

HEARING CONDUCTED BY THE
STATE OFFICE OF ADMINISTRATIVE HEARINGS
SOAH DOCKET NO. 503-16-4692.RCP
TEXAS RESPIRATORY CARE PRACTITIONER LICENSE NO. 73330

IN THE MATTER OF THE

COMPLAINT AGAINST

MARY YORK, R.C.P.

BEFORE THE

TEXAS BOARD OF

RESPIRATORY CARE

DEFAULT ORDER

During open meeting at Austin, Texas, the Texas Board of Respiratory Care (Board) considered Board Staff's request for Determination of Default and Issuance of Order of Default (Motion) against Mary York, R.C.P. (Respondent).

I. FINDINGS

1. Respondent is a Texas Respiratory Care Practitioner and holds Texas Medical License No. 73330, and was licensed to practice at all times material and relevant to this Order.

2. All jurisdictional requirements have been satisfied under Texas Occupations Code Title 3, Subtitle K, Chapter 604 of the Respiratory Care Practitioner Act (the Act).

3. Respondent received all notice that may be required by law and by the rules of the Board.

4. A Complaint was filed by the Board on June 17, 2016, with the State Office of Administrative Hearings (SOAH), alleging that Respondent violated the Act and was subject to disciplinary action by the Board.

5. On June 17, 2016, the Board mailed Respondent a copy of the Complaint via United States Postal Service (USPS) by First Class and certified mail/return receipt requested to Respondent's mailing address of record on file with the Board and every other address the Board had for Respondent. All mailings of the Complaint were returned undeliverable to the Board.

6. A hearing on the merits was set for October 19, 2016, at SOAH. On September 29, 2016, the Board served Respondent with a copy of the Notice of Adjudicative Hearing (Notice) via USPS by First Class and certified mail/return receipt requested. All mailings of the Notice were returned undeliverable to the Board.

7. The Notice contained the following admonishment to Respondent:

NOTICE: PURSUANT TO SOAH RULE § 155.501, UPON FAILURE TO APPEAR AT THE HEARING, THE FACTUAL ALLEGATIONS IN THE NOTICE AND COMPLAINT WILL BE DEEMED ADMITTED AS TRUE, AND THE RELIEF SOUGHT IN THE NOTICE OF HEARING MAY BE GRANTED BY DEFAULT.

8. Respondent failed to file an answer or pleading responsive to the Notice.

9. Respondent failed to appear at the hearing on October 19, 2016. SOAH closed the hearing at approximately 9:15 a.m.

10. On November 4, 2016, SOAH issued Order Number 3 Default Dismissal.

11. Pursuant to 22 Tex. Admin. Code § 187.27, the Board finds that this Default Dismissal is meritorious, and satisfies all jurisdictional and legal requirements. The Board further finds that the issuance of a Default Order is warranted.

II. CONCLUSIONS OF LAW

Based on the above Findings, the Board concludes the following:

1. Violations of the Act: The actions of Respondent as specified in the Complaint violate one or more of the following provisions of the Act: Section 604.201(b)(8) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of Board rules; specifically, 25 Tex. Admin. Code §§ 140.211, 212(K), failure to notify the Board of changes in Respondent's mailing address, or place of business or employment within 30 calendar days of such change and 140.212(P), failure to respond to a request for information or other correspondence relating to the certification process or unprofessional conduct claims.

2. Aggravating Factors: Board Rule 140.214(f)(4) provides that the Board may consider aggravating factors that warrant more severe or restrictive disciplinary action. This case includes the following aggravating factors: (1) the severity of the offense; (2) the danger to the public; (3) the number of repetitions of offenses; (4) the deterrent effect of the penalty imposed; and, (5) any other mitigating or aggravating circumstances.

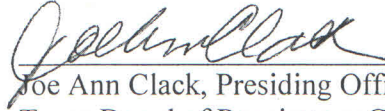
III. ORDER

IT IS THEREFORE the Board's finding, having reviewed the administrative record, that this Default Dismissal is meritorious.

Based on the above finding that Default Dismissal is meritorious, the Board ORDERS that:

1. All allegations set forth in the Complaint filed in SOAH No. 503-16-4692.RCP are deemed true.
2. Respondent's Texas Respiratory Care Practitioner's License No. 73330 is hereby REVOKED.

SIGNED AND ENTERED by the presiding officer of the Texas Board of Respiratory
Care on this 24th day of February, 2017.

A handwritten signature in cursive script, appearing to read "Joe Ann Clack", written over a horizontal line.

Joe Ann Clack, Presiding Officer
Texas Board of Respiratory Care