

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 LICENSE OF :
: ADMINISTRATIVE ACTION
MARION DELP, R.N. :
License No. 26NR03567600 : 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 upon which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Marion Delp ("Respondent") is a registered professional nurse in the State of New Jersey and has been a licensee at all times relevant hereto.

2. Pursuant to N.J.A.C. 13:37-5.3(b), licensees are required to complete a minimum of thirty (30) hours of continuing education during the preceding biennial period in order to renew their licenses.

3. Pursuant to N.J.A.C. 13:37-5.3(f), licensees are required to maintain documentation of completion of continuing

education for a period of four years after completion, and shall submit such documentation to the Board upon request.

4. On or about April 11, 2012, Respondent completed and submitted an online application for biennial license renewal.

5. Respondent was asked on the biennial renewal application whether Respondent completed the required continuing education credits for the biennial renewal period of June 1, 2010 through May 31, 2012. Respondent answered "Yes" to the question and certified that answer to be true by submitting the online application.

6. Upon receipt of information from the Southern New Jersey Perinatal Cooperative (SNJPC) indicating that Respondent's employment was terminated in May 2011 for falsifying documentation regarding patient visits, the Board began an investigation and sent Respondent a Demand for Written Statement Under Oath (Demand) on October 23, 2012 requesting information from Respondent concerning the allegations, her nursing practice, and her completion of continuing education. The Demand was sent to Respondent's address of record in Pennsauken, New Jersey, via regular and certified mail. The regular mailing was not returned; the certified mailing is documented by the United States Postal Service (USPS) as having been delivered on October 27, 2012.

7. Respondent failed to reply.

8. On December 6, 2012, the Board sent a second notice, including another copy of the Demand, to Respondent's address of record in Pennsauken, New Jersey, via regular and certified mail. The regular mailing was not returned; the certified mailing was returned as unclaimed.

9. Respondent failed to reply.

CONCLUSIONS OF LAW

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

By virtue of having failed to respond to the Demands, Respondent is deemed to have failed to demonstrate, to the satisfaction of the Board, that Respondent completed the continuing education credits required for renewal during the biennial period of June 1, 2010 through May 31, 2012. The Board therefore finds Respondent in violation of N.J.A.C. 13:37-5.3(b) and 13:37-5.3(f), which in turn subjects Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h).

Further, the Board finds that Respondent's submission of her 2012 renewal, wherein she answered affirmatively that she

had completed, or would complete, the required continuing education, and subsequent failure to provide documentation of completion, constitutes the use or employment of dishonesty, deception, or misrepresentation within the intendment of N.J.S.A. 45:1-21(b). See also N.J.A.C. 13:37-5.3.

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 July 3, 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." 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 can not 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 Demand for Statement Under Oath and proof of completion of thirty (30) hours of continuing education to be applied to the June 1, 2010 - May 31, 2012 biennial period. Continuing education hours taken currently and applied to cure the deficiency from the previous biennial period shall not be used to satisfy the requirements of the current biennial renewal period.

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

3. Respondent is hereby assessed a civil penalty in the amount of four hundred and fifty dollars (\$450). Said penalty is an aggregate penalty which includes a penalty in the amount of two hundred dollars (\$200) for failure to cooperate with a Board investigation and a penalty in the amount of two hundred and fifty dollars (\$250) for failing to timely complete required continuing education, subjecting her to discipline pursuant to N.J.S.A. 45:1-21 (e) and (h). Payment shall be made by certified check or money order, payable to "State of New Jersey," delivered or mailed 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.

4. Respondent shall refrain from practicing as a nurse and shall not represent herself as a Registered Professional 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.

5. The Board reserves the right to take disciplinary action based upon any information received regarding the above mentioned investigation.

NEW JERSEY STATE BOARD OF NURSING

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