

Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

1 **BEFORE THE BOARD OF MEDICAL EXAMINERS**
2 **OF THE STATE OF NEVADA**

3 In the Matter of the Charges and)
4 Complaint Against:)

Case No. 07-26329-1

October 14, 2008

5 **MARK RUSSELL, C.R.T.,**)

6 Respondent.)


Executive Director

7 _____)
8 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

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10 The above-entitled matter came on regularly for decision before the Nevada State
11 Board of Medical Examiners, hereinafter "Board," on Friday, October 3, 2008, at the Board's
12 Office located at 1105 Terminal Way, Suite 301, Reno, Nevada 89502, on the Complaint filed
13 herein. Respondent, MARK RUSSELL, C.R.T., hereinafter "Respondent," was not present at
14 the meeting.

15 The Members of the Board participating in the decision were: Javaid Anwar, M.D.;
16 Sohail Anjum, M.D.; Van V. Heffner; S. Daniel McBride, M.D; Benjamin J. Rodriguez, M.D.
17 and Renee West. All other remaining members of the Board, being members of the
18 Investigative Committee which issued the complaint in this matter, were excused from
19 participating and took no part in the proceedings of the Board. Christine M. Guerci-Nyhus,
20 Chief Deputy Attorney General, acted as legal counsel to the Board.

21 The Board having received and read the complaint and exhibits offered in this matter
22 and having reviewed and read all of the above, proceeded to make a decision pursuant to the
23 provisions of NRS chapter 233B and NAC 630.540.

24 The Board after due consideration of the record, evidence and law, and being fully
25 advised in the premises, makes its FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
26 ORDER in this matter as follows:

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1 **FINDINGS OF FACT**

2 I.

3 Respondent held a license as a Certified Respiratory Therapist in the State of Nevada
4 at all relevant times.

5 II.

6 A complaint was filed by the Investigative Committee against Respondent in November
7 of 2007 alleging violations of Chapter 630 of the Nevada Revised Statutes.

8 III.

9 The complaint alleged that on his August 2006 application for reinstatement of his
10 respiratory therapist license, Respondent answered question 5 in the negative. Question 5 of
11 the application asked, "Have you ever been investigated for, charged with, convicted of, or
12 plead guilty or nolo contendere to any offense or violation of any federal (including U.S.
13 Military), state or local law...which is a misdemeanor, gross misdemeanor, court-martial, or
14 felony, excluding any minor traffic offense....". Las Vegas Metropolitan Police Department
15 records show that Russell had been arrested at least three times prior to the submission of the
16 application for reinstatement.

17 IV.

18 The complaint alleged that the Respondent willfully and intentionally made a false or
19 fraudulent statement in applying for the re-instatement of his license in violation of NAC
20 630.540(1) when he answered Question 5 in the negative and failed to disclose his arrests.

21 V.

22 The Board finds that Respondent violated NAC 630.540(1) as set forth in the Complaint
23 by answering Question 5 in the negative and failing to disclose his arrests.

24 VI.

25 The Board finds by a preponderance of the evidence, that Respondent's conduct is a
26 violation of NAC Chapter 630 and discipline under NAC 630.555 is warranted.
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VII.

If any of the foregoing Findings of Fact is more properly deemed a Conclusion of Law, it may be so construed.

CONCLUSIONS OF LAW

I.

The Board has jurisdiction over Respondent.

II.

Respondent was properly served with notice of the hearing before the Hearing Officer, pursuant to NRS and NAC Chapters 630 and NRS Chapter 233B.

III.

The Board concludes that Respondent willfully and intentionally made a false or fraudulent statement in applying for the re-instatement of his license in violation of NAC 630.540(1) when he answered Question 5 in the negative and failed to disclose his arrests and thus Respondent is subject to discipline.

IV.

If any of the foregoing Conclusions of Law is more properly deemed a Findings of Fact, it may be so construed.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, and good cause appearing therefore,

IT IS HEREBY ORDERED that:

1. Respondent has violated NAC Chapter 630 and that discipline is warranted;
2. Respondent's license as a Certified Respiratory Therapist in the State of Nevada is hereby revoked; and

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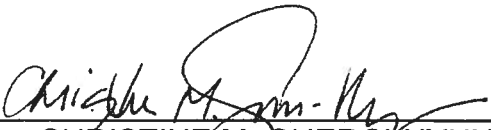
3. Respondent shall reimburse the Board all costs and fees incurred in the investigation and prosecution of this case within ninety (90) days from the date of service of this Order. The total costs and fees incurred are Three Thousand Eighty Dollars and fifty six cents (\$3,080.56).

DATED this 14th day of October 2008.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: 
CHARLES N. HELD, M.D., President

Submitted by:
CATHERINE CORTEZ MASTO
Attorney General

By: 
CHRISTINE M. GUERCI-NYHUS
Chief Deputy Attorney General
555 East Washington, # 3900
Las Vegas, Nevada 89101
Attorneys for Nevada State Board of Medical Examiners

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CERTIFICATION

I hereby certify that the foregoing is the full and true original FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER on file in the office of the Board of Medical Examiners in the matter of MARK RUSSELL, C.R.T., Case No. 07-26329-1.

I further certify that CHARLES N. HELD, M.D., is the President of the Nevada State Board of Medical Examiners and that full force and credit is due to his official acts as such; and that the signature to the foregoing ORDER is the signature of said CHARLES N. HELD, M.D.

IN WITNESS THEREOF, I have hereunto set my hand in my official capacity as Secretary-Treasurer of the Nevada State Board of Medical Examiners.



RENEE WEST
Secretary-Treasurer
Nevada State Board of Medical Examiners