

FILED 

FEB 24 2014

**BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS**

KS State Board of Healing Arts

In the Matter of)
EVERETT FOX, R.T.)
)
Kansas License No. 16-04470)
_____)

KSBHA Docket No. 14-HA00095

FINAL ORDER GRANTING LICENSURE

NOW on this 14th day of February 2014, comes before the Kansas State Board of Healing Arts (“Board”) the application of Everett Fox, R.T. (“Applicant”) for a license to practice respiratory therapy in the State of Kansas. Applicant appears in person and pro se. Jessica Bryson, Associate Litigation Counsel, appears on behalf of the Respondent Board.

Pursuant to the authority granted to the Board by the Kansas Respiratory Therapy Practice Act, K.S.A. 65-5501, *et seq.* and in accordance with the provisions of the Kansas Administrative Procedure Act K.S.A. 77-501 *et seq.*, the Board hereby enters this Final Order in the above-captioned matter. After reviewing the agency record, hearing the statements and arguments of the parties, and being otherwise duly advised in the premises, the Board makes the following findings, conclusions, and order:

1. On or about August 23, 2013, Applicant submitted an application to the Board for a license to practice respiratory therapy in the State of Kansas. Such application was complete and filed with the Board on January 16, 2014.
2. Applicant has an active license to practice respiratory therapy in Missouri. The license was issued on or about July 31, 2013.
3. On January 17, 2014, Associate Litigation Counsel filed a Response In Opposition to Application for License to Practice Respiratory Therapy (“Response”). The

Response alleged that Applicant violated K.S.A. 65-5510(a)(3) of the Respiratory Therapy Practice Act, by having been convicted of a felony which has a direct bearing on whether he should be entrusted to serve the public in the capacity of a respiratory therapist.

4. The Response further alleged that there were grounds upon which to deny or limit Applicant's license pursuant to K.S.A. 65-5510(a)(2), as further defined by K.A.R. 100-55-5(k), in that Applicant is "professionally incompetent" as defined by K.S.A. 65-2837.

5. On March 25, 1993, Applicant entered a plea of guilty to one count of Burglary in the Second Degree, a Class C Felony in the Circuit Court of Jackson County Missouri. Applicant was sentenced to probation for a term of one year, ordered to pay \$20 restitution, perform 40 hours of community service, and pay \$46 to the Crime Victim's Compensation Fund.

6. On March 9, 1995, Applicant was discharged from probation after having shown that he had performed the terms of his probation in a satisfactory manner.

7. At the time of the plea, Applicant was twenty (20) years old.

8. Applicant disclosed in his application for licensure that he had last actively practiced respiratory therapy in May 2011. Since May 2011, Applicant had been working as a general painter.

9. On February 11, 2013, Applicant retook the NBRC examination and passed.

10. On January 8, 2014, Applicant advised the Board that he had been employed "PRN" as a respiratory therapist in Missouri since October 1, 2013 and that as of December 27, 2013, his position became full-time.

11. Pursuant to K.S.A. 65-5510, the board may deny, refuse to renew, suspend, revoke or limit a license . . . where the applicant for licensure has been guilty of unprofessional

conduct which has endangered or is likely to endanger the health, welfare or safety of the public.

K.S.A. 65-5510(a)(3) further provides that:

“being convicted of a felony if the acts for which such person was convicted are found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of a respiratory therapist.”

12. The Board concludes that although Applicant was convicted of a felony, that the offense occurred over twenty (20) years ago, that Applicant successfully completed the terms of his probation, and that there is no evidence to suggest that Applicant has continued to engage in unlawful or illegal acts.

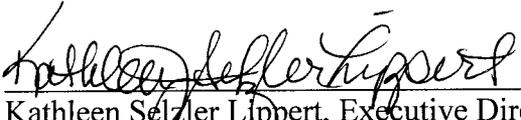
13. The Board concludes that Applicant has been rehabilitated and that there is insufficient evidence to show that Applicant should not be entrusted to serve the public in the capacity of a respiratory therapist.

14. The Board concludes that pursuant to K.A.R. 100-55-3(c) that Applicant has passed the required examinations and as such is qualified to hold licensure in Kansas.

15. The Board concludes that Applicant’s application for licensure should be granted.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Applicant is hereby GRANTED a license by examination to practice respiratory therapy in the State of Kansas.

IT IS SO ORDERED THIS 24 DAY OF FEBRUARY, 2014, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


Kathleen Selzler Lippert, Executive Director
Kansas State Board of Healing Arts

NOTICE OF RIGHTS

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service, and service of a Final Order is complete upon mailing. Pursuant to K.S.A. 77-529, Licensee may petition the Board for Reconsideration of a Final Order within fifteen (15) days following service of the final order. Additionally, a party to an agency proceeding may seek judicial review of a Final Order by filing a petition in the District Court, as authorized by K.S.A. 77-601, *et seq.* Reconsideration of a Final Order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed within **30 days** following service of the Final Order. A copy of any petition for judicial review must be served upon Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing **FINAL ORDER GRANTING LICENSE** was served on this 24th day of February, 2014, by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Everett Fox, RT
Confidential
Kansas City, MO 64114

And a copy was hand-delivered to:

Jessica Bryson, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Katy Lenahan, Licensing Administrator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

And the original was filed with the office of the Executive Director



Cathy Brown, Executive Assistant