

BEFORE THE IOWA BOARD OF RESPIRATORY CARE

IN THE MATTER OF:) DIA NO. 09DPHRC003
)
SUSAN CONNOR FLORES) FINDINGS OF FACT,
) CONCLUSIONS OF LAW,
Respondent) DECISION AND ORDER

On December 10, 2009, the Iowa Board of Respiratory Care (Board) issued a Notice of Hearing scheduling a hearing on a license reinstatement application filed by Respondent Susan Connor Flores. The hearing was held on March 1, 2010 at 10:00 a.m. at the Lucas State Office Building, Fifth Floor Conference Room, Des Moines, Iowa. Assistant Attorney General Emily Kimes-Schwiesow represented the state of Iowa. Respondent Susan Connor Flores appeared and was self-represented. The following Board members served as the presiding officers for the hearing: Kerry George, RRT, Board Chair; Robert Zeman, RRT; Kathelene Semke, RRT; and Arlene A. Lee. The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1). The hearing was recorded by a certified court reporter. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. Following the hearing, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f), for deliberations. The administrative law judge was instructed to prepare the Board's Findings of Fact, Conclusions of Law, Decision and Order, in conformance with their deliberations.

THE RECORD

The record includes the testimony of the witnesses and State Exhibits 1-6 (See Exhibit Index for description).

FINDINGS OF FACT

1. Respondent was issued license number 01933 to practice respiratory care in the state of Iowa on August 8, 2003. (Exhibit 4)
2. On January 23, 2006, the Board charged Respondent with several counts, including excessive use of drugs which impaired her ability to practice respiratory care with reasonable skill and safety. A hearing was held and on May 31, 2006, the Board issued a Findings of Fact, Conclusions of Law, Decision and Order indefinitely

suspending Respondent's respiratory care license. The suspension was based on the Board's findings that Respondent was unable to practice with reasonable skill and safety due to her history of drug use and relapse following treatment, her recent use of illegal drugs while working as a respiratory therapist, and her misappropriation of a controlled substance from her work place. The Board further found that Respondent failed to report two criminal convictions (Contempt of Court and 5th Degree Theft) to the Board. (Exhibit 4)

3. The Board's Order stipulated that Respondent's suspension would continue until she established, through a reinstatement proceeding, that the basis for the suspension no longer exists and that it is in the public interest for her license to be reinstated. The Board's Order further stipulated that Respondent may not file an application for reinstatement until two years had elapsed from the issuance of the Board's Decision and Order and until Respondent had established:

- a. Full compliance with the aftercare recommendations made by Dr. Rios and ASAC, including but not limited to completion of intensive outpatient treatment or a halfway house program and regular attendance at Alcoholics Anonymous (AA) or Narcotics Anonymous (NA).
- b. Completion of a neuropsychological evaluation to exclude any cognitive deficits that would interfere with her ability to practice the profession of respiratory therapy in a safe manner.
- c. Twenty-four months of sobriety confirmed by a record of random drug testing administered at least semi-monthly.

(Exhibit 4)

4. Respondent entered residential treatment at Area Substance Abuse Council's (ASAC) Adult Residential program on March 24, 2006 and was discharged on April 27, 2006. The ASAC discharge summary describes Respondent as being at medium risk for relapse/continued use and at high risk from her living environment. ASAC recommended that Respondent continue abstinence, actively participate in out-patient treatment, continue follow-up with mental health professionals, maintain active involvement in 12 step recovery programs, and continue to work on relationship and self esteem issues. Respondent was discharged to participate in Growth Group at Covenant Medical Center until such time as she entered outpatient treatment at Pathways. (Exhibit 5; Respondent testimony)

5. Respondent initially participated in outpatient treatment at Pathways Behavioral Services from January 9, 2007 to April 9, 2007. She was discharged following successful completion of the program with a recommendation to continue attending weekly AA/NA meetings and to associate only with people who are not using. Respondent was subject to random drug screens while in the program, all of which were negative. (Exhibit 5)

After Respondent was discharged from Pathways she remained abstinent from drugs but had several relapses involving alcohol. One of these relapses led to Respondent's conviction for Assault on a Peace Officer on June 29, 2007. Respondent was sentenced to 180 days in jail, with all but 10 days suspended. Respondent was placed on probation for a period of 24 months. During probation, Respondent was subject to periodic urinalysis testing, and all results were negative. Respondent was eventually discharged from probation on June 29, 2009. (Respondent testimony; Exhibit 5)

6. Following her relapses, Respondent returned to Pathways for further outpatient treatment on November 6, 2007. She was discharged on April 10, 2008 following her successful completion of the program. At that time, Pathways recommended that Respondent continue to abstain from all alcohol and drugs, continue mental health medication and therapy, and attend AA meetings. Respondent was subject to random drug screens while in the program, all of which were negative. (Respondent testimony; Exhibit 5)

7. Respondent has been prescribed medication for depression and anxiety. Respondent sees her psychiatrist for medication management every two months. She has previously received some counseling for emotional issues but is not currently receiving counseling. (Respondent testimony; Exhibit 5)

8. Respondent has earned an associate degree in science and has completed the requirements to sit for the registry boards. However, Respondent's Certified Respiratory Therapist (CRT) credential from the National Board for Respiratory Care (NBRC) remains under suspension. (Respondent testimony)

9. As of the hearing, Respondent had been abstinent from alcohol for 2 years and 8 months and had been abstinent from illegal and non-prescribed drugs for 4 years and 3 months. In October 2007, Respondent married Ramon Flores who also has a history of chemical dependency. Mr. Flores testified that he has been abstinent from drugs for 14

years and from alcohol for two years. Mr. Flores supports and encourages Respondent in her recovery. (Respondent, Ramon Flores' testimony)

10. Respondent attends AA/NA meetings and 12 step classes on a regular weekly basis. Respondent has two AA/NA sponsors, one of whom is a respiratory therapist. She also attends a relapse prevention class on Wednesday nights. (Respondent testimony; Exhibit 5)

11. On April 29, 2009, Respondent had a neuropsychological evaluation at Covenant Medical Center. The evaluation revealed no evidence of cerebral dysfunction or dementia. Mood and personality tests indicated that Respondent has a mild to moderate level of emotional distress characterized by anxiety and agitation. The evaluator concluded that Respondent demonstrated sufficient cognitive and intellectual abilities to continue with her full-time job and other usual daily activities. (Exhibit 5)

12. Respondent has been employed full-time for a heating, ventilation, and air conditioning company for approximately 1 ½ years. (Exhibit 5; Respondent testimony)

CONCLUSIONS OF LAW

645 IAC 11.31 provides, in relevant part:

645-11.31(272C) Reinstatement.

11.31(1) Any person whose license to practice has been...suspended may apply to the board for reinstatement in accordance with the terms and conditions of the order of ... suspension,...

...

11.31(4) An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the ...suspension of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the respondent.

Based on this record, the Board believes that Respondent has complied with the terms of her indefinite suspension. Respondent has maintained her sobriety for more than two years and has complied with the aftercare requirements established by ASAC. Respondent recently completed a neuropsychological evaluation. The remaining issues before the Board are whether the basis for the suspension of Respondent's license to practice respiratory care no longer exists and whether reinstatement is in the public

interest. Respondent has made substantial progress in her recovery and has established what appears to be a strong support system. Nevertheless, Respondent has a long history of chemical dependency with prior relapses. The documentation in the record that evaluates Respondent's relapse risk is from 2006. In order to ensure protection of the public, Respondent must provide the Board with a current chemical dependency evaluation that includes an assessment of her recovery and her risk of relapse. In addition, Respondent must provide evidence that her Certified Respiratory Therapist (CRT) credential has been reinstated by the National Board of Respiratory Care (NBRC).

DECISION AND ORDER

IT IS THEREFORE ORDERED that the Application for Reinstatement filed by Susan Connor Flores is denied at this time but may be granted upon Respondent's compliance with the following conditions:

- Submission of a recent chemical dependency evaluation at a facility approved by the board that establishes she has a low risk of relapse;
- Submission of verification that her Certified Respiratory Therapist (CRT) credential has been reinstated by the NBRC; and
- Submission of verification that she has continued to maintain her sobriety and has continued active participation in recovery support groups.

If Respondent complies with these three conditions, Respondent's license may be reinstated on probation without the necessity for another hearing, so long as Respondent and the Board are able to reach a formal agreement concerning the terms and conditions of probation.

This findings of fact, conclusions of law, decision and order is approved by the board on April 7, 2010.

Any appeal to the district court from a decision in a contested case shall be taken within 30 days from the date of issuance of the decision by the board. Iowa Code section 17A.19; 645 IAC 11.29.