

FILED

SEP 16 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 OR :
REVOCATION OF THE LICENSE OF :
: :
JOCELYN C. ELLERBY, L.P.N. : ADMINISTRATIVE ACTION
License No. 26NP05490900 : :
: 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 (the "Board") 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. Jocelyn C. Ellerby ("Respondent") is a licensed practical nurse in the State of New Jersey and has been a licensee at all times relevant hereto.

2. Upon receipt of a flagging notice advising that Respondent was arrested on December 28, 2012 by the Newark Police Department for violation of four (4) counts of N.J.S.A. 2C:29-9, Contempt, the Board sent a letter of inquiry, requesting certain information and submission of documents, to

Respondent's address of record in Orange, New Jersey, via regular and certified mail on or about December 28, 2012. Both mailings were returned to the Board as "unable to forward."

3. Respondent did not respond to the Board's request for information.

CONCLUSIONS OF LAW

Respondent's failure to respond to the Board's request for information constitutes a failure to cooperate with a Board investigation, in contravention of N.J.A.C. 13:45C-1.2, and 1.3, in violation of N.J.S.A. 45:1-21(e), subjecting Respondent to disciplinary action pursuant to N.J.S.A. 45:1-21(h).

Respondent's failure to provide the Board with a valid address constitutes a violation of N.J.A.C. 13:37-5.7.

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 13, 2013. A copy was forwarded to Respondent's last known address by means of both regular and certified mail. The regular mail was not returned; the certified mail was returned to the Board as "unclaimed." After the

Provisional Order of Discipline was filed, Respondent renewed her nursing license and provided a new address. A copy was again forwarded to the new address by means of both regular and certified mail. The regular mail was not returned; the certified mail was returned to the Board as "unclaimed". 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.

To date, Respondent has not submitted a response to the Provisional Order. 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. Respondent cannot evade process by failing to respond. Accordingly, it determined that further proceedings were not necessary and that the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 16th day of Sept., 2013,

ORDERED that:

1. Respondent's license to practice nursing is hereby suspended until such time as Respondent cooperates fully with the Board's investigation by providing the Board with the information requested in the Board's letters of inquiry and a valid address of record.

2. A civil penalty in the amount of \$200.00 is hereby imposed upon Respondent. Payment shall be made by certified check or money order, payable to the State of New Jersey, delivered to George Hebert, Executive Director, State Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Payment shall be made no later than 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. Respondent shall refrain from practicing as a nurse and shall not represent herself as a Licensed Practical Nurse until such time as her license is reinstated. Any practice in this State prior to reinstatement shall constitute grounds for a charge of unlicensed practice.

4. Nothing herein precludes the Board from taking action on the underlying conduct that was originally the subject of inquiry in this matter.

NEW JERSEY STATE BOARD OF NURSING

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