



BEFORE THE NORTH CAROLINA RESPIRATORY CARE BOARD

IN THE MATTER OF THE LICENSE)
OF PHILLIP D. BALDWIN TO)
PRACTICE RESPIRATORY CARE)
LICENSE NO. 2709)

**FINAL BOARD DECISION
REVOKING LICENSE**

The subject of this contested case is License Number 2709, held by the Licensee, Mr. Phillip D. Baldwin. This matter came on for hearing before the Board on April 12, 2018, pursuant to N.C. Gen. Stat. § 90-659 (b) and Article 3A of Chapter 150B of the North Carolina General Statutes, based on the attached Notice of Hearing that was sent to the address of record that Mr. Baldwin had provided to the Board.

APPEARANCES & WITNESSES TESTIFYING AT THE HEARING

At the hearing, neither the Licensee, Phillip D. Baldwin, nor any other person appeared on his behalf. The case for the Board was presented by its counsel, William R. Shenton.

BOARD EVIDENCE

Dr. William L. Croft, Executive Director of the Board, testified as the sole witness for the Board. The following exhibits were introduced at the hearing by the Board.

Board Exhibit # 1 – A copy of portions of the Board’s file for the Licensee, including the screenshot of the Board’s payment log for Licensee, showing the dates on which, he renewed his license online.

Board Exhibit # 2 – A screenshot capture of the Department of Public Safety (DPS) website and search completed on the Licensee showing his birth date, age, and name. [Introduced for illustrative purposes, to illustrate the Board’s search of Mr. Baldwin’s criminal record].

Board Exhibit # 3 – A copy of the DPS information on the Licensee’s felony convictions. [Also introduced for illustrative purposes, to illustrate the Board’s search of Mr. Baldwin’s criminal record].

Board Exhibit # 4 -A copy of the completed form AOC-CR-603C Judgment showing the conviction of the Licensee on two felonies which was filed in Durham County on June 24, 2016. [Accepted into evidence by the Board under the Official Notice provision of N.C. Gen. Stat. § 150B-41].

Board Exhibit # 5 – A copy of N.C. Gen. Stat. § § 14-34.2 and 14-87.1 showing that offenses under these statutes are felonies.

Board Exhibit # 6 –A copy of the renewal screen for the Licensee showing the required fields necessary to renew a license online.

Board Exhibit # 7 – A copy of a letter dated November 16, 2017 and sent to the Licensee’s address of record inviting him in for an interview with the Investigative and Informal Settlement Committee on December 5, 2017.

Board Exhibit # 8 – A copy of an email dated November 28, 2017, sent to the Licensee’s email address of record asking him to respond to the letter mailed on November 16, 2017, and an email confirmation received back that the delivery was complete.

Board Exhibit # 9 – A copy of an email dated December 4, 2017, sent to the Licensee’s email address of record asking him to respond to the letter mailed on November 16, 2017, and notifying him of the possibility of suspension or revocation of his license.

Board Exhibit # 10 – A copy of an email dated January 11, 2018, sent to the Licensee’s email address of record notifying him of the Board’s decision to proceed with a revocation hearing on April 12, 2018, and notifying him of an option for voluntary surrender of the License.

Board Exhibit # 11 – A copy of Notice of Hearing on Revocation of License Number 2709 sent February 15, 2018, by Certified Mail, scheduling the hearing for April 12, 2018, with copy of return receipt but no signature, and copy of the USPS tracking data showing that the letter was delivered on February 20, 2018, and left with an individual at the address to which it was sent.

FINDINGS OF FACT

1. The Board originally issued License Number 2709 for the Practice of Respiratory Care to the Licensee on September 20, 2002.
2. On November 16, 2017, the Board received information from Robert Williams, Manager of Respiratory Care at Cape Fear Valley Medical Center that the Licensee was denied employment at Cape Fear Valley Medical Center due to felony convictions.
3. On November 16, 2017, the Executive Director checked the North Carolina Department of Public Safety (DPS) website and viewed information showing the Licensee was convicted of two felonies.
4. On or about June 24, 2016, and no later than that date, the Licensee was convicted of two felonies: (i) assault with a firearm or other deadly weapon in violation of N.C. Gen. Stat. § 14-34.2; and (ii) Common Law Robbery under N.C. Gen. Stat. § 14-87.1.
5. The Licensee had renewed his License on September 30, 2016 and on September 24, 2017, using the Board’s online renewal process, after he was convicted of the two felonies.
6. Any Licensee using the Board’s online renewal process as it existed on September 30, 2016 and September 24, 2017, had to respond to a question asking whether the licensee had been convicted of a felony.
7. It was impossible on September 30, 2016 and September 24, 2017, when the Licensee renewed online, to proceed through the license renewal process without answering the question about prior felonies.
8. It was impossible on September 30, 2016 and September 24, 2017, when the Licensee renewed online, to proceed through the license renewal process after submitting an affirmative response that the licensee had prior felony convictions.
9. The Board has no record of the Licensee disclosing either of his felony convictions.
10. The Licensee failed to disclose the felony convictions in applying to renew the License on September 30, 2016 and September 24, 2017,
11. On November 16, 2017, a letter was sent by Certified Mail to the Licensee’s address of record inviting him for an interview with the Investigative and Informal Settlement Committee on December 5, 2017.

12. On November 28, 2017, an email was sent to the Licensee's email address of record asking him to respond to the letter mailed on November 16, 2017 and notifying him of the possibility of suspension or revocation of his license. The Board received an email confirmation that the delivery was complete.
13. On December 4, 2017, an email was sent to the Licensee's email address of record urging him to respond to the letter mailed on November 16, 2017.
14. On December 5, 2017, the Licensee failed to show for the scheduled interview.
15. On January 11, 2018, the Board determined that a Hearing on Revocation was required to determine if there were violations of N.C. Gen. Stat. § 90-659 (b) and NCAC 61 .0308 and .0307 (10) and (24).
16. The Board received no communications from the Licensee before its next quarterly meeting on January 11, 2018.
17. On January 11, 2018, the Board determined to hold a hearing on the revocation of Mr. Baldwin's License at its next regularly scheduled quarterly meeting on April 12, 2018.
18. On January 11, 2018, an email was sent to the Licensee's email address of record notifying him of the Board's decision to proceed with a revocation hearing on April 12, 2018 and notifying him of his option for voluntary surrender of his license.
19. On February 15, 2018, a Notice of Hearing on Revocation was sent by Certified Mail to the Licensee's address of record with the Board, scheduling the hearing for April 12, 2018. A return receipt dated February 20, 2018, was received by the Board, but no signature was included. The USPS tracking system shows that the letter was delivered and left with an individual at the Licensee's address of record on February 20, 2018. However, the Board received no communications or response from the Licensee before its next quarterly meeting on April 12, 2018.
20. The Licensee failed to appear for the hearing on April 12, 2018, either personally or through a representative.

CONCLUSIONS OF LAW

Based upon the foregoing Finding of Fact, the Board enters the following Conclusions of Law:

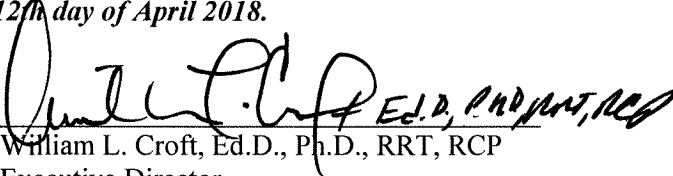
1. To the extent any of the foregoing Findings of Fact contain Conclusions of Law, or that any of these Conclusions of Law are Findings of Fact, they should be so considered without regard to how they may be denominated. To the extent any portions of the Findings of Fact constitute mixed issues of law and fact, such Findings of Fact shall be deemed incorporated herein by reference as Conclusions of Law.
2. The Board provided proper notice of the hearing to the Licensee.
3. The Licensee employed misrepresentation in failing to disclose his felony convictions when he renewed the License on September 30, 2016 and on September 24, 2017, in violation of N.C. Gen. Stat. § 90-659 (a) (1) (a).
4. The Licensee was legally bound to report any felony or misdemeanor conviction to the Board pursuant to 21 NCAC 61 .0308.
5. The Licensee failed to comply with 21 NCAC 61 .0308 by renewing the License on September 24, 2017, and September 30, 2016 without disclosing his prior felony convictions.
6. The Licensee failed to respond to a number of Board contacts through mail and email to address the issue of his undisclosed felony convictions.
7. The Licensee's violations of N.C. Gen. Stat. § 90-659 (a) (1) (a), and 21 NCAC 61 .0308 constitute a sufficient basis to revoke the License permanently.

FINAL DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board determined that the license of Phillip D. Baldwin to practice respiratory care in North Carolina shall be permanently revoked, effective April 12, 2018.

IT IS SO ORDERED.

Effective by Order of the Board on the 12th day of April 2018.


William L. Croft, Ed.D., Ph.D., RRT, RCP
Executive Director
North Carolina Respiratory Care Board