

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY

Division of Law
124 Halsey Street, Fifth Floor
Post Office Box 45029
Newark, New Jersey 07101

By: Michelle T. Weiner
Deputy Attorney General
(973) 648-3696

FILED WITH THE BOARD OF
RESPIRATORY CARE
ON June 2, 2004
Dorcas K. O'Neal

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF RESPIRATORY CARE

IN THE MATTER OF :
:
DONNA PENDER-KIMBROUGH : Administrative Action
License No. ZA003116 :
:
LICENSED TO PRACTICE : ORDER OF SUMMARY SUSPENSION
RESPIRATORY CARE IN :
THE STATE OF NEW JERSEY :
:
:

This matter was opened to the New Jersey State Board of Respiratory Care upon discovery of the following information:

1. Respondent, Donna Pender-Kimbrough, License No. ZA003116, was licensed to practice respiratory care in the State of New Jersey from May 19, 1995 until April 24, 2001, and from April 1, 2002 to March 31, 2004, after which time respondent permitted her license to lapse. (See Certification of Dorcas K. O'Neal, dated May 25, 2004, a copy of which is attached hereto as Exhibit A, ¶ 3.)

2. Pursuant to N.J.A.C. 13:44F-8.5, respondent notified the Board of her change of address by forwarding a copy of her address

of record to the Board, which was filed on or about August 5, 1999. A copy of the notification is attached hereto as Exhibit B.

2. By letter of October 24, 2000 (sent by certified and first class mail to respondent's address on file with the Board), the Board directed respondent to appear at an investigative inquiry on November 14, 2000 to discuss with the Board her drug specimen, which was reported as positive for cocaine metabolites. (See Certification of Ms. O'Neal, Executive Director of the Board, dated January 8, 2001, a copy of which is attached hereto as Exhibit C, and correspondence from Ms. O'Neal to respondent dated October 24, 2000, a copy of which is attached hereto as Exhibit D.)

3. The certified mail receipt was signed by John Pender on December 31, 2000 at respondent's address, and the envelope sent by first class mail was not returned. Respondent failed to appear for investigative inquiry on November 14, 2000. (See Ex. C and the Certified Mail receipt dated December 31, 2000, a copy of which is attached hereto as Exhibit E.)

4. By letter of December 11, 2000 (sent by certified and first class mail to respondent's address on file with the Board), the Board directed respondent to appear at an investigative inquiry on January 2, 2001 to discuss the alleged positive drug specimen. (See Ex. C and letter from Ms. O'Neal to respondent dated December 11, 2000, a copy of which is attached hereto as Exhibit F.)

5. The certified mail receipt was not received, and the first class mailing was not returned. (See Ex. C.) Respondent failed to appear for an investigative inquiry on January 2, 2001. (See Provisional Order of Discipline, dated January 8, 2001 ("Provisional Order"), a copy of which is attached hereto as Exhibit G, ¶ 5.)

6. Accordingly, the Provisional Order was mailed to respondent's address on file with the Board by certified mail and first class mail on January 8, 2001. It notified respondent that her actions constituted a failure of the duty to cooperate in an investigation of the Respiratory Care Board which further constituted professional misconduct. The Provisional Order allowed respondent thirty business days in which to submit a written request for modification or dismissal of the Findings of Fact contained in the Provisional Order. (See Ex. G and the Declaration of Paula J. Benson, dated March 1, 2001, a copy of which is attached hereto as Exhibit H, ¶ 2.)

7. The envelope mailed by regular mail was not returned, and the envelope mailed by certified mail was returned marked "unclaimed." No response was received to the Provisional Order. (See Ex. H, ¶¶ 3, 4, 5 and Certification of Ms. O'Neal, a copy of which is attached hereto as Exhibit I, ¶ 3.)

8. Accordingly, a Final Order of Discipline, dated April 13, 2001 ("Final Order"), was mailed to respondent's address on file by

certified and first class mail on or about April 24, 2001. (See letter from Ms. O'Neal, with attached Final Order, dated April 24, 2001, a copy of which is attached hereto as Exhibit J. See also Ex. A, ¶ 4.) Under the Final Order, respondent's license was suspended due to her failure to fulfill the duty to cooperate in an investigation of the Respiratory Care Board, until such time as she appeared for an investigative inquiry before the Board. (See Ex. J, ¶ 4.) No response was received at any time following issuance of the Final Order. (See Ex. A, ¶ 5.)

9. Due to an administrative error, respondent was issued a biennial renewal application and renewed her license for the period of April 1, 2002 to March 31, 2004 on or about April 10, 2002. (See Ex. A, ¶ 6.)

10. As the issuance of the license was in error, the Board directed respondent to appear for further inquiry on January 13, 2003 by letter dated December 8, 2003, sent by certified and first class mail to respondent's address on file with the Board. By letter dated December 12, 2003, sent by certified and first class mail to respondent's address on file with the Board, the Board revised the date and time of the scheduled appearance and directed respondent to appear before the Board on January 6, 2004. (See letters from Ms. O'Neal to respondent, dated December 8, 2003 and December 12, 2003, attached hereto as Exhibits K and L respectively.)

11. In addition, a subpoena was issued directing respondent to appear to testify before the Board about any and all rehabilitative efforts she has made since October 12, 2000, the circumstances underlying her failure to respond to the Board's requests for appearance and orders in 2000 and 2001, and the circumstances regarding her receipt of the biennial renewal application and renewed license for the period April 1, 2002 to March 31, 2004. (A copy of the Administrative Action Subpoena ad Testificandum, dated December 11, 2003 ("the Subpoena"), is attached hereto as Exhibit M.)

12. On December 19, 2003, investigator John Czuba of the Consumer Affairs Enforcement Bureau attempted to serve the Subpoena at the address on file with the Board, but respondent's father refused to accept service on her behalf. (A copy of the Certification of Due Diligence of John Czuba, dated December 30, 2003, is attached hereto as Exhibit N.)

13. No response to the letters or subpoena was received. Finally, respondent failed to appear at the investigative inquiry on January 6, 2004. (See Ex. A, ¶¶ 7, 8, 9.)

14. Respondent failed to submit a license renewal application and fee prior to March 31, 2004, the expiration date of her license, pursuant to N.J.A.C. 13:44F-7.1(a). Nor did she renew the license within 30 days of its expiration, pursuant to N.J.A.C.

13:44F-7.1(c). (See Ex. A, ¶ 10.) Therefore, respondent is in lapsed license status.

15. Respondent's actions, as set forth herein, constitute a failure of the duty to cooperate in an investigation of the Respiratory Care Board in violation of N.J.A.C. 13:45C-1.2 and 1.3, which constitutes professional misconduct in violation of N.J.S.A. 45:1-21(e).

16. Respondent's further failure to submit her biennial renewal resulted in a lapsed license status and therefore provides grounds to automatically suspend respondent's license to practice respiratory care in the State of New Jersey pursuant to N.J.S.A. 45:1-7.1(b).

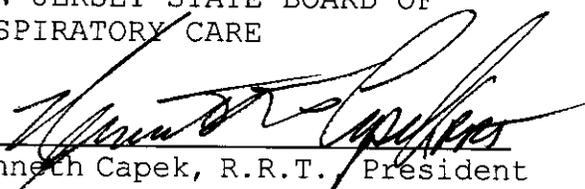
ACCORDINGLY, IT IS on this 1 day of June, 2004,
ORDERED AND AGREED THAT:

1. Respondent's license to practice respiratory care in the State of New Jersey shall be and hereby is suspended by operation of N.J.S.A. 45:1-7.1, without hearing.

2. In the event that respondent seeks reinstatement of a New Jersey license at any time in the future, this order shall require

respondent to show cause why the application for reinstatement should not be refused or issued subject to such restraints as the Board may deem appropriate.

NEW JERSEY STATE BOARD OF
RESPIRATORY CARE


Kenneth Capek, R.R.T. President

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF RESPIRATORY CARE

IN THE MATTER OF :
 :
 :
 Donna Pender-Kimbrough :
 License No. ZA003116 : CERTIFICATION
 :
 :
 LICENSED TO PRACTICE :
 RESPIRATORY CARE IN THE :
 STATE OF NEW JERSEY :
_____ :

I, DORCAS K. O'NEAL of full age, depose and say:

1. I am Executive Director at the New Jersey State Board of Respiratory Care (the "Board"), having offices at 124 Halsey Street, Newark, New Jersey 07101.

2. I am custodian of the records fo the State Board of Respiratory Care.

3. Donna Pender-Kimbrough, License No. ZA 003116, was licensed to practice respiratory care in the State of New Jersey from May 19, 1995 until April 24, 2001, and from April 1, 2002 to March 31, 2004, after which time respondent permitted her license to lapse.

4. A Final Order of Discipline, dated April 13, 2001, ("Final Order") was mailed to respondent's address on file by certified and first class mail on or about April 24, 2001. Under the Final Order, respondent's license was suspended due to her failure to fulfill the duty to cooperate in an investigation of the

Respiratory Care Board, until such time as she appeared for an investigative inquiry before the Board.

5. No response was received at any time following issuance of the Final Order.

6. Due to an administrative error, respondent was issued a biennial renewal application and renewed license for the period of April 1, 2002 to March 31, 2004 on or about April 10, 2002.

7. No response to the letters directing respondent to appear for further inquiry following the erroneous issuance of the biennial renewal application and renewed license, sent by certified and first class mail to respondent's address on file with the Board, was received.

8. Nor did the Board receive a response to the subpoena to appear and testify before the Board of Respiratory Care on January 6. Service was attempted at respondent's address on file with the Board.

9. Respondent failed to appear at the investigative inquiry on January 6, 2004.

10. Respondent failed to submit a license renewal application and fee prior to March 31, 2004, the expiration date of her license. Nor did she renew the license within thirty days of its expiration.

I certify that the foregoing statements made by me are true as evidenced by Board records.

Date: 25 May 2004



Dorcas K. O'Neal
Executive Director
Board of Respiratory Care

Attention Resp. Board:

Address Change. Donna Pender-Kimbrough

old: 118 6th Rd. R.D.#2 Newtonville NJ. 08344

New: 767 6th Rd. R.D.#2 Newtonville NJ. 08344

Phone # Home (609) 567-7401

work # (609) 665-9111 ext 223

As per phone conversation with
MS Cooper this A.M.

Donna Pender-Kimbrough
CD

FILED
BOARD OF RESPIRATORY CARE
NOV 05 1999

COPY

CERTIFICATION

I, Dorcas K. O'Neal, Executive Director of the State Board of Respiratory Care and custodian of Board records, do hereby certify that on October 24, 2000 a notification was mailed by certified mail and first class mail to Donna Pender-Kimborough at 767 6th RD #2., Newtonville, New Jersey 08346-2035, to appear before the Board of Respiratory Care on November 14, 2000. The return receipt was signed by John Pender on 10/31/00 and received in the Board Office on November 6, 2000. The first class letter of October 24, 2000, was not returned.

I further certify that a second notice was mailed to Ms. Pender-Kimborough at the same address on December 11, 2000 by certified mail and first class mail to appear before the Board on January 02, 2001. The return receipt has not been received and the first class mailing has not been returned to the Board Office.

I certify that the facts contained herein are true as evidenced in Board records.

Date:

8 January 2001



Dorcas K. O'Neal
Executive Director



State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF RESPIRATORY CARE
124 HALSEY STREET, 6TH FLOOR, NEWARK NJ

JOHN J. FARMER, JR.
Attorney General

PETER VERNIERO
Attorney General
MARK S. HERR
Director

October 24, 2000

Mailing Address:
P.O. Box 45031
Newark NJ 07101
(973) 504-6485

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark Here

Donna Pender-Kimborough
767 - 6th Road RD#2
Newtonville, NJ 08346-2035

CERTIFIED/FIRST CLASS
#7000 0600 0029 3356 5819
Donna Pender-Kimborough
767 6th Road RD#2
Newtonville, New Jersey 08346-2035

Re: Request for an Appearance before the Board

Dear Ms. Pender-Kimborough:

Information has come to the attention of the New Jersey State Board of Respiratory Care which relates to your responsibilities as a licensee of the Board. The Board has determined that further inquiry is required as authorized by *N.J.S.A. 45:1-18 et seq.* You are, therefore, directed to appear before the Board of Respiratory Care on November 14, 2000 at 11:00 a.m., Salem Conference room, 2nd floor, 124 Halsey Street in Newark, New Jersey. If it is your intention to retain counsel, please do so immediately in order to provide your attorney with adequate notice of the date.

The Board's inquiry is based upon, but is not limited to,

The alleged positive drug screen results for cocaine metabolites.

The Board wishes to discuss with you this matter, as well as your overall practice of Respiratory Care. The above matter may involve violation of *N.J.S.A. 45:1-21 (e)* and *N.J.S.A. 45:1-21 (h)*, and other pertinent laws or rules implemented by the Board.

The purpose of this appearance is to enable the Board to make an appropriate inquiry by affording you an opportunity to discuss this matter with members of the Board and the assigned Deputy Attorney General. A court reporter will be present and you will be requested to testify under oath. You may be accompanied by counsel, if you so desire, provided your attorney is admitted to practice in this State. The Board will then determine whether the inquiry can be resolved at this stage or whether formal procedures appear warranted. Requests for adjournment will be entertained only if made no later than ten (10) days prior to the date of the appearance and if a requisite

showing of good cause is made. Should you fail to secure a different date for your appearance and fail to appear on the date noted, your failure may be deemed to be a violation of *N.J.A.C. 13:45C-1.2*. If you desire additional procedural information prior to the date listed above, please contact Deputy Attorney General Sandra Dick at 973-648-3265

Very truly yours,

A handwritten signature in cursive script, reading "Dorcas K. O'Neal". The signature is written in black ink and is positioned above the printed name and title.

Dorcas K. O'Neal
Executive Director

cc: Sandra Dick, Deputy Attorney

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Donna Pender-Kimborough
767 - 6th Road RD#2
Newtonville, NJ 08346-2035

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

D. Is delivery address different from item 1? Yes No

If YES, enter delivery address below: Yes No

3. Service Type

- Certified Mail
- Registered
- Insured Mail
- Express Mail
- Return Receipt for Merchandise
- C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Copy from service label)

7000 10066111002511335500 5815

PS Form 3811, July 1999

Domestic Return Receipt



State of New Jersey
 DEPARTMENT OF LAW AND PUBLIC SAFETY
 DIVISION OF CONSUMER AFFAIRS
 STATE BOARD OF RESPIRATORY CARE
 124 HALSEY STREET, 6TH FLOOR, NEWARK NJ

JOHN J. FARMER, JR.
Attorney General

MARK S. HERR
Director

Mailing Address
 P.O. Box 45031
 Newark NJ 07110
 (973) 504-6485

December 11, 2000

7000 0600 0029 3356 5628

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	

Postmark
 Here

Donna Pender-Kimborough
 767 6th Road RD #2
 Newtonville, N.J. 08346-2035

PS Form 3800, February 2000

CERTIFIED/FIRST CLASS
 #7000 0600 0029 3356 5628
 Donna Pender-Kimborough
 767 6th Road RD#2
 Newtonville, New Jersey 08346-2035

Re: SECOND REQUEST FOR AN APPEARANCE BEFORE THE BOARD

Dear Ms. Pender-Kimborough:

Information has come to the attention of the New Jersey State Board of Respiratory Care which relates to your responsibilities as a licensee of the Board. The Board has determined that further inquiry is required as authorized by N.J.S.A. 45:1-18 et seq. You are, therefore, directed to appear before the Board of Respiratory Care on January 02, 2001 at 11:00 a.m., Somerset Conference Room, 6th floor, 124 Halsey Street in Newark, New Jersey. If it is your intention to retain counsel, please do so immediately in order to provide your attorney with adequate notice of the date.

The Board's inquiry is based upon, but is not limited to;

The alleged positive drug screen.

The Board wishes to discuss with you this matter, as well as your overall practice of Respiratory Care. The above matter may involve violation of N.J.S.A. 45:1-21 (e) and N.J.S.A. 45:1-21 (h), and other pertinent laws or rules implemented by the Board.

The purpose of this appearance is to enable the Board to make an appropriate inquiry by affording you an opportunity to discuss this matter with members of the Board and the assigned Deputy Attorney General. A court reporter will be present and you will be requested to testify under oath. You may be accompanied by counsel, if you so desire, provided your attorney is admitted to practice in this State. The Board will then determine whether the inquiry can be resolved at this stage or whether formal procedures appear warranted. **Requests for adjournment will be entertained only if made no later than ten (10) days prior to the date of the appearance and**

if a requisite showing of good cause is made. Should you fail to secure a different date for your appearance and fail to appear on the date noted, your failure may be deemed to be a violation of N.J.A.C. 13:45C-1.2 If you desire additional procedural information prior to the date listed above, please contact Deputy Attorney General Sandra Dick at 973-648-3265

Very truly yours,

A handwritten signature in black ink, appearing to read "Dorcas K. O'Neal". The signature is fluid and cursive, with the first name "Dorcas" being the most prominent.

Dorcas K. O'Neal
Executive Director

DKO/ch

c: Sandra Dick, Deputy Attorney

RECEIVED BY
BOARD OF RESPIRATORY CARE
JAN 11 2 2001

~~JOHN J. FARMER, JR.
ATTORNEY GENERAL OF NEW JERSEY~~

Division of Law - 5th Floor
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101
Attorney for State Board of Respiratory Care

By: Sandra Y. Dick
Deputy Attorney General
Tel. (973) 648-4738

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF RESPIRATORY CARE

IN THE MATTER OF :
: Administrative Action
DONNA PENDER-KIMBOROUGH :
:
LICENSED TO PRACTICE :
RESPIRATORY CARE IN : PROVISIONAL ORDER OF
THE STATE OF NEW JERSEY : DISCIPLINE
:

This matter was opened to the Board on information received which the Board has reviewed and on which the following preliminary findings are made.

FINDINGS OF FACT

1. Respondent has been a licensee of the Board at all times relevant hereto.
2. By letter of October 24, 2000, (sent certified and regular mail to respondent's address on file with the Board), the Board directed respondent to appear at an investigative inquiry on November 14, 2000 to discuss with the Board a drug screen she had undergone which allegedly was positive for cocaine metabolites.

JAN 12 2001

(See certification of Dorcas O'Neal, Executive Director of the Board).

3. The certified mail receipt was signed for at respondent's address, and the regular mail was not returned. Respondent failed to appear for investigative inquiry on November 14, 2000 (see certified mail receipt attached).

4. By letter of December 11, 2000 (sent certified and regular mail to respondent's address on file with the Board), the Board directed respondent to appear at an investigative inquiry on January 2, 2001 to discuss the alleged positive drug screen. (See certification of Dorcas O'Neal, Executive Director of the Board).

5. The certified mail receipt was not returned, and the regular mail was not returned. Respondent failed to appear for investigative inquiry on January 2, 2001 (see certified mail letter attached).

CONCLUSIONS OF LAW

Respondent's actions as set forth herein constitute a failure of the duty to cooperate in an investigation of the Respiratory Care Board in violation of N.J.A.C. 13:45C-1.2 and 1.3 which constitutes professional misconduct in violation of N.J.S.A. 45:1-21(e).

**IT IS, THEREFORE ON THIS 8TH DAY OF JANUARY, 2001,
ORDERED THAT:**

1. The license of Donna Pender-Kimborough is hereby suspended until such time as she appears for investigative inquiry before the Board of Respiratory Care.

2. The within Order shall become final at 5:00 p.m. on the 30th business day following entry hereof unless Respondent requests a modification or dismissal of the above stated Findings of Fact or Conclusions of Law by:

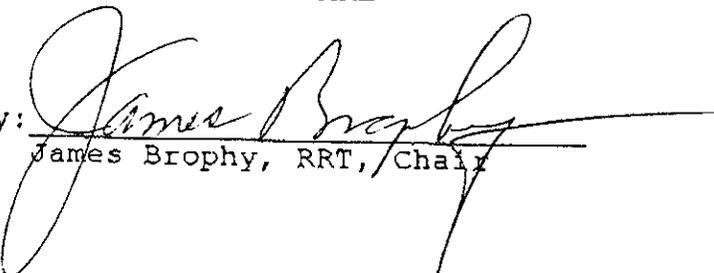
a) Submitting a written request for modification or dismissal to Dorcas O'Neal, Executive Director, State Board of Respiratory Care, P.O. Box 45031, 124 Halsey Street, Newark, New Jersey 07101.

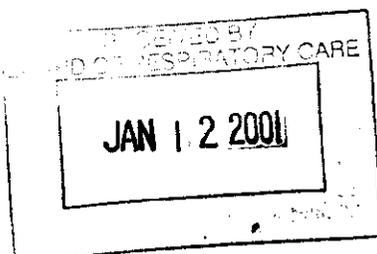
b) Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.

c) Submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

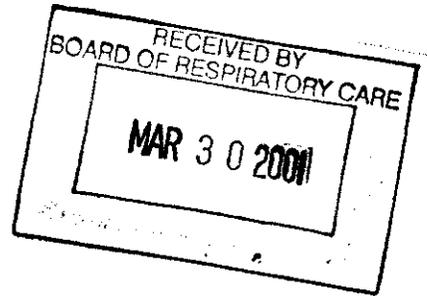
4. In the event that respondent's submissions establish a need for further proceedings, including, but not limited to, an evidentiary hearing, respondent shall be notified with regard thereto. In the event that an evidentiary hearing is ordered, the preliminary findings of fact and conclusion of law contained herein shall serve as notice of the factual and legal allegations in such proceeding.

NEW JERSEY STATE BOARD OF
RESPIRATORY CARE

By: 
James Brophy, RRT, Chair



STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF RESPIRATORY CARE



IN THE MATTER OF:

DONNA PENDER-KIMBOROUGH

LICENSED TO PRACTICE RESPIRATORY
CARE IN THE STATE OF NEW JERSEY

I, PAULA J. BENSON, of full age, depose and say:

1. I am a Legal Secretary at the Office of the Division of Law, 124 Halsey Street, Newark, New Jersey, and am the secretary to Sandra Y. Dick, Deputy Attorney General, counsel to the Board of Respiratory Care.

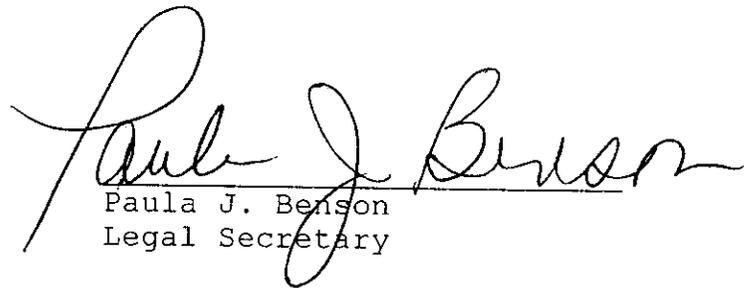
2. On January 8, 2001 a PROVISIONAL ORDER OF DISCIPLINE which was filed with the New Jersey Board of Respiratory Care relative to the above captioned respiratory therapist was mailed by me to Ms. Donna Pender-Kimborough to 767 6th Road, RD #2, Newtonville, NJ 08346-2035, both regular mail and certified mail return-receipt #7099 3400 0017 5439 2793. This Provisional Order allowed Ms. Pender-Kimborough thirty (30) business days in which to submit a written request for modification or dismissal of the Findings of Fact contained in the Provisional Order.

3. The envelope mailed by regular mail was not returned.

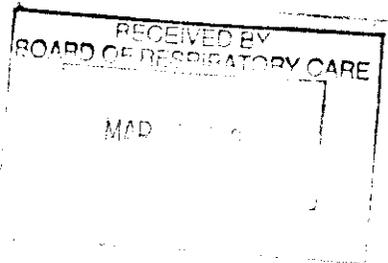
4. The envelope mailed by certified return-receipt was returned marked "unclaimed". The attempted delivery notices were dated 1/13/01; 1/24 and 1/28. (Copy of Green Certified receipt and envelope containing Provisional Order - attached).

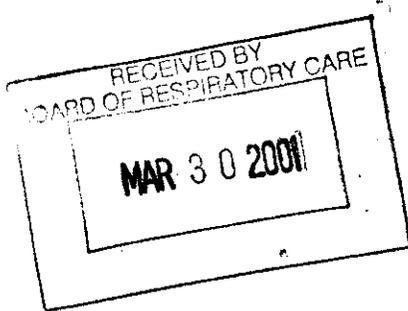
5. As of this date, no response has been received in this office from Ms. Pender - Kimborough.

I certify that the above statements made by me are true. I recognize that if any of the above statements are willfully false, I am subject to punishment.


Paula J. Benson
Legal Secretary

Dated: March 1, 2001





MAILED
3/1/01

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF RESPIRATORY CARE

IN THE MATTER OF

Donna Pender-Kimborough
Licensed No. ZA 003116

LICENSED TO PRACTICE
RESPIRATORY CARE IN THE
STATE OF NEW JERSEY

CERTIFICATION

I, DORCAS K. O'NEAL, of full age, depose and say:

1. I am Executive Director at the New Jersey State Board of Respiratory Care (the "Board"), having offices at 124 Halsey Street, Newark, New Jersey 07101.
2. I am custodian of the records of the State Board of Respiratory Care.
3. To this date, no response has been received to the Provisional Order of Discipline from Ms. Donna Pender-Kimborough.

I certify that the foregoing statements made by me are true. I realize that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

Dorcas K. O'Neal
Executive Director
Board of Respiratory Care



State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF RESPIRATORY CARE
124 HALSEY STREET, 6TH FLOOR, NEWARK NJ

DONALD T. DiFRANCESCO
Acting Governor

JOHN J. FARMER, JR.
Attorney General
MARK S. HERR
Director

Mailing Address:
P.O. Box 45031
Newark, NJ 07101
(973) 504-6485

April 24, 2001

CERTIFIED/FIRST CLASS
#7099 3220 0009 3497 9683

Donna Pender-Kimborough
767 - 6th Road RD#2
Newtonville, NJ 08346-2035

Dear Ms. Pender-Kimborough:

Attached herewith is a Final Order of Discipline.

Board of Respiratory Care

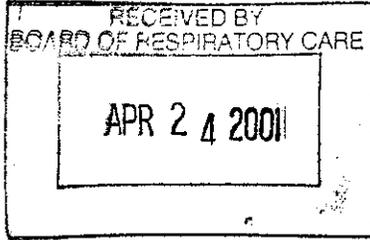
A handwritten signature in black ink that reads "Dorcas K. O'Neal".

Dorcas K. O'Neal
Executive Director

DKO/nk

FILED WITH THE BOARD OF
RESPIRATORY CARE

ON 24 April 2001
Robert R. O'Keefe



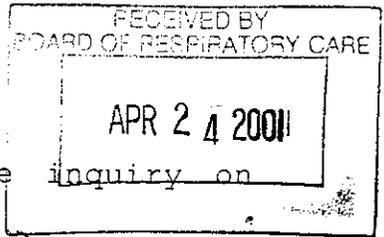
STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF RESPIRATORY CARE

IN THE MATTER OF _____ :
: Administrative Action
DONNA PENDER-KIMBOROUGH :
:
LICENSED TO PRACTICE : FINAL ORDER OF
RESPIRATORY CARE IN : DISCIPLINE
THE STATE OF NEW JERSEY :
:

This matter was opened to the Board on information received which the Board has reviewed and on which the following findings of fact and conclusions of law are made.

FINDINGS OF FACT

1. Respondent has been a licensee of the Board at all times relevant hereto.
2. By letter of October 24, 2000, (sent certified and regular mail to respondent's address on file with the Board), the Board directed respondent to appear at an investigative inquiry on November 14, 2000 to discuss with the Board a drug screen she had undergone which allegedly was positive for cocaine metabolites.
3. The certified mail receipt was signed for at respondent's address, and the regular mail was not returned. Respondent failed to appear for investigative inquiry on November 14, 2000.
4. By letter of December 11, 2000 (sent certified and regular mail to respondent's address on file with the Board), the Board



directed respondent to appear at an investigative inquiry on January 2, 2001 to discuss the alleged positive drug screen.

5. The certified mail receipt was not returned, and the regular mail was not returned. Respondent failed to appear for investigative inquiry on January 2, 2001.

CONCLUSIONS OF LAW

Respondent's actions as set forth herein constitute a failure of the duty to cooperate in an investigation of the Respiratory Care Board in violation of N.J.A.C. 13:45C-1.2 and 1.3 which constitutes professional misconduct in violation of N.J.S.A. 45:1-21(e).

Based on the foregoing findings and conclusions, a Provisional Order of Discipline suspending respondent's license to practice in the State of New Jersey was entered on January 9, 2001 and a copy was forwarded to respondent at the last known address on file with the Board. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Although the Provisional Order sent by means of certified mail was returned as "unclaimed" the regular mail was not returned. Because the Order was forwarded to respondent's address of record,

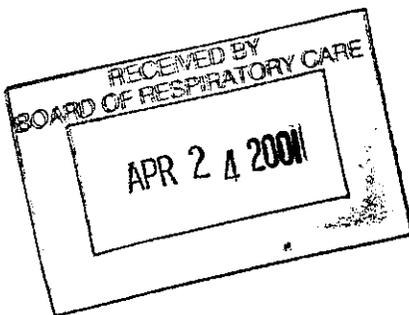
the Board deems service to have been effected. Accordingly, it is determined that further proceedings were not necessary and that the Provisional Order should be made final.

IT IS, THEREFORE ON THIS 13 DAY OF April, 2001,

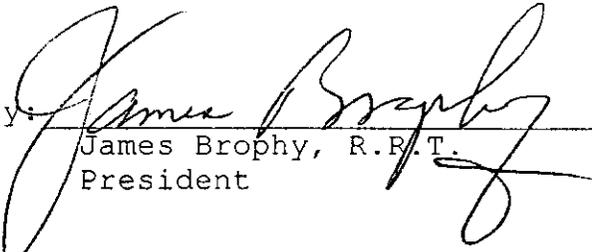
ORDERED THAT:

1. The license of Donna Pender-Kimborough is hereby suspended until such time as she appears for investigative inquiry before the Board of Respiratory Care.

NEW JERSEY STATE BOARD OF
RESPIRATORY CARE



By:


James Brophy, R.R.T.
President

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

Article Sent To:

2099 3220 6602
 7099 3220 6602
 9696 3497 0009

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Enforcement Required)		
Restricted Delivery Fee (Enforcement Required)		
Total Postage & Fees	\$	

Name (Please Print Clearly) (To be completed by mailer)
 Donna Bender-Kimbrugh
 Street, Apt. No.; or PO Box No.
 Rt. 7 - 6th Road P.O. #2
 City, State, ZIP*
 NEWTONVILLE NT 08344-3035
 PS Form 3800, July 1999 See Reverse for Instructions



State of New Jersey

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF RESPIRATORY CARE
124 HALSEY STREET, 6TH FLOOR, NEWARK NJ

COPY

JAMES E. MCGREEVEY
Governor

PETER C. HARVEY
Attorney General
RENI ERDOS
Director

Mailing Address:

December 8, 2003

P.O. Box 45031
Newark, NJ 07101
(973) 504-6485

CERTIFIED/FIRST CLASS MAIL

#7000 1670 0011 2009 7153

Donna Pender-Kimbrough
767 6th Road Rd #2
Newtonville, NJ 08346

Revised

*Date and Time of scheduled appearance
1/6/04 - 10:00 am*

Re: Non-response to scheduled investigative inquiry

Dear Mrs. Pender-Kimbrough:

Due to the non-response to the previous Final Order of Discipline, the State Board of Respiratory Care has determined that further inquiry is required as authorized by N.J.S.A. 45:1-18. You are therefore directed to appear before the Board on Tuesday, January 13, 2003 at 11:30 a.m., at 124 Halsey St, 6th Floor, Somerset Conference Room, Newark, New Jersey. If it is your intention to retain counsel, please do so immediately in order to provide your attorney with adequate notice of the date. Requests for adjournment will only be considered if made no later than (10) days prior to the date of the appearance and if good cause is shown.

The Board's inquiry is based upon, but not limited to a license issued to you inadvertently on 4/10/02 in contradiction to a Final Order of Discipline suspending your license as of April 13, 2001 and any documents or materials which pertains to the matter. When appearing, you may also bring any information which you believe to be relevant to the Board's inquiry.

The purpose of this appearance is to enable the Board to make an appropriate determination of this matter with members of the Board and the assigned Deputy Attorney General. A court reporter will be present and you will be required to testify under oath. You may be accompanied by counsel, if you so desire, provided your attorney is admitted to practice in this State. Following the inquiry, the Board will determine whether the inquiry can be resolved at this stage or whether formal proceedings are warranted. Please confirm, in writing, your intention to appear as scheduled. If you need additional procedural information prior to the date set forth above, please contact Deputy Attorney General Tobey Palan at (973) 648-2500. Should you fail to secure a different date for this appearance and fail to appear on the date noted, your failure may be deemed to be a violation of N.J.S.A. 13:45C-1.2.

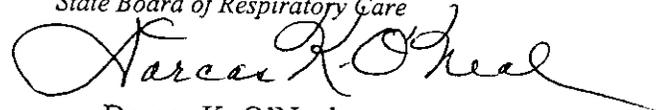
Should you have any questions please feel free to contact this office.

New Jersey Is An Equal Op

Recycled Paper and Recyclable

EXHIBIT K

Very truly yours,
State Board of Respiratory Care



Dorcas K. O'Neal
Executive Director

DKO/dew
cc: Toby Paulin, Deputy Attorney General

COPY

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 1670 0014 2009 7153

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Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

Sent To	Donna Pender-Kimbrough
Street, Apt. No., or PO Box No.	767 6 th Rd # 2
City, State, ZIP+4	Newtonville, NJ 08846

PS Form 3800, May 2008

See Reverse for Instructions



State of New Jersey

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF RESPIRATORY CARE
124 HALSEY STREET, 6TH FLOOR, NEWARK NJ

COPY

JAMES E. MCGREEVEY
Governor

PETER C. HARVEY
Attorney General
RENI ERDOS
Director

December 12, 2003

Mailing Address:
P.O. Box 45031
Newark, NJ 07101
(973) 504-6485

CERTIFIED/FIRST CLASS MAIL

#7000 1670 0011 2009 7177

Donna Pender-Kimbrough
767 6th Road Rd #2
Newtonville, NJ 08346

REVISED

Re: Date and Time of scheduled appearance in accordance with a subpoena to be served

Dear Mrs. Pender-Kimbrough:

Due to the non-response to the previous Final Order of Discipline, the State Board of Respiratory Care has determined that further inquiry is required as authorized by N.J.S.A. 45:1-18. You are therefore directed to appear before the Board on Tuesday, January 6, 2004 at 10:00 a.m., at 124 Halsey St, 6th Floor, Somerset Conference Room, Newark, New Jersey. If it is your intention to retain counsel, please do so immediately in order to provide your attorney with adequate notice of the date. Requests for adjournment will only be considered if made no later than (10) days prior to the date of the appearance and if good cause is shown.

The Board's inquiry is based upon, but not limited to a license issued to you inadvertently on 4/10/02 in contradiction to a Final Order of Discipline suspending your license as of April 13, 2001 and any documents or materials which pertains to the matter. When appearing, you may also bring any information which you believe to be relevant to the Board's inquiry.

The purpose of this appearance is to enable the Board to make an appropriate determination of this matter with members of the Board and the assigned Deputy Attorney General. A court reporter will be present and you will be required to testify under oath. You may be accompanied by counsel, if you so desire, provided your attorney is admitted to practice in this State. Following the inquiry, the Board will determine whether the inquiry can be resolved at this stage or whether formal proceedings are warranted. Please confirm, in writing, your intention to appear as scheduled. If you need additional procedural information prior to the date set forth above, please contact Deputy Attorney General Michelle Weiner at (973) 648-2500. Should you fail to secure a different date for this appearance and fail to appear on the date noted, your failure may be deemed to be a violation of N.J.S.A. 13:45C-1.2.

Should you have any questions, please feel free to contact this office.

Very truly yours,

State Board of Respiratory Care

A handwritten signature in black ink, appearing to read "Dorcas K. O'Neal". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dorcas K. O'Neal
Executive Director

DKO/dew
cc: Toby Paulin, Deputy Attorney General

COPY

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 1670 0011 2009 7177

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Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To	Donna Pender-Kimbrough
Street, Apt. No., or PO Box No.	767 6 th Road RD#2
City, State, ZIP+4	Mewtonville, NJ 08346

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
ATTORNEY FOR: Board of Respiratory Care

BY: Michelle T. Weiner
Deputy Attorney General

OFFICE ADDRESS: 124 Halsey St., 5th Fl.
Newark, New Jersey 07102

TELEPHONE NO.: 973-648-2500



ADMINISTRATIVE ACTION
SUBPOENA
AD TESTIFICANDUM

THE STATE OF NEW JERSEY to: DONNA PENDER KIMBROUGH

You are hereby commanded to appear and testify before the Board of Respiratory Care or its attorney at 124 Halsey Street, Newark, NJ 07101, 6th Floor, Somerset Conference Room on Tuesday, January 6, 2001 at 10:00 A.M.

The Board's inquiry is based upon, but not limited to, results of a test for substances of abuse performed on October 12, 2000 and any and all rehabilitative efforts you have made since October 12, 2000; the circumstances underlying your failure to respond to the Board's requests for appearance and orders in 2000 and 2001; and the circumstances regarding your receipt of a biennial renewal application and renewed license for the period April 1, 2002 to March 31, 2004.

Failure to comply with this subpoena may render you liable for contempt of court and such other penalties as are provided by law and the Duty To Cooperate Regulation, N.J.A.C. 13:45C-1.4. This subpoena is issued pursuant to the authority of N.J.S.A. 45:1-18 et seq.

Dated: December 11, 2003

Michelle T. Weiner
Deputy Attorney General
Michelle T. Weiner

**PETER C. HARVEY
ATTORNEY GENERAL**

**STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF RESPIRATORY CARE**

IN THE MATTER OF :

Donna Pender Kimbrough :
Assignment # 35-40-03-2673 :

CERTIFICATION OF DUE DILIGENCE

I, John Czuba, of full age, certifies as follows:

1. I am employed by the State of New Jersey, Division of Consumer Affairs, Enforcement Bureau,
124 Halsey Street, Newark, NJ 07101.

2. My Department of Personnel designation is Investigator II.

3. On December 19, 2003, at 2:25 p.m., at the premises located at 767 6th Road, RD. #2,
Newtonville, NJ, I contacted Donna Pender Kimbrough's father, John Kimbrough, who refused service of
a subpoena which I attempted to serve on Ms. Kimbrough. He advised that Ms. Kimbrough does not reside
with him.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing
statements made by me are willfully false, I am subject to punishment.

Date: _____

12/30/03

