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 N.J. BOARD OF NURSING

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 NJ 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

Mary Cherry, C.H.H.A.
 Certificate No. 26NH13729500

HOMEMAKER HOME HEALTH AIDE
 IN THE STATE OF NEW JERSEY

FINAL
 ADMINISTRATIVE ACTION

PROVISIONAL ORDER OF
 DISCIPLINE

FINAL ORDER OF DISCIPLINE
 (Finalized by default
 on May 11, 2015 / 05/11/15)

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. Mary Cherry ("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 complaint from Emeritus at Vorhees indicating that Respondent had taken a wallet from a patient, the Board subpoenaed Respondent to appear at an investigative inquiry to be held on February 14, 2014. Due to administrative error, the subpoena was addressed incorrectly. Respondent was given notice by regular mail and certified mail that the inquiry was rescheduled for December 16, 2014. The regular mailing was not returned; the certified mailing was delivered on December 6, 2014 (Exhibit B). Respondent did not contact the Board and did not appear for the inquiry.

CONCLUSIONS OF LAW

Respondent's failure to appear at the investigative 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 pursuant to 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 31st day of December, 2014,

ORDERED that:

1. Upon the filing of any final order of discipline, Respondent's certificate to practice as a homemaker-home health aide will be suspended until such time as Respondent appears

before the Board and addresses the concerns raised by the complaint. Upon the filing of any final order of discipline, Respondent shall refrain from engaging in the practice as a homemaker-home health aide and shall not represent herself as a homemaker-home health aide until such time as her certification is reinstated. Any practices in this State prior to such reinstatement shall constitute grounds for a charge of unlicensed practice.

2. Respondent is provisionally assessed a civil penalty in the amount of two hundred dollars (\$200). Payment shall be made by certified check, bank cashier check, or money order payable to "State of New Jersey," or by wire transfer, direct deposit, or credit card payment delivered or mailed to George Hebert, Executive Director, State Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Any other form of payment will be rejected and will be returned to the party making the payment. Payment shall be made no later than fifteen (15) days after the date of filing of any 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. 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.

NEW JERSEY STATE BOARD OF NURSING

By: _____

Patricia Murphy, PhD, APN
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President