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

Entered this 4th day of December, 2013.

MISSOURI BOARD FOR RESPIRATORY CARE


Vanessa Béauchamp
Executive Director