IN AND BEFORE THE OKLAHOMA STATE BOARD
OF MEDICAL LICENSURE AND SUPERVISION
STATE OF OKLAHOMA

FILED

NOV 19 2009

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA EX REL. THE OKLAHOMA BOARD OF MEDICAL LICENSURE AND SUPERVISION,	)	
Plaintiff,	)	
v.	)	**Case No. 06-12-3222**
BECKY DIANNE DIERCKS, R.C., R.C. LICENSE NO. 840	)	
Defendant.	)	

VOLUNTARY SURRENDER OF LICENSE
IN LIEU OF PROSECUTION

State of Oklahoma)
)
Texas County)

I, Becky Dianne Diercks, R.C., being of lawful age and after first being duly sworn, depose and state as follows:

1. I hereby voluntarily surrender my Oklahoma respiratory care license no. RC840.

2. The surrender of my license is freely and voluntarily made. I have not been subject to any coercion or duress, and I am fully aware of the consequences of the surrender of my license.

3. I am the subject of a Complaint before the Oklahoma State Board of Medical Licensure and Supervision involving allegations that if proven, would constitute grounds for disciplinary action by the Board.

4. The allegations to which I have plead guilty are as follows:

   A. Defendant, Becky Dianne Diercks, R.C., holds Oklahoma respiratory care license no. RC840.

B. On or about February 13, 2007, the State filed a Complaint against Defendant based upon personal substance abuse.

C. On or about May 17, 2007, after examining the exhibits introduced and hearing the testimony of the witnesses, the Board entered a Final Order of Suspension whereby Defendant was **SUSPENDED INDEFINITELY** until she completed an evaluation by a board certified psychiatrist approved in advance by the Board Secretary, after which time she could seek reinstatement of her license.

D. Defendant obtained the psychiatric evaluation ordered by the Board and on July 19, 2007, she appeared before the Board seeking reinstatement of her license. After examining the exhibits introduced and hearing the testimony of witnesses, the Board entered an Order Granting Reinstatement of License Under Terms of Probation. The Order provides that Defendant shall be on **PROBATION** as follows:

> D. Defendant will submit for analysis biological fluid specimens including, but not limited to, blood and urine, upon request of the Board or its designee, and Defendant will pay for the costs attendant thereto.
>
> E. Defendant will take no medications except that which is authorized by a physician treating her for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating her of the Board Order immediately upon initiation, or continuation of treatment.
>
> F. Defendant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances, including but not limited to alcohol.
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> N. Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of his case, including but not limited to a $100.00 per month monitoring fee.
>
> P. Defendant shall make herself available for one or more personal appearances before the Board or its designee upon request.
>
> Q. Defendant shall submit any required reports and forms on an accurate, timely and prompt basis to the Compliance Coordinator or designee.

E. The provisions cited above have not been modified or deleted but remain in full force and effect as terms and conditions of Defendant's licensure under the terms of the Order Granting Reinstatement of License Under Terms of Probation.

F. On or about November 21, 2008, Defendant executed an Agreement with the Board regarding her monitoring. The Agreement provides as follows:

1. I acknowledge that my Medical Board probation will continue and all terms of the Order Granting Reinstatement of License Under Terms of Probation are still in full force and effect;

2. I will sign a monitoring contract with the Oklahoma Health Professionals Program and will abide by the terms and conditions thereof;

3. I will not resume the practice of respiratory care therapy without first obtaining the permission of the Secretary of the Oklahoma State Board of Medical Licensure and Supervision; and

4. I acknowledge that I will be required to continue paying the probation monitoring fees each month and that this account must be paid off prior to the expiration of probation.

G. The provisions cited above have not been modified or deleted but remain in full force and effect as terms and conditions of Defendant's Agreement with the Board.

H. On or about January 23, 2009, Defendant submitted to a drug test administered by the Oklahoma Health Professionals Program. Defendant tested positive for Hydroxyethylflurazepam, Oxyazepam and Temazepam. Defendant's personal physician confirmed that he had prescribed Hydroxyethylflurazepam and Temazepam to her, but not at the same time. He further denied ever prescribing Oxyazepam to Defendant. A review of the PMP revealed no prescriptions for controlled dangerous substances to Defendant from January 1, 2008 through August 19, 2009.

I. On or about July 27, 2009, Tom Sosbee, Compliance & Education Coordinator for the Board, sent a letter to Defendant scheduling her to meet with Board staff on August 14, 2009. On August 11, 2009, Defendant called Compliance Secretary Vickie Mattingly and advised her that she could not attend the August 14, 2009 meeting because she could not get off work. Ms Mattingly advised Defendant to send in a detailed written statement as to why she could not attend the scheduled meeting. Defendant agreed to send an email. As of the date of the filing of this Complaint, Defendant has not sent in the requested written explanation.

J. According to Board records, Defendant has failed to pay her monthly probation monitoring fees and currently owes over $1,700.00.

K. As set forth in the November 21, 2008 Agreement between Defendant and the Board, Defendant agreed to be monitored by the Oklahoma Health Professionals Program. Defendant executed a contract with the program, but has not abided by it. She has been drug tested by the program, but has failed to pay the testing fees, resulting in a suspension of testing until she pays the amounts due. She has additionally stopped calling into the testing system to see if she has been chosen to provide a specimen. At this time, she has an unpaid balance owed to St. Anthony Toxicology Lab of $62.50.

L. Defendant is guilty of unprofessional conduct in that she:

A. Is guilty of unprofessional conduct as defined by the rules established by the Board, or of violating the code of ethics adopted and published by the Board in violation of 59 Okla. Stat. §2040(9) and 435:45-5-3(24).

B. Is addicted to, or has improperly obtained, possessed, used or distributed habit-forming drugs or narcotics in violation of 59 Okla. Stat. §2040(4).

C. Is guilty of dishonest or unethical conduct in violation of 59 O.S. §2040(5).

D. Has violated any provision of the Respiratory Care Practice Act in violation of 59 O.S. §2040(8) and 435:45-5-3(21).

E. Is habitually intemperate or addicted to any drug, chemical or substance which could result in behavior that interferes with the practice of respiratory care and the responsibilities of the licensee in violation of 435:45-5-3(1).

F. Engaged in the unauthorized possession and use of illegal or controlled substances or pharmacologic agents without lawful authority or prescription by an authorized and licensed independent practitioner of the state of Oklahoma in violation of 435:45-5-3(2).

G. Failed to furnish the Board, its investigators or representatives, information lawfully requested by the Board in violation of 435:45-5-3(22).

5. I hereby submit my wallet card and wall certificate as evidence of my intent to surrender my license.

6. I hereby agree that I will not apply for reinstatement of my Oklahoma respiratory care license for a minimum of one year from the entry of the Order Accepting Voluntary Surrender in Lieu of Prosecution, and that if the Board ever reinstates my Oklahoma respiratory care license, it will be under terms of probation to be set by the Board at the time of reinstatement.

7. As a condition to accepting my surrender of license in lieu of prosecution, I acknowledge that the Board may require me to pay all costs expended by the Board for any legal fees and costs, and any investigation, probation and monitoring fees, including but not limited to staff time, salary and travel expense, witness fees and attorney fees.

DATED this 17 day of November, 2009.

Becky Diercks

Becky Dianne Diercks, R.C.

Subscribed and sworn before me this 17 day of November 2009.

Vickie L. Mattingly

Notary Public

My commission expires on 12-21-11

VICKIE L. MATTINGLY NOTARY PUBLIC #07011751 EXP. 12/21/11 STATE OF OKLAHOMA

ACCEPTED:

Gerald C. Zumwalt, M.D.
Secretary
Oklahoma State Board of Medical
Licensure and Supervision

Date: _____