

10/17/01

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF SOCIAL WORK EXAMINERS

IN THE MATTER OF:

Administrative Action

ROBERT E. JAMES, LCSW

FINAL ORDER
OF DISCIPLINE

LICENSED TO PRACTICE
SOCIAL WORK IN THE
STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Social Work Examiners upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made.

FINDINGS OF FACT

1. Robert E. James ("respondent") is a Licensed Clinical Social Worker in the State of New Jersey and has been a licensee at all times relevant hereto.
2. Respondent has answered "no" to question #3 on his New Jersey biennial renewal application for licensure as a Licensed Clinical Social Worker for the period of September 1, 2000 through August 31, 2002. Respondent signed the renewal application and certified to its truthfulness on August 26, 2000.
3. Question #3 asks the following: "Has your professional license been revoked or suspended (whether active or stayed) by any licensing board?"
4. On November 5, 1999, the Deputy Commissioner for the Professions of the State of New York had issued an Order to grant the application of respondent for a consent order which

provisions were to take effect as of the date of personal service of the Order upon respondent or five days after mailing by certified mail.

5. The Consent Order which was effectuated by the above Order was a disciplinary action against respondent by the New York State Education Department, Office Of Professional Discipline, State Board For Social Work. In the Consent Order, respondent admitted guilt to professional misconduct arising out of his conviction for Offering a False Instrument For Filing in the First Degree, constituting a crime under New York State law. Pursuant to the Consent Order, respondent's license to practice as a certified social worker in the State of New York was suspended for twenty-four months, the first twelve months being active and the next twelve months being stayed.

CONCLUSIONS OF LAW

1. Pursuant to N.J.S.A. 45:1-21 (a), (b) and (e), respondent's conduct as set forth herein constitutes grounds for the Board's refusal to issue a license or the Board's suspension or revocation of respondent's license to practice social work in the State of New Jersey in that respondent's conduct constitutes obtaining a license through misrepresentation pursuant to N.J.S.A. 45:1-21(a), employing a misrepresentation pursuant to N.J.S.A. 45:1-21 (b), and engaging in professional misconduct pursuant to N.J.S.A. 45:1-21(e). N.J.S.A. 45:1-22 provides that in addition or as an alternative to revoking, suspending or refusing to renew any license, the Board may, among other things, issue a reprimand, assess civil penalties, or take affirmative corrective action as may be necessary.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline reprimanding respondent and assessing a civil penalty was entered on July 10, 2001, and a copy served on respondent. 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. The respondent submitted a written response with attachments for Board consideration. Respondent stated that at his appearance before the Board on June 17, 1998, the Board questioned him about his 1998 conviction in the State of New York. Subsequent to his appearance, the Board informed him that it would take no action against his New Jersey license as a consequence of his 1998 conviction. Respondent contends that when he completed the 2000-2002 biennial renewal application, he interpreted question #3 to be asking about matters of which the Board had no knowledge. Respondent argues that since his suspension was a consequence of his conviction and the Board was aware of his conviction, he believed that it was correct to answer "no" when asked if his license had been suspended by any licensing board.

Respondent's submissions were reviewed by the Board, and the Board determined that further proceedings were not necessary and that no material discrepancies had been raised. Respondent's explanation in mitigation of the Board's proposed action is disingenuous in that respondent attempts to equate the Board's knowledge of his 1998 conviction with knowledge of the suspension of his New York license in 1999. Respondent contends that he interpreted question #3 to be asking about matters new to the Board; and since the Board knew about his conviction, he answered "no" when asked if his professional license had been revoked or suspended by any licensing board. Yet, even respondent admits that at the time of his appearance before the Board, no action had been taken against his New York license. While the Board was aware of respondent's conviction, the decision by the New York State licensing Board to suspend his license based upon the conviction is a completely new matter. Further, the renewal form clearly asked respondent if his license had been suspended since the last renewal period. The question is

neither vague nor open to interpretation, and the only truthful way for respondent to have responded was to answer "yes" to the question. The Board was not persuaded that the submitted materials merited further consideration, as respondent did not dispute the Findings of Fact or Conclusions of Law.

ACCORDINGLY, IT IS ON THIS 17th DAY OF October 2001,

ORDERED THAT:

1. Respondent is hereby reprimanded for falsely answering "no" to question #3 of the 2000-2001 biennial renewal application for licensure as a Licensed Clinical Social Worker.

2. Respondent is hereby assessed a civil penalty in the amount of two thousand, five hundred dollars (\$2,500.00) for his violations pursuant to N.J.S.A. 45:1-21 (a), (b), and (e). The payment shall be by certified check or money order, payable to the State of New Jersey, and sent to Leslie Aronson, Executive Director, State Board of Social Work Examiners, 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101.

NEW JERSEY STATE BOARD OF SOCIAL WORK EXAMINERS

By Mariagnes Lattimer
Mariagnes Lattimer, Ph.D, MSW, LCSW
Board President