

**FILED**

AUG 08 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 SUSPENSION :	Administrative Action
OF THE LICENSE OF :	
:	
MICHAEL McCLOSKEY, R.N. :	FINAL ORDER OF DISCIPLINE
License # 26NO09060700 :	
:	
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. Michael McCloskey ("Respondent") is a registered professional nurse in the State of New Jersey and has been a licensee at all times relevant hereto. Respondent's license was placed on "inactive" status as of June 30, 2012.

2. By Final Consent Order filed on March 7, 1996, Respondent's license was suspended for diverting controlled dangerous substances for his own use.

3. By Consent Order filed on July 10, 2006, Respondent's license to practice nursing was reinstated; he was placed on probation; he agreed to refrain from drug use; and he agreed to undergo monitoring through the Recovery and Monitoring Program of the Institute for Nursing (RAMP).

4. By letter dated December 14, 2012, RAMP advised the Board that Respondent relapsed in Spring 2012 and became non-compliant with the monitoring agreement he signed with RAMP.

a. Respondent tested positive for opiates during a random drug screening administered on April 26, 2012. Respondent failed to provide documentation that he had received valid prescriptions for the opiates from a doctor who was aware of his drug history and documented their use as a medical necessity.

b. Respondent missed 127 daily check-ins between April 2012 and November 2012. Daily check-ins are required by the online system which schedules random drug screens.

c. Respondent failed to submit to nine randomly scheduled drug screens between April 2012 and November 2012.

d. Respondent failed to submit monthly self-evaluation reports and reports confirming attendance at

AA/NA for August and September 2012.

e. Respondent failed to attend weekly nurse peer meetings since October 15, 2012.

5. Respondent failed to respond to RAMP's efforts to contact him on October 17, 2012 in an effort to have him comply with his monitoring agreement.

#### CONCLUSIONS OF LAW

Respondent's failure to comply with the terms of his agreement with RAMP constitutes a violation of the Consent Order reinstating his license to practice nursing, which is deemed professional misconduct and subjects Respondent to discipline within the intendment of N.J.S.A. 45:1-21(e).

Furthermore, pursuant to the Consent Order, each missed drug screen is deemed the equivalent of a confirmed positive screen. Based upon the positive result of Respondent's random drug screen conducted on April 26, 2012 and his multiple failures to appear for drug screens in April 2012 - October 2012, the Board finds that Respondent is presently engaged in drug use that is likely to impair his ability to practice nursing with reasonable skill and safety, within the intendment of N.J.S.A. 45:1-21(l). For purposes of N.J.S.A. 45:1-21(l), the term "presently" means at this time or any time within the

previous 365 days.

As a condition of any reinstatement of licensure, the Board will require Respondent to submit to professional treatment as may be necessary to properly discharge nursing functions in accordance with N.J.S.A. 45:1-22(e). The Board will require Respondent to submit to testing, monitoring, and evaluation to determine whether Respondent's reinstated practice may jeopardize the safety and welfare of the public in accordance with N.J.S.A. 45:1-22(f).

#### DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline seeking the suspension of Respondent's license to practice nursing in the State of New Jersey was entered on May 21, 2013. A copy was forwarded to Respondent's last known address of record by means of both regular and certified mail. The regular mailing was not returned; the certified mail was delivered by USPS and "Mike McCloskey" signed the receipt. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30<sup>th</sup> 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.

To date, Respondent has not submitted a response to the Provisional Order. The Board determined that inasmuch as no discrepancies have been raised with respect to the findings and conclusions of the Provisional Order, no further proceedings are necessary and the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 8<sup>th</sup> day of Aug., 2013

ORDERED that:

1. Respondent's license to practice nursing is hereby suspended until Respondent can demonstrate that he is fit and competent to practice, that he is in full compliance with his agreement with RAMP, and that RAMP supports his return to active practice.

2. The Board will not entertain an application for reinstatement from Respondent unless and until Respondent demonstrates that he is fit and competent to practice nursing by undergoing monitoring, evaluation, and treatment under the

auspices of RAMP and that RAMP supports his return to practice.

NEW JERSEY STATE BOARD OF NURSING

By: Patricia Murphy PhD APRN, FAAN  
Patricia Murphy, PhD, APN  
Board President