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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
: :
: :
: :
EVELYN J. DIAZ, RN :
License # 26NR12356000 : FINAL ORDER
: OF DISCIPLINE
: :
: :
TO PRACTICE NURSING IN THE :
STATE OF NEW JERSEY :

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 findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Evelyn J. Diaz ("Respondent") is a Registered Professional Nurse in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On or about April 13, 2013, Respondent completed and submitted an online biennial renewal application which asked whether Respondent would have "completed the required continuing education credits by May 31, 2013," referring to the biennial renewal period of June 1, 2011 to May 31, 2013. Respondent answered "Yes" and certified that answer by submitting the online application.

3. Upon receipt of information indicating that Respondent was arrested on July 16, 2014 by the Pequannock Township Police Department for violation of N.J.S.A. 2C:20-3 (Theft), the Board sent a letter of inquiry requesting certain information and documents regarding the criminal matter, Respondent's nursing practice, and continuing education to Respondent's address of record in Paterson, New Jersey, via regular and certified mail on or about August 14, 2014. The regular mailing was not returned and the certified mailing was returned as "Unclaimed."

4. On or about April 19, 2015, Respondent completed and submitted an online biennial renewal application which asked

whether Respondent would have "completed the required continuing education credits by May 31, 2015," referring to the biennial renewal period of June 1, 2013 to May 31, 2015. Respondent was also asked whether she completed the required one hour course on Organ and Tissue Donation. Respondent answered "Yes" to both questions and certified the answers by submitting the online application.

5. Respondent failed to reply to the Board's letter of inquiry.

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, which the Board deems professional misconduct pursuant to 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. 13:37-5.3(b), nurses are required to complete a minimum of thirty (30) hours of continuing education during the preceding biennial period in order to renew their licenses. Pursuant to N.J.A.C. 13:37-5.3(f), nurses are required to maintain documentation of completion of continuing education for a period of four years after completion, and shall submit such documentation to the Board upon request.

By virtue of having failed to respond to the letter of inquiry, Respondent is deemed to have failed to demonstrate, to the satisfaction of the Board, that Respondent completed the continuing education credits required for renewal during the biennial period of June 1, 2011 to May 31, 2013. The Board therefore finds Respondent in violation of N.J.A.C. 13:37-5.3(b) and 13:37-5.3(f), which in turn subjects Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h).

Respondent's use of dishonesty and misrepresentation during the license renewal process in falsifying her continuing education information constitutes a violation of N.J.S.A. 45:1-21(b), subjecting Respondent to sanctions.

DISCUSSION

A Provisional Order of Discipline (POD) was filed on August 27, 2015 based upon Ms. Diaz's failure to cooperate with a Board investigation regarding her July 2014 arrest for theft and failure to complete and provide documentation of continuing education. The POD seeks a reprimand, \$500 civil penalty, \$250 civil penalty, and a suspension until Ms. Diaz provides a complete response to the Board's letter of inquiry and demonstrates completion of all required continuing education to date.

Ms. Diaz responded to the POD. She offers no explanation as to why she did not respond to the Board's August 2014 letter of inquiry. She now provides a response to the Board's letter of inquiry by providing a copy of the police report, a narrative of the conduct which led to her arrest, and a disposition showing that she entered Pre-Trial Intervention (PTI) for one year, after which the case was dismissed on July 16, 2015. She provided proof of completion of ample continuing education as she has been pursuing advanced nursing education at the College of Saint Elizabeth and Rutgers.

As Ms. Diaz has now responded to the Board's letter of inquiry and demonstrated timely completion of all required continuing education, the suspension, reprimand and \$250 civil penalty are no longer warranted. However, the \$500 civil penalty for failure to cooperate is warranted. Ms. Diaz did not respond to the Board's original letter of inquiry, which necessitated the filing of the POD with the concomitant expenditures of time, effort, and resources. The Board determined that the submitted documentation warrant finalizing the POD with modification by eliminating the suspension, the reprimand and the \$250 civil penalty, but maintaining the \$500 civil penalty.

ACCORDINGLY, IT IS on this 22nd day of March, 2016,

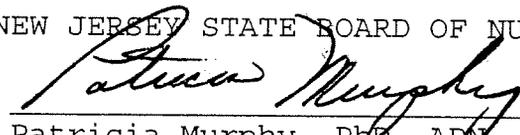
ORDERED that:

1. Respondent is assessed a civil penalty in the amount of five hundred dollars (\$500) for failure to cooperate with a Board investigation. 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 Leslie Burgos, Board Staff, State Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Any other form of payment shall be rejected and shall be returned to the party making the payment. Payment shall be made no later than fifteen (15) days after the date of filing of this **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.

2. The Board reserves the right to initiate disciplinary proceedings based upon any new information the Board receives.

NEW JERSEY STATE BOARD OF NURSING

By:



Patricia Murphy, PhD, APRN
President