

FILED

MAY 29 2014

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
JENNIFER MUSSO, L.P.N.	:	
License No. 26NP06085700	:	ORDER AMENDING FINAL
	:	ORDER OF DISCIPLINE
	:	RESCINDING SUSPENSION
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. Jennifer Musso ("Respondent") is licensed as a licensed practical nurse in the State of New Jersey and has been a licensee at all relevant times.

2. On or around May 14, 2012, Respondent completed an online biennial license renewal application which asked "Will you have completed the required continuing education credits by May 31, 2012," referring to the thirty hours of continuing education required during the June 1, 2010 - May 31, 2012

biennial period. Respondent answered "Y" (yes) and certified that answer to be true by submitting the online application.

3. On or around September 18, 2013, the Board sent Respondent a demand for written statement under oath requesting certain information from Respondent including certificates of completion of all credits earned during the renewal period of "the last three years."

4. Respondent replied, but failed to include any certificates of completion of continuing education.

CONCLUSIONS OF LAW

Pursuant to N.J.A.C. 13:37-5.3, a nurse shall complete a minimum of 30 hours of continuing education per biennial period. Falsification of any information submitted on the renewal application may result in penalties and/or suspension or revocation of the license. N.J.A.C. 13:37-5.3(a). Additionally, a registered professional nurse or licensed practical nurse shall maintain continuing education compliance documentation for a period of four years after completion of the hours and shall submit such documentation to the Board upon request. N.J.A.C. 13:37-5.3(f).

Respondent failed to demonstrate, to the satisfaction of the Board, that Respondent completed any continuing education required for the June 1, 2010 - May 31, 2012 biennial renewal

period. Respondent's failure to complete 30 hours of continuing education during the June 1, 2010 - May 31, 2012 biennial period constitutes a violation of N.J.A.C. 13:37-5.3, which the Board deems professional misconduct within the intendment of N.J.S.A. 45:1-21(e) and also constitutes a violation or failure to comply with a regulation administered by the Board within in the intendment of N.J.S.A. 45:1-21(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, when she did not complete the required continuing education, constitutes the use or employment of dishonesty, deception, or misrepresentation within the intendment of N.J.S.A. 45:1-21(b).

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on February 20, 2014 and a copy was forwarded to respondent at the last known address on file with the Board. 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.

Although the Provisional Order sent by means of certified mail was returned as "refused", the regular mail was not returned. N.J.A.C. 13:37-5.7 states, "A licensee or certificant shall notify the Board in writing of any change of address from that registered with the Board and shown on the most recently issued license or certificate. ... Such notice shall be given no later than 30 days following the change of address. Service to the street address registered with the Board shall constitute effective notice pursuant to N.J.A.C. 13:45-3.2." Because the Order was forwarded to Respondent's address of record, the Board deems service to have been effected. Accordingly, it determined that further proceedings were not necessary and that the Provisional Order should be made final.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline imposing a civil penalty, reprimand and suspending Respondent's license to practice as a licensed practical nurse in the State of New Jersey was entered on February 20, 2014. Copies were served on Respondent via regular and certified mail. The Provisional Order was subject

to finalization by the Board at 5:00 p.m. on the thirtieth 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 Provisional Order sent by means of certified mail was returned as "refused," but the regular mail was not returned. Nearly three months had elapsed after the filing of the Provisional Order and the Board believed that it had not received a written response. As such, a Final Order of Discipline was filed by default on May 8, 2014.

After receiving the Final Order of Discipline, Respondent called the Board's attorney on May 14, 2014, acknowledged that she had received the Provisional Order, and stated that she had sent in a written response on March 13, 2014.

Respondent provided proof that her response to the Provisional Order had been received in the Board's building and that someone had signed for the envelope upon delivery on March 13, 2014. Her response, however, was lost after arriving in the

building. The Final Order of Discipline filed on May 8, 2014, which was finalized by default, was finalized in error.

Respondent re-sent her response to the Provisional Order in which she demonstrated that she had completed all of her continuing education within the thirty day period subsequent to the Provisional Order of Discipline being entered. However, because the CE's were not timely completed, the Board has determined that the reprimand and two hundred and fifty dollar (\$250.00) civil penalty should remain. Conversely, Respondent's suspension is no longer warranted.

ACCORDINGLY, IT IS on this 29th day of May, 2014,
ORDERED that:

1. A civil penalty in the amount of two hundred and fifty dollars (\$250.00) is hereby imposed upon Respondent for failing to timely complete her continuing education requirements. 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 Amended 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.

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

NEW JERSEY STATE BOARD OF NURSING

By: _____
Patricia Murphy, PhD, APN
Board President