

FILED
MAR 15 2013
N.J. BOARD OF NURSING

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF NURSING

IN THE MATTER OF THE LICENSE OF	:	
	:	Administrative Action
GUY D'AGOSTINO, RN	:	
License # 26NR06978300	:	FINAL ORDER
	:	OF DISCIPLINE
TO PRACTICE NURSING IN THE	:	
STATE OF NEW JERSEY	:	_____

This matter was opened to the New Jersey State Board of Nursing ("Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Guy D'Agostino ("Respondent") is a Registered Professional Nurse (RN) in the State of New Jersey and has been a licensee at all relevant times.

2. On or about April 1, 2010 Respondent completed his biennial license renewal online for the period of June 1, 2010 - May 31, 2012. The online renewal contains a question which asks "Since your last renewal [on or about May 31, 2008] has any action been taken or is any action now pending against your professional license or have you been permitted to surrender or otherwise relinquish your license to avoid inquiry, investigation or action by any other licensing authority that you have not already reported

to your board/committee?" Respondent answered "no" and certified that answer to be true by submitting the online application.

3. The Board received information that the New York State Board for Nursing took action against Respondent's New York licenses to practice as a registered professional nurse and licensed practical nurse pursuant to an Application for Consent Order granted on or about February 10, 2009. Respondent was charged with professional misconduct. Respondent admitted to willfully making false statements that he had no professional disciplinary history on a nursing employment application when the New York Board had issued disciplinary Orders pertaining to Respondent in both 1990 and 1994. Respondent also admitted to willfully making false statements that he had not been terminated from employment by a hospital or licensed facility since filing his last registration application on his 2005-2008 New York registered nurse registration application when he had been terminated as a community health nurse in 2004. As a result, Respondent's New York licenses were suspended for two (2) years, but the last twenty-three (23) months of said suspensions were stayed, and he was placed on probation. Respondent was also fined twenty-five hundred dollars (\$2,500.00).

CONCLUSIONS OF LAW

The Board finds that Respondent has not gained any valuable insight from his previous disciplinary actions in New York and has,

for all intents and purposes, committed the very same infraction in New Jersey. Specifically, Respondent engaged in the use or employment of dishonesty, deception, or misrepresentation within the intendment of N.J.S.A. 45:1-21(b) by certifying on his New Jersey license renewal application that no other licensing authority had taken action against his license when, in fact, the New York State Board for Nursing had taken action against his license during the relevant time period.

Additionally, pursuant to N.J.A.C. 13:37-5.9, a licensee shall immediately notify the Board if he or she is the subject of any disciplinary action by any state board. Respondent failed to self-report the New York board action to the New Jersey Board. Accordingly, the Board finds Respondent has failed to comply with a regulation administered by the Board, and is thus also subject to discipline within the intendment of N.J.S.A. 45:1-21(h).

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on January 9, 2013, provisionally imposing a reprimand and a \$250.00 civil penalty. A copy of the Order was served upon respondent by certified and regular mail at his address of record. 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.

Respondent replied to the Provisional Order, indicating that he accepted responsibility for his actions, and awaited the Board's decision. The Board considered this matter, and determined that further proceedings were not necessary, and that the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 15th day of March, 2013,

ORDERED that:

1. Respondent is hereby reprimanded for his violations of N.J.S.A. 45:1-21 (b) and (h).

2. A civil penalty in the amount of two hundred dollars fifty dollars (\$250.00) is provisionally imposed upon Respondent. Payment shall be made by certified check or money order payable to [State of New Jersey,] delivered to George Hebert, Executive Director, State of Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Payment shall be made no later than fifteen (15) days after the entry of this Final Order of Discipline. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

3. The Board reserves the right to initiate disciplinary proceedings based upon the action taken by the sister state.

NEW JERSEY STATE BOARD OF NURSING

By: *Patricia Murphy PhD APN*
Patricia Murphy, PhD, APN
Board President