

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street, 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Attorney for the State Board of Nursing

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N.J. BOARD OF NURSING

By: Shirley Dickstein
Deputy Attorney General

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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
:
:
Daniella A. Gutierrez, C.H.H.A.
Certificate No. 26NH14191100
:
:
HOMEMAKER HOME HEALTH AIDE
IN THE STATE OF NEW JERSEY

FINAL

ADMINISTRATIVE ACTION
PROVISIONAL ORDER OF
DISCIPLINE

Finalized by default
on 09/12/2014

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 preliminary findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Daniella A. Gutierrez ("Respondent") is a certified homemaker-home health aide in the State of New Jersey and has been a licensee at all times relevant hereto. (Exhibit A).

2. Upon receipt of a flagging notice indicating that Respondent was arrested on December 2, 2013 by the Hackensack Police Department for violation of N.J.S.A. 2C:35-10A(1) Possession of Controlled Drug Substance or Analog, (2) Counts of N.J.S.A. 2C:35-5B(1), Distribute Heroin/Cocaine, (3) Counts of N.J.S.A. 2C:35-7.1B, Distribute Possess Within 500 Feet of Public Property, (4) Counts of N.J.S.A. 2C:35-10A(4), Possession of Marijuana/Hash Under 50g, and (5) Counts of N.J.S.A. 2C:36-2, Possession of Drug Paraphernalia, the Board sent a letter of inquiry, requesting certain information and submission of documents, to Respondent's address of record in Jersey City, New Jersey, via regular and certified mail on or about December 3, 2013. A response was due within twenty (20) days. The regular mailing was not returned; the certified mailing was returned as "Unclaimed". (Exhibit B).

3. To date, Respondent has not responded 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).

ACCORDINGLY, IT IS on this 23rd day of July, 2014,

ORDERED that:

1. Respondent's certificate to practice as a homemaker-home health aide is provisionally 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 letter of inquiry.

2. Respondent is provisionally assessed a civil penalty in the amount of two hundred dollars (\$200). 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 any Final Order of Discipline in this matter. 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 within order shall be subject to finalization by the Board at 5:00 p.m. on the 30th day following entry hereof unless Respondent requests a modification or dismissal of the above stated Findings of Fact or Conclusions of Law by:

a) Submitting a written request for modification or dismissal to George Hebert, Executive Director, State

Board of Nursing, 124 Halsey Street, Sixth Floor, P.O.
Box 45010, Newark, New Jersey 07101.

b) Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.

c) Submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor or offered in mitigation of penalty.

4. Any submissions will be reviewed by the Board and the Board will thereafter determine whether further proceedings are necessary. If no material discrepancies are raised through a supplemental submission during the thirty-day period, or if the Board is not persuaded that the submitted materials merit further consideration, a Final Order of Discipline will be entered.

5. In the event that Respondent's submissions establish a need for further proceedings, including, but not limited to an evidentiary hearing, Respondent shall be notified with regard thereto. In the event that an evidentiary hearing is ordered, the preliminary findings of fact and conclusions of law contained herein may serve as notice of the factual and legal allegations in such proceeding. Further, in the event a hearing is held and upon review of the record, the Board shall not be limited to the findings, conclusions and sanctions stated herein.

6. In the event that the Board receives no written request for modification or dismissal within 30 days following entry of this Provisional Order, without further Board review, all referenced preliminary Findings of Fact and Conclusions of Law and all provisional sanctions or penalties imposed by this Order shall automatically become the Final Decision and Order of the Board. Thereafter, Respondent's failure to comply with any sanction or penalty imposed by this Order shall be considered a violation of a Board Order in contravention of N.J.S.A. 45:1-21 (e) and (h) and N.J.A.C. 13:45C-1.4 and may subject Respondent to additional sanction and/or penalty.

7. The Board reserves the right to initiate disciplinary proceedings based upon any information that Respondent ultimately provides in response to the letter of inquiry or upon any new information the Board receives. There will be no reinstatement until Respondent demonstrates that she is fit and competent to practice.

8. Prior to any application for restoration of her certification, Respondent shall appear before the Board or a committee thereof to discuss her readiness to reenter the practice as a homemaker-health aide. At that time Respondent shall be prepared to propose her plans for future practice in

New Jersey and demonstrate she is fit and competent to practice
and has been rehabilitated to the Board's satisfaction.

NEW JERSEY STATE BOARD OF NURSING

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