

**OFFICE OF LICENSED ALLIED HEALTH PROFESSIONALS
RESPIRATORY CARE PRACTITIONERS GOVERNING BOARD
Philbrook Building, 121 South Fruit Street
Concord, New Hampshire 03301**

In The Matter Of:

Docket #10-2018

**Robin M. Flanagan
Applicant for Licensure
(Non-Adjudicatory)**

DECISION AND ORDER

By the Board: Richard W. Mozier, RCP, Presiding Officer, John Higgins, RCP, Jeffrey T. Reisert, D.O.

Also present: Tina M. Kelley, Administrator to the Board

Appearances: None

The New Hampshire Governing Board of Respiratory Care Practitioners ("Board") received a completed application for reinstatement of licensure on August 23, 2018 from Robin M. Flanagan ("Ms. Flanagan" or "Petitioner"). Submission of all supporting documents was completed on September 26, 2018. The Board reviewed Ms. Flanagan's application and supporting documents at their regularly scheduled meeting held October 11, 2018. After review the Board noted that it appeared that Ms. Flanagan had been practicing respiratory care at Catholic Medical Center without a license.

Background

On August 23, 2018 the Board received a completed application for reinstatement of licensure from Ms. Flanagan. Subsequently, the submission of the supporting documents was completed on September 26, 2018.

On September 25, 2018 the Board received a letter from L. Paul Blais, Jr., Director; Respiratory and Pulmonary Services at Catholic Medical Center, informing the Board that Ms. Flanagan had been providing direct patient care without a license.

On September 27, 2018 the Board received a resume from Ms. Flanagan. The resume stated under "Experience" that Ms. Flanagan had been practicing as a Respiratory Care Practitioner from "August of 2018 to present."

On September 27, 2018 the Board received a letter from Ms. Flanagan. The letter stated “When I realized my license had expired, I filled out the application. I did not realize at the time I could not work but, when I did my last day of work was on Wednesday September, 19, 2018.”

An adjudicatory hearing commenced on January 3, 2018, the specific issues to be determined included:

- A. Whether or not, and to what extent Ms. Flanagan practiced without a license at Catholic Medical Center. Which if proven would be a violation of RSA 328-F:23, II (c); RSA 328-F:23, II, (i); RSA 328-F:23, II (j); RSA 326-E:1, X; Resp 405.01(i); Resp 405.01(j); *AARC Statement of Ethics and Professional Conduct*.
- B. Whether or not, and to what extent Ms. Flanagan used the credentials “RRT” in conjunction with her name implying that she was a Respiratory Care Practitioner in the State of New Hampshire without holding a valid New Hampshire license. Which if proven would be a violation of RSA 328-F:23, II (c); RSA 328-F:23, II, (j); RSA 326-E:1, X; RSA 326-E:4, IV; Resp 405.01(j); *AARC Statement of Ethics and Professional Conduct*.
- C. Whether or not, and to what extent Ms. Flanagan has not demonstrated to the Board that she is “of good professional character” as required by Resp 404.01(a).

At the hearing the Board reviewed numerous exhibits. The following exhibits were entered into evidence:

Board Exhibits:

Exhibit #1 – Application for Reinstatement of Licensure or Certification received August 23, 2018

Exhibit #2 – A letter of support from L. Paul Blais, Jr. received 9/25/18

Exhibit #3 – Robin Flanagan’s resume

Exhibit #4 – A letter from Robin Flanagan dated 9/24/18

Robin Flanagan’s Exhibits:

Exhibit A – Two letters of reference from Jason Shaw, RCP and Robert G. Brown, RCP

Exhibit B – Ms. Flanagan’s daughter’s medical records

Ms. Flanagan appeared before the Board *pro se*. Ms. Flanagan admitted that she had practiced as a Respiratory Care Practitioner from January 1, 2018 through September 19, 2018. She took full responsibility for her actions and expressed to the Board how remorseful she was with regards to practicing without a license. Ms. Flanagan testified that she had been a Respiratory Care Practitioner for 20 years, 10 of which was in New Hampshire, without incident. Ms. Flanagan then presented the Board a copy of her daughter's medical records. She testified that she had been focused on the care of her daughter since October of 2017. Ms. Flanagan told the Board that before, during, and after the time of renewal she had multiple things going on. She had moved, was working full time at Catholic Medical Center, and was taking care of her daughter. For those reasons she had not received her renewal notice and forgot that her license would be lapsing and that she needed to renew. Again, Ms. Flanagan expressed her sincere remorse for the situation.

Ms. Flanagan presented one witness, Leo Paul Blais, Jr. Mr. Blais is the Director of Respiratory and Pulmonary Services at Catholic Medical Center ("CMC"). Mr. Blais confirmed that Ms. Flanagan had practiced at CMC without a license and that she was no longer working there. Mr. Blais told the Board that he had been aware of Ms. Flanagan dealing with the health issue of a family member. Despite this, Mr. Blais, testified that Ms. Flanagan was great with patients and presented no work related issues. He also stated that if Ms. Flanagan license was reinstated she would be hired back at CMC. He said that she had slipped through CMC's system and that because of this incident CMC was putting in a two-step process to ensure that no one works at CMC without a license again.

Applicable Laws:

RSA 328-F:23, II (c):

Misconduct sufficient to support disciplinary proceedings shall include:

- (a) Violation of the ethical standards adopted by the governing board.

RSA 328-F:23, II (i):

Misconduct sufficient to support disciplinary proceedings shall include:

- (i) Practice without a currently valid license.

RSA 328-F:23, II (j):

Misconduct sufficient to support disciplinary proceedings shall include:

Violation of any provision of this chapter, of any governing board's practice act or rule adopted pursuant to RSA 541-A, or of any state or federal law reasonably related to the licensee's authority to practice or ability to practice safely.

RSA 328-F:27, II:

Unauthorized Practice

Practice of an allied health profession by any person who is not licensed or certified to practice such profession shall constitute unauthorized practice. A business which holds itself out, through advertising or in any other way, as providing an allied health service but does not have available to supervise its services an allied health professional licensed or certified to provide the services which the business purports to offer, is engaged in unauthorized practice.

RSA 326-E:1, X:

Definitions.

"Respiratory care" means the treatment, management, diagnostic testing and evaluation of responses to respiratory or medical treatment and care of individuals or groups of individuals either having deficiencies or abnormalities of the cardiopulmonary system or requiring support of the cardiopulmonary system. Respiratory care is given in accordance with the prescription of a physician, nurse practitioner, or physician assistant. Respiratory care includes the implementation of respiratory care strategies and modalities, and the administration of pharmacological, diagnostic, and therapeutic agents necessary to implement a treatment, disease or injury prevention, rehabilitative or diagnostic regimen. Respiratory care includes, but is not limited to: initiating emergency procedures; providing health counseling and teaching; assembly, repair, testing and maintenance of respiratory equipment; and those respiratory care activities that require a substantial amount of scientific knowledge or technical skill.

RSA 326-E:4, IV

Professional Identification

A person or business entity, its employees, agents, or representatives shall not use in conjunction with that person's name or the activity of the business the words "respiratory care", "respiratory therapy", "respiratory care practitioner", "respiratory therapist", the letters "R.T." or "R.C.P", or any other words, abbreviations, or insignia indicating or implying directly or indirectly that respiratory care is provided or supplied, including the billing of services labeled as respiratory care, unless such services are provided by or under the direction of a respiratory care practitioner licensed under this chapter.

Resp 404.01(a)

Eligibility Requirements for Reinstatement of Licenses Lapsed for No More Than 2 Years. The board shall reinstate licenses lapsed for no more than 2 years if the affected individuals:

- (a) Are of good professional character, as evidenced by:
- (1) Answers to the questions on the reinstatement application form;
 - (2) Any reports submitted pursuant to Resp 403.02(c)(2);
 - (3) The written statement required by Reap 403.02(c)(3); and
 - (4) Any reports described in Resp 403.02(c)(4);

Resp 405.01(i)
Misconduct shall be:

- (i) Practice without a currently valid license;

Resp 405.01(j):
Misconduct shall include:

Violation of:

- (1) Any provision of RSA 328-F;
- (2) Any provision of RSA 326-E;
- (3) Any rule adopted by the board; or
- (4) Any state or federal law reasonably related to the licensee's authority to practice or the licensee's ability to practice safely.

AARC Statement of Ethics and Professional Conduct:

In the conduct of professional activities the Respiratory Therapist shall be bound by the following ethical and professional principles.

- Comply with state or federal laws which govern and relate to their practice.

Findings of Fact and Rulings of Law:

- The Board finds based on the evidence and Ms. Flanagan's own admission that she practice without a license at Catholic Medical Center from January 1, 2018 through September 19, 2018 without a license in violation of RSA 328-F:27 and *AARC Statement of Ethics and Professional Conduct*. Her actions constitute misconduct pursuant to RSA 328-F:23, II (c); RSA 328-F:23, II, (i); RSA 328-F:23, II (j); Resp 405.01(i); and Resp 405.01(j).
- The Board finds based on the evidence and Ms. Flanagan's own admission that she used the credential "RRT" in conjunction with her name without holding a valid New Hampshire license in violation of RSA 326-E:4, IV and the *AARC Statement of Ethics and Professional Conduct*. Ms. Flanagan's actions constitutes misconduct pursuant to RSA 328-F:23, II (c); RSA 328-F:23, II, (j); and Resp 405.01(j).

Based on the findings of facts and rulings of law the Board finds sufficient evidence that Ms. Flanagan was in violation of the laws and rules of the State of New Hampshire by practicing without a license and using the credential "RRT" in conjunction with her name without holding a valid New Hampshire license. In making its decision the Board has considered all the evidence and has taken the following into consideration:

- Ms. Flanagan fully admitted to the facts of the case;
- Ms. Flanagan demonstrated to the Board that she was truly remorseful;
- Ms. Flanagan was dealing with significant health issues related to her daughter; and
- CMC will rehire Ms. Flanagan if her license is reinstated.

THEREFORE IT IS ORDERED, that the Ms. Flanagan's license to practice at a Respiratory Care Practitioner be reinstated upon the Board's signature on this Decision and Order.

IT IS FURTHER ORDERED, that Ms. Flanagan develop a system to ensure she is reminded to renew her license if she intends to continue to practice in the State of New Hampshire.

IT IS FURTHER ORDERED, that all medical records submitted as evidence in the case are sealed.

IT IS FURTHER ORDERED, that within fifteen (15) days of the effective date of this Decision and Order Ms. Flanagan shall furnish a copy of this Decision and Order to any current employer for whom she performs services as a Respiratory Care Practitioner and to any agency or authority which licenses, certifies or credentials Respiratory Care Practitioners, with which Ms. Flanagan is presently affiliated.

IT IS FURTHER ORDERED, that Ms. Flanagan furnish a copy of this Decision and Order to any employer for whom she performs services as a Respiratory Care Practitioner and/or agency, or authority with which Ms. Flanagan is affiliated which licenses, certifies or credentials Respiratory Care Practitioners for one year from the effective date of this Decision and Order.

IT IS FURTHER ORDERED that Ms. Flanagan's breach of any terms and conditions of this Decision and Order shall constitute unprofessional conduct pursuant to RSA 328-F:23, II.

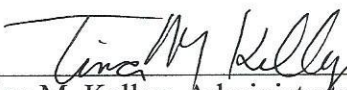
*Respiratory Care Practitioner Governing Board
In the Matter of Robin M. Flanagan
Decision and Order*

IT IS FURTHER ORDERED that this Decision and Order shall become a permanent part of Ms. Flanagan's file, which is maintained by the Board as a public document.

IT IS FURTHER ORDERED that this Decision and Order shall take effect as a final Order of the Board on the date it is signed by an authorized representative of the Board.

BY ORDER OF THE BOARD

Date: February 27, 2019



Tina M. Kelley, Administrator
Authorized Representative of the
Respiratory Care Practitioner's Governing Board