

**State of New Hampshire
Office of Licensed Allied Health Professionals
Athletic Trainers Governing Board
Concord, New Hampshire**

In the Matter of:
Melissa K. Feeley
(Application for Initial Licensure)

ORDER ON APPLICATION DENIAL

The New Hampshire Governing Board of Athletic Trainers ("Board") received an incomplete application on August 12, 2009 from Ms. Melissa K. Feeley ("Ms. Feeley" or "Applicant") for initial licensure to practice as an athletic trainer in the State of New Hampshire. The submission for all required supporting documents was completed on April 20, 2010. For the following reasons, the Board has voted to **DENY** the Applicant's request for licensure.

Background

Ms. Feeley obtained an application packet from the Board which contained the following items:

1. A cover letter describing the application process, containing information an applicant would need during the application process, and listing the required documents, Exhibit #1;
2. A blank application;
3. A privacy act notice and renewal timeline;
4. The laws and rules for both the Office of Licensed Allied Health Professionals (RSA 328-F and Allied Health Administrative Rules) and the Athletic Trainers Governing Board (RSA 326-G and Athletic Trainers Administrative Rules).

The cover letter gives applicants two specific sets of instructions. Both are under "The following will help guide you through the licensing process". Number 4 in the list states: "You will only receive one missing documents list. It is your responsibility to contact the Board's office to make sure the remainder of the items have been received and are complete." Number 5 states in capitalized bold block letters: "**DO NOT MAKE FIRM COMMITMENTS TO START WORK ON A CERTAIN DATE UNTIL YOU HAVE YOUR LICENSE IN HAND**"

On August 3, 2009 Ms. Feeley submitted an application for initial licensure to the Office of Licensed Allied Health Professionals, Athletic Trainers Governing Board. Pursuant to RSA 541-A:29, I and the Board's applicable statutes and rules, the application was returned to Ms. Feeley, who was notified in writing that her application omitted the following information:

1. Page 1, the lines requiring the "mailing address", "maiden or other name", "business address", and "business phone member" were left blank.
2. Page 3, the lines requiring the "maiden or other name", "Any additional education required for licensure", and "List jurisdictions where you are, or have been, licensed to practice" were left blank.

On August 12, 2009 Ms. Feeley's application form was properly submitted to the Board's office. As is the normal course of business, the Board's staff then made a folder for Ms. Feeley and reviewed all documentation submitted by Ms. Feeley to ascertain whether or not the material met the requirements outlined in the Board's rules for required documents, Ath 302.04.

On August 13, 2009 Board staff completed and mailed the standard missing document list, which is in the form of a checklist to Ms. Feeley, which outlined what documents, had been received in the Board's office and what documents still needed to be submitted. The checklist informed Ms. Feeley that the following documents were missing from her file:

1. Professional certification from National Athletic Trainers Association Board of Certification ("NATABOC"); and
2. 1 additional letter of reference.

The Board staff flagged the application as pending, which means upon receipt of the two documents, the application would be complete and placed on the Board's next agenda for review. On August 24, 2009 the Board's office received Ms. Feeley's professional certification from NATABOC. The second missing document, namely, the letter of reference was not received, thus the application was never placed on the Board's agenda and was not reviewed and/or voted on by the Board.

On April 13, 2010 an e-mail was sent from Ms. Feeley to Traci Weber ("Ms. Weber"), the Board's Executive Secretary which stated:

"I am currently an Athletic Trainer at Southern New Hampshire University in NH, I applied for licensure in August of 2009, however I am trying to get some summer jobs going for me and I realized I never received confirmation on my licensure with a number or anything..i was wondering if it never got mailed or something wasn't in there that should have been. If you could email me back or direct me to somehow who may know more about this I would greatly appreciate it."

Ms. Weber then proceeded to look Ms. Feeley's name up in the licensure database. Ms. Weber found that Ms. Feeley's application was pending approval. Ms. Weber replied to the e-mail by asking Ms. Feeley to call the Board's office to discuss the situation.

On April 13, 2010 Ms. Feeley telephoned Ms. Weber. During that conversation Ms. Feeley stated she was working at Southern New Hampshire University and that she did not know why she would not be licensed. She admitted to Ms. Weber that she had not received her license in the mail and "just figured you forgot to send my license out". Ms. Weber explained that the reason her application had not gone to the Board was because one of the letters of reference did not meet the Board's requirements as described in rule, Ath 302.05. Ms. Weber then reiterated to Ms. Feeley that in accordance with New Hampshire law, she could not practice as an athletic trainer without a license in her hand.

On April 16, 2010 Ms. Feeley called the Board's office to speak with Ms. Weber. Ms. Feeley put Ms. Weber on speakerphone so that Ms. Feeley's brother could participate in the conversation. During this conversation, Ms. Weber instructed Ms. Feeley to supply the Board with an additional item. Ms. Weber told Ms. Feeley that she must write a letter to the Board describing the duties she performed as an "Assistant Athletic Trainer" and give the Board the date she began practicing and the date, if any, she ceased to practice.

On April 20, 2010 the Board's office received a letter from Ms. Feeley describing her duties as an "Assistant Athletic Trainer". Ms. Feeley failed to provide the date she began practicing or the date she ceased to practice. Ms. Feeley sent an additional letter to the Board in which she stated that she wished to "appeal the current status of my application for a State of New Hampshire Athletic Trainer license being incomplete." This appeal also failed to provide the Board with the date she began practicing and/or the date she ceased to practice.

On April 20, 2010 Ms. Weber sent Ms. Feeley an e-mail requesting the date she began to practice as an "Assistant Athletic Trainer" and the date she ceased practicing.

On April 21, 2010 Ms. Feeley responded by e-mail stating:

"I apologize for not including the date in the letter. I accepted the graduate assistantship and began work at the beginning of the fall season in August 2009, the week of August 16th, and am currently still employed."

On April 21, 2010, Ms. Weber was instructed by her supervisor, Tina Kelley, to go to Southern New Hampshire University's website to ascertain Ms. Feeley's listed supervisor. While on this site Ms. Weber saw that Ms. Feeley was listed as an "Assistant Athletic Trainer."

Relevant Law:

RSA 326-G:4:

- I. Demonstrate sufficient evidence of good professional character and reliability to satisfy the board that the applicant shall faithfully and conscientiously avoid professional misconduct and adhere to this chapter, RSA 328-F, and the board's rules.

RSA 326-G:5:

- II. Any person who uses the title or the abbreviation or otherwise states or implies by word or act that he or she is currently licensed to practice athletic training, and does so at a time when she or he does not possess a valid license, shall be guilty of a misdemeanor.

RSA 328-F:23:

- II. Misconduct sufficient to support disciplinary proceedings shall include:
 - (c) Violation of the ethical standards adopted by the governing board.
 - (i) Practice without a currently valid license.

Ath 404.02:

- (i) Practicing athletic training when a previous license is not currently valid;
- (j) Violating:
 - (1) Any provision of RSA 328-F;
 - (2) Any provision of RSA 326-G;
 - (3) Any rule adopted by the board; or.....

Findings of Fact and Rulings of Law:

- The law is clear that one may not practice athletic training without a license. Ms. Feeley was given a copy of this law when she first obtained an application packet from the Board. Moreover, Ms. Feeley was in receipt of the application cover letter, which states in bold, block letters not to work "until you have your license in hand."

- On August 13, 2009, the Board's Office mailed out the checklist indicating that the application was still incomplete. The fact that this mailing was not returned to the Board's Office is sufficient to assume the Applicant's receipt thereof. Additional indicia that Ms. Feeley did receive notification that her application was still incomplete was the Board's receipt of one of the documents marked as missing on the checklist, namely the NATABOC certification, eleven days after the checklist was mailed.
- Regardless of whether the Applicant received the notification mailed August 13, Ms. Feeley "began work at the beginning of the fall season in August 2009, the week of August 16th," as she states in her email. She did not wait for a license to practice.
- Ms. Feeley engaged in the practice of athletic training without a valid New Hampshire Athletic Trainers license at Southern New Hampshire University from August of 2009 through the present date.

Conclusion:

For the reasons stated above, the Applicant's application for licensure is **DENIED**.

THEREFORE IT IS ORDERED this Order on Application Denial ("Order") will become a 'final order' within fifteen (15) days of the effective date of this Order, as defined further below, unless prior to 4:00 p.m. on the fifteenth day of the effective date of this Order the Board receives a written request for a hearing; and

IT IS FURTHER ORDERED that receipt of a timely filed hearing request shall automatically stay this Order and a further order shall be issued in due course in which the Board establishes a date and time of the hearing, and specifies the issues to be heard; and

IT IS FURTHER ORDERED that any hearing held in response to this Order shall be a non-adjudicatory hearing conducted pursuant to RSA chapter 326-E; RSA chapter 328-F and RSA chapter 541-A. The Applicant may request to be heard on any relevant matter of law or fact, but evidentiary proceedings shall be conducted only to the extent the Applicant has identified disputed factual issues which require resolution. This non-adjudicatory hearing will be conducted in non-public session unless the Applicant makes a timely written request to conduct it in public session. Subsequent to such hearing, the Board will issues a 'final order' within the statutory amount of time; and

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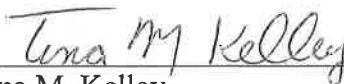
IT IS FURTHER ORDERED that by analogy to RSA 328-F:24, VII a 'final order' is a public document; and

IT IS FURTHER ORDERED that once a Board order is a 'final order' in accordance with either of the circumstances outlines above, the Applicant has thirty (30) days to file a request for reconsideration. Such motion shall comply with the Board's statutes, rules and RSA chapter 541.

IT IS FURTHER ORDERED that this Order shall take effect as an Order of the Board on the date it is signed by an authorized representative of the New Hampshire Governing Board of Respiratory Care Practitioners.

BY ORDER OF THE BOARD

April 11, 2010



Tina M. Kelley
Authorized Representative of the Board