BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and)	Case No. 12-24176-1
Complaint Against)	FILED
NORMA JEANNE McCULLOUGH, C.R.T.,)	MAR 1 3 2013
Respondent.)	NEVADA STATE BOARD OF MEDICAL EXAMINERS By:

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The above-entitled matter came on regularly for decision after hearing before the Nevada State Board of Medical Examiners (Board), on Friday, March 8, 2013, at the Board's offices located at 1105 Terminal Way, Suite 301, Reno, Nevada, 89502, and by video conference at the offices of the Board and the Nevada State Board of Dental Examiners located at 6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada, 89118 on the Complaint filed herein against Norma Jeanne McCullough, C.R.T., hereinafter "Respondent," who was not present at the Board meeting.

The members of the Board participating in the decision were: Theodore B. Berndt, M.D., Valerie J. Clark, BSN, RHU, LUTCF, Michael J. Fischer, M.D., Mrs. Sue Lowden, Bashir Chowdhry, M.D. and Wayne Hardwick, M.D. Harry B. Ward, Esq., Deputy Attorney General, acted as legal counsel to the Board.

The Board, having received and read the Complaint and exhibits admitted in this matter, as well as the Synopsis of Record prepared by the hearing officer who presided over the hearing and the transcript of the hearing held on December 12, 2012, proceeded to make a decision pursuant to the provisions of Nevada Revised Statutes (NRS) Chapters 233B and 630.

///

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

FINDINGS OF FACT

I.

Respondent held a license to practice as a respiratory therapist in the state of Nevada at all relevant times.

II.

On July 9, 2012, the Investigative Committee (IC) filed a formal Complaint in this matter alleging violations of Chapter 630 of the NRS and Chapter 630 of the Nevada Administrative Code (NAC).

III.

On December 12, 2012, a hearing was held before an appointed hearing officer on the allegations contained within Counts I, II, III, IV and V of the Complaint. Respondent was not present or represented by counsel. The IC was represented by Bradley O. Van Ry, Esq., General Counsel for the Board.

IV.

Respondent was employed as a respiratory therapist at University Medical Center (UMC) in Las Vegas, Nevada until November 2011. A UMC investigation uncovered that beginning sometime in 2006, Respondent documented treatments in the medical record that she did not actually provide to the patients. Respondent documented therapy given by her, billed for the therapy, but then failed to remove the prescribed medication from the drug repository to administer to the patients. Thus, Respondent left the patients without the therapy and treatments that she documented and billed.

Respondent's misconduct was discovered by UMC before the end of 2011. Two hundred seven (207) patients over a six (6)-plus year period from 2006 through 2011 were documented to have not received the billed therapy and medications.

1 On or about November 3, 2011, Respondent's employment was terminated by UMC based upon 2 her admission of the misconduct. 3 V. The Board finds by a preponderance of the evidence that Respondent violated 4 5 NRS 630.305(1)(d) by charging for visits that did not occur or for services which were not rendered or 6 documented in the records of a patient. VI. 7 8 The Board finds by a preponderance of the evidence that Respondent violated NRS 630.3062(1) by failing to maintain timely, legible, accurate and complete medical records relating to the diagnosis, 9 10 treatment and care of a patient. VII. 11 The Board finds by a preponderance of the evidence that Respondent violated NAC 630.540(8) 12 by falsifying the records of health care. 13 VIII. 14 The Board finds by a preponderance of the evidence that Respondent violated NAC 630.540(15) 15 by engaging in conduct that violates the trust of a patient and exploits the relationship between the 16 17 practitioner of respiratory care and the patient for financial or other personal gain. IX. 18 The Board finds by a preponderance of the evidence that Respondent violated NAC 630.540(16) 19 by engaging in conduct which brings the respiratory care profession into disrepute 20 X. 21 If any of the foregoing Findings of Fact is more properly deemed a Conclusion of Law, it may be 22 23 so construed. **CONCLUSIONS OF LAW** 24 I. 25 26 The Board has jurisdiction over Respondent. 27 /// 28 ///

28 ||

II.

Respondent was properly served with notice of the hearing via certified mail at the address on file with the Board pursuant to NRS Chapter 630 and NRS Chapter 233B.

III.

The Board concludes that Respondent violated NRS 630.305(1)(d), as described above and as alleged in Count I of the Complaint, and, that accordingly, she is subject to discipline pursuant to NRS 630.352.

IV.

The Board concludes that Respondent violated NRS 630.3062(1), as described above and as alleged in Count II of the Complaint, and, that accordingly, she is subject to discipline pursuant to NRS 630.352.

V.

The Board concludes that Respondent violated NAC 630.540(8), as described above and as alleged in Count III of the Complaint, and, that accordingly, she is subject to discipline pursuant to NRS 630.352.

VI.

The Board concludes that Respondent violated NAC 630.540(15), as described above and as alleged in Count IV of the Complaint, and, that accordingly, she is subject to discipline pursuant to NRS 630.352.

VII.

The Board concludes that Respondent violated NAC 630.540(16), as described above and as alleged in Count V of the Complaint, and, that accordingly, she is subject to discipline pursuant to NRS 630.352.

VIII.

If any of the foregoing Conclusions of Law is more properly deemed a Finding 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's license to practice respiratory care is hereby revoked until further order of the Board.
- 2. Respondent shall pay all costs of the investigation and prosecution, in the amount of \$2,052.48, to the Board, due and payable immediately upon entry of these Findings of Fact, Conclusions of Law and Order.

DATED this 13^{rty} day of March, 2013.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

Benjamin J. Rodriguez, M.D. President

CERTIFICATION

I 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 NORMA JEANNE McCULLOUGH, CRT, Case No. 12-24167-1.

I further certify that BENJAMIN J. RODRIGUEZ, 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 BENJAMIN J. RODRIGUEZ, 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.

DATED this 13th day of March, 2013.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

VALERIE J. CKARK, BSN, RHU, LUTCF

Secretary-Treasurer

1 2

1 1