

Respondent's failure to respond to the Board's inquiry constitutes a failure to cooperate with a Board investigation within the intendment of N.J.A.C. 13:45C-1.2 and 1.3, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e).

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was filed on July 23, 2015, provisionally suspending respondent's license to practice massage and bodywork therapy, and imposing a \$200.00 civil penalty. A copy of the Order was forwarded to respondent by certified and regular mail at her address of record. 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.

Respondent replied to the Provisional Order and argued that since the Board's letter of inquiry (dated March 25, 2014) required a response within 15 days, and respondent did not provide a response within that time frame, and since she was subsequently allowed to renew her license before it expired on November 30, 2014, that the Board could no longer investigate the matter because the Board should have time restrictions within which they must investigate a matter. Respondent's argument has no merit. There is no time restriction, and in order to protect the public, the investigation may continue. So too, respondent's duty to cooperate with a Board investigation

continues. Her duty did not expire after the 15 day response time mentioned in the Board's letter concluded. The renewal of her license inured to her benefit, but does not preclude an investigation or negate her obligation to respond. Respondent has an ongoing duty to cooperate.

The Board's letter of inquiry asked for a copy of the complaint, disposition (including plea, judgment, sentencing), police report with supporting statements, proof of payment of fines/completion of probation, a narrative statement from respondent regarding her version of the underlying conduct which gave rise to the crime/offense for which she was arrested, age of respondent when crime/offense occurred, whether the crime/offense was an isolated or repeated incident, any social condition that may have contributed to the crime/offense, and evidence of rehabilitation. She merely provided a copy of the municipal court complaint and a payment inquiry from the NJ automated complaint system showing that respondent paid \$1,144 in fines, costs and assessments. The assessment of fines, fees, and costs is an indication that respondent was found guilty, but without a disposition, the Board is unaware of the conviction. She also provided five letters from clients indicating that they are happy with her services, but not indicating that they knew about her arrest or conviction or any evidence of rehabilitation.

Respondent has still failed to provide the bulk of information requested by the Board. She explained that she could not obtain a police report. She did not provide a disposition with her plea, the court's judgment, or sentencing. As for a narrative statement providing her version of the facts and circumstances that led to her arrest, she simply wrote that she got pulled over for speeding. She failed to explain how that

led to an arrest for possession of controlled dangerous substances (marijuana). The question has also been raised by respondent's submission, but remains unanswered, as to whether she was charged with Driving While Impaired (DWI) or any other similar offense. As such, Respondent's reply was an inadequate response, has left the Board's inquiry unanswered, and has raised new questions. Therefore the Board determined that respondent has not complied with the Board's original request for information, and that the Provisional Order should be finalized without modification.

ACCORDINGLY, IT IS on this 19th day of January, 2016, ²⁰¹⁶~~2015~~, *ke*
ORDERED that:

1. Respondent's New Jersey license to practice massage and bodywork therapy is hereby suspended until she has fully responded to the Board's inquiry.
2. A civil penalty in the amount of two hundred dollars (\$200) is hereby imposed on respondent. Payment shall be in the form of a certified check or money order, made payable to the State of New Jersey, and shall be sent to the attention of Laura Anderson, Executive Director, Board of Massage and Bodywork Therapy, P.O. Box 45048, 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101, within fifteen (15) days of the filing of this order.

NEW JERSEY STATE BOARD OF
MASSAGE AND BODYWORK THERAPY

By: *Cynthia Sinicropi-Philibosian*
Cynthia Sinicropi-Philibosian
Board Chairperson