

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF NURSING

IN THE MATTER OF THE SUSPENSION :	Administrative Action
OR REVOCATION OF THE LICENSE OF :	
THOMAS DONAHUE, RN :	
License # 26NO11267000 :	FINAL ORDER
TO PRACTICE NURSING IN THE :	OF DISCIPLINE
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. Thomas Donahue ("Respondent") is a Registered Professional Nurse (RN) in the State of New Jersey and has been a licensee at all relevant times.
2. The Board received information that Respondent was arrested on December 22, 2012 by members of the Gloucester Township police department and charged with violating N.J.S.A. 2C:12-10(c) (Stalking in Violation of Court Order) and N.J.S.A. 2C:29-9(b) (Contempt of Court Order).
3. On or about December 28, 2012, the Board sent

Respondent a letter of inquiry, to his mailing address in Cherry Hill, New Jersey, via regular and certified mail, seeking information regarding his nursing employment, continuing education, and the December 22, 2102 arrest/criminal case. The regular mailing was not returned. The certified mail receipt was signed upon delivery. Respondent failed to reply.

4. On or about March 8, 2013, the Board sent another letter of inquiry to Respondent's mailing address in Cherry Hill, New Jersey, via regular and certified mail. While this letter of inquiry referred to a December 22, 2012 arrest, the arresting officers were listed as the Camden County Jail instead of the Gloucester Township Police Department. The regular mailing was not returned. The certified mailing was returned as "REFUSED."

5. By letter dated March 27, 2013, Respondent partially responded to the Board's letter of inquiry by providing a one page note and a master arrest report from the Gloucester Township Police Department concerning his December 22, 2012 arrest. Respondent maintained that his ex-wife had a restraining order against him and that he had driven by his former residence, where his ex-wife and children still live. Respondent also maintained that he has been on a leave of

absence from his place of nursing employment since September 2012. Respondent confirmed his Cherry Hill mailing address by writing it as the return address on the envelope in which he sent his response to the Board.

6. The Board received information that Respondent was arrested on April 8, 2013 by members of the Gloucester Township police department and charged with violating N.J.S.A. 2C:29-9(b) (Contempt of Court Order), N.J.S.A. 2C:12-10(c) (Stalking in Violation of Court Order), and N.J.S.A. 2C:35-10(a)(1) (Possession of Controlled Dangerous Substance).

7. On April 17, 2013, Board staff contacted Respondent's attorney via telephone and requested outstanding information regarding the December 22, 2012 arrest and all information regarding the April 8, 2013 arrest.

8. By letter dated April 19, 2013, Respondent's attorney notified the Board that Respondent had four pending criminal matters - a charge of criminal mischief pending in Gloucester Township Municipal Court and three violations of Final Restraining Order pending in Camden County Superior Court. The Attorney maintained that he would keep the Board updated on each matter. The Board has received no further information from Respondent or his attorney.

9. The Board received information that on August 12, 2013, Respondent was found guilty in the Camden County Superior Court of violating N.J.S.A. 2C:12-10(c) (Stalking in violation of Court Order) regarding his December 22, 2102 arrest and that sentencing was scheduled for October 4, 2013 in Camden County Superior Court. The Board received no further information regarding sentencing of this matter.

10. The Board received information that Respondent was arrested on December 2, 2013 by members of the Cherry Hill Township police department and charged with violating N.J.S.A. 2C:35-10(a)(1) (Possession of Controlled Dangerous Substance), N.J.S.A. 2C:36-2 (Possession of Drug Paraphernalia), and N.J.S.A. 2C:35-10 (Possession/Use of Controlled Dangerous Substance).

CONCLUSIONS OF LAW

Respondent's failure to fully respond to the Board's inquiry constitutes a failure to cooperate with a Board investigation, in contravention of N.J.A.C. 13:45C-1.2 and 1.3, which the Board deems professional misconduct within the meaning of N.J.S.A. 45:1-21(e), and also subjects Respondent to disciplinary action pursuant to N.J.S.A. 45:1-21(h). Pursuant to N.J.A.C. 13:37-5.7, a licensee shall provide written

notification to the Board of any change of address within 30 days and service to the address registered with the Board shall constitute effective notice.

Pursuant to N.J.A.C. 13:37-5.3(b), 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 license. N.J.A.C. 13:37-5.3(a). Additionally, a 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).

By virtue of having failed to respond to that portion of the inquiry which requested proof of completion of continuing education, Respondent is deemed to have failed to demonstrate, to the satisfaction of the Board, that Respondent completed 30 hours of required continuing education during the June 1, 2010 - May 31, 2012 biennial period or any subsequent biennial periods. The Board therefore finds Respondent in 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 the intendment of N.J.S.A. 45:1-21(h). Additionally, Respondent engaged in the use or employment of dishonesty, deception, or misrepresentation within the intendment of N.J.S.A. 1-21(b) by falsely certifying on his renewal application that he had completed the required continuing education when he did not demonstrate that he did so.

Respondent's August 2013 conviction of stalking in violation of a Court Order subjects Respondent to discipline pursuant to N.J.S.A. 45:1-21(f) in that Respondent has been convicted of, or engaged in acts constituting, a crime or offense relating adversely to nursing.

Lastly, Respondent's two drug related arrests on April 8, 2013 and December 2, 2013, raise sufficient concern such that testing, monitoring, evaluation, and treatment are warranted, as a condition for continued or reinstated licensure, to evaluate whether Respondent's continued practice as a nurse may jeopardize the safety and welfare of the public pursuant to N.J.S.A. 45:1-22(f) and to ensure that Respondent can properly discharge nursing functions pursuant to N.J.S.A. 45:1-22(e).

Based on the foregoing findings and conclusions, a Provisional Order of Discipline seeking a suspension, evaluation, reprimand, and civil penalty was entered on June 17,

2014. Copies were forwarded to Respondent's last known mailing address and to Respondent's attorney by means of both regular and certified mail. Initially, due to an administrative mishap, copies of the Provisional Order that were not stamped "FILED JUN 17 2014 N.J. BOARD OF NURSING" were mailed to Respondent's mailing address, via certified mail and regular mail and to Respondent's attorney via regular mail and certified mail. The regular mail to Respondent's mailing address was returned as "refused." The certified mail to Respondent's mailing address was returned as "refused." The regular mail to Respondent's attorney was not returned. The certified mail to Respondent's attorney was returned as "unclaimed."

On the same day as the initial mailing, June 17, 2014, the administrative mishap of the missing "FILED" stamp was realized, the Provisional Order was properly stamped, and was re-mailed, via regular and certified mail, to Respondent's mailing address and to Respondent's attorney. The regular mail to Respondent's mailing address was returned as "refused." The certified mail to Respondent's mailing address was returned as "refused." The regular mail to Respondent's attorney was not returned. The certified mail to Respondent's attorney was delivered and the receipt was signed upon delivery on June 24, 2014.

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.

Although all four Provisional Orders sent to Respondent's last known mailing address were returned as "refused," the two regular mailings to his attorney were not returned, and one certified mailing to his attorney was signed for upon delivery. The Board deems service to have been effected. Neither Respondent nor his attorney replied to the Provisional Order. Accordingly, the Board determined that further proceedings were not necessary and that the Provisional Order should be made final. Respondent cannot evade discipline by failing to respond or by failing to provide a current and valid address to the Board.

ACCORDINGLY, IT IS on this 6th day of October, 2014

ORDERED that:

1. Respondent's license to practice nursing is hereby suspended for a minimum of two years and until Respondent

a) provides all the requested information in the Board's December 28, 2012 and March 8, 2013 letters of inquiry for all of his arrests beginning with the December 22, 2012 arrest to the time of reinstatement,

b) provides proof of completion of 30 hours of continuing education for each biennial period beginning with June 1, 2010 to the time of reinstatement, and

c) demonstrates that he is fit, competent, and rehabilitated.

2. The Board will not entertain an application for reinstatement from Respondent unless and until Respondent completes a comprehensive mental health and substance abuse evaluation under the auspices of the Board's designated intervention program, the Recovery And Monitoring Program (RAMP), demonstrates that he is fit and competent to practice nursing, that he is in full compliance with any agreement with RAMP, that RAMP supports his return to practice, provides information regarding all his arrests from December 22, 2012 onward, and demonstrates that he is up to date with his continuing education.

3. By undergoing evaluation, Respondent expressly waives any claim of privilege or confidentiality that he may have concerning RAMP reports and disclosures to the Board, and use by the Board of that information in any proceedings.

4. All costs associated with the evaluation, monitoring, and/or treatment outlined above shall be the responsibility of, and paid directly by, Respondent.

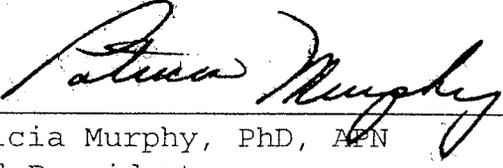
5. A civil penalty in the total amount of two hundred fifty dollars (\$250) is hereby imposed upon Respondent for failing to timely complete continuing education. Payment shall be made by certified check or money order payable to the State of New Jersey, delivered to George Hebert, Executive Director, 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 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.

6. Respondent is hereby reprimanded for his violation of N.J.S.A. 45:1-21(b) by providing a false answer on his renewal regarding completion of continuing education.

7. Respondent shall refrain from practicing nursing and shall not represent himself as a registered professional nurse until such time as his license is reinstated. Any practice in this State prior to reinstatement shall constitute grounds for a charge of unlicensed practice.

8. The Board reserves the right to take further disciplinary action based upon any information received in the future regarding Respondent's other arrests, the results of the comprehensive mental health and substance abuse evaluation, or upon any new information received.

NEW JERSEY STATE BOARD OF NURSING

By: 
Patricia Murphy, PhD, APRN
Board President