

BEFORE THE IOWA BOARD OF RESPIRATORY CARE

IN THE MATTER OF : No. 10-001
AMY FISER : NOTICE OF HEARING AND
Respondent. : STATEMENT OF CHARGES

COMES NOW the Iowa Board of Respiratory Care and hereby files this Notice of Hearing and Statement of Charges pursuant to Iowa Code section 17A.12(2), 17A.18(3) and 645 Iowa Administrative Code 11.6. On November 3, 2005, the Board issued Respondent Iowa Respiratory Care License No. 02173. Respondent's license expires March 31, 2012.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on May 17, 2011, with the Iowa Board of Respiratory Care. The hearing shall begin at 11:00 a.m. and shall be held in the conference room at the Lucas State Office Building, Fifth Floor Board Conference Room No. 526, Des Moines, Iowa.

2. Answer. Within twenty (20) days of the date you are served with this Statement of Charges you are required by Iowa Administrative Code section 645-11.12 to file an Answer. In the Answer you should also state whether you request a continuance of the date and time of the hearing.

3. Presiding Officer. The Board shall serve as the presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the Board at hearing.

4. Hearing Procedures. The procedural rules governing the conduct of the

hearing are found in Iowa Administrative Code chapter 645-11. At hearing, you will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. If you need to request an alternative time or date for hearing, you must review the requirements in Iowa Administrative Code section 645-11.18. The hearing may be open to the public or closed to the public at your discretion.

5. Prosecution. The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address: Kristin W. Ensign, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

6. Communications. You may not contact board members by telephone, letter, facsimile, e-mail, or in person about this Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in a pleading you file with the Board office and serve upon all parties in the case. You should direct any questions to Assistant Attorney General Kristin W. Ensign at 515-281-6547.

B. LEGAL AUTHORITY AND JURISDICTION

7. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 152C and 272C (2009).

8. Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters

17A, 147, 152C and 272C and Iowa Administrative Code chapter 645.

9. Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and Iowa Administrative Code section 645-11.21.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

10. Respondent is charged under Iowa Code § 147.55 (2009), and 645 IAC §263.2(12) and (21) , with failing to meet the continuing education requirement for licensure in violation of 645 IAC §§ 261.8(1)(3) & 262.2.

D. FACTUAL CIRCUMSTANCES

11. Respondent filed a Petition for Waiver with the Bureau of Professional Licensure October 16, 2010.

12. In said Petition for Waiver, Respondent claimed that she had completed the necessary 24 hours of CEU's for the 2008-2010 time period but the documentation thereof was destroyed due to flooding of her garage where she stored the documents.

13. Respondent has failed to provide documentation of the continuing education units required to maintain her license for the 2008-2010 reporting period.

E. SETTLEMENT

14. This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC Chapter 12. If you are interested in pursuing settlement of this matter, please contact Kristin Ensign, Assistant Attorney General, at 515-281-6547.

F. PROBABLE CAUSE FINDING

15. On this 15th day of February, 2011, the Iowa Board of Respiratory Care found probable cause to file this Notice of Hearing and Statement of Charges.