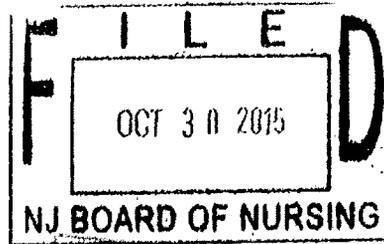
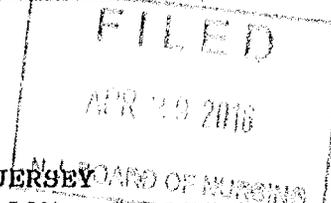


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 DEPARTMENT OF LAW & PUBLIC SAFETY  
 DIVISION OF CONSUMER AFFAIRS  
 STATE BOARD OF NURSING



IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF	:	ADMINISTRATIVE ACTION
Svetlana Portnoy, C.H.H.A. Certificate No. 26NH04945300	:	PROVISIONAL ORDER OF DISCIPLINE
HOMEMAKER-HOME HEALTH AIDE IN THE STATE OF NEW JERSEY	:	* FINAL ORDER OF DISCIPLINE (Finalized by default on May 2, 2016 5/2/16)

**FINAL**

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. Svetlana Portnoy ("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. On December 13, 2012, the Board received notification from the Loving Care Agency (LCA) that Respondent falsified time sheets and received payment for approximately 100 hours which she did not work. (Exhibit B).

3. Patricia Byrne, Clinical Manager for LCA submitted a written statement indicating that she discovered a discrepancy in Respondent's time keeping when the mother of a patient (R.K.) called to request additional hours for her son. Ms. Byrne stated that according to LCA records R.K. was already receiving additional hours of care from Respondent. R.K.'s mother stated that Respondent was not providing additional care and also informed LCA that Respondent had requested blank time sheets be signed in the past. (Exhibit C).

4. LCA reported to the Board that on November 30, 2012, Ms. Byrne confronted Respondent who after initially denying the allegations, offered to refund the money if LCA did not report her action to the Board of Nursing. (Exhibit C).

5. At the conclusion of the November 30th meeting, Ms. Byrne informed Respondent that she was suspended and instructed her not to contact any patients. Five minutes after the meeting concluded R.K.'s mother called LCA and stated Respondent had just called her, but she did not pick up. Later that same day a second patient (P.F.) called and stated that she did not want

Respondent to get into trouble, but Respondent had her sign blank time sheets in the past. (Exhibit C).

6. The Board received a statement from R.K.'s mother who indicated that Respondent was initially assigned to provide care to R.K. for twenty (20) hours a month; two and a half (2.5) hours a day, two (2) days a week, totaling five (5) hours a week. In August of 2012, R.K. became eligible for additional hours through Medicare, which Respondent was aware of. From August 2012 through November 2012 Respondent billed the additional time but did not work the hours with R.K. Respondent had R.K.'s mother and father sign blank time sheets. (Exhibit D).

7. The Board also received a statement from P.K., who was a patient of Respondent. P.K. stated that Respondent would often arrive late, leave early, or not visit at all. P.K. also stated that Respondent requested that blank time sheets be signed on approximately twenty (20) occasions. (Exhibit E).

8. Finally, the Board is in receipt of the statement of Respondent. Regarding R.K., Respondent stated that she often provided extra care on her scheduled days when the patient's parents would come home late from work. Respondent also stated that approximately twice a month R.K.'s parents would request she work on the weekends. In order to adjust for this time she

was not compensated for, Respondent would submit time sheets for days she did not work. Also, Respondent claimed R.K.'s mother asked her not to document the extra hours, and claimed she never had them sign blank time sheets. Regarding P.F., Respondent stated the patient was often asleep and did not know when Respondent would arrive or leave. Respondent also stated that P.F. would have her run errands, which Respondent did before her shift began. Respondent denied asking P.F. to sign a blank time sheet. (Exhibit F).

#### CONCLUSIONS OF LAW

The Board finds that Respondent submitted false time sheets, constituting professional misconduct, in violation of N.J.S.A. 45:1-21(e), and has engaged in the use of dishonesty, fraud, deception, misrepresentation, false promise, or false pretense in violation of N.J.S.A. 45:1-21(b), subjecting Respondent to disciplinary action.

ACCORDINGLY, IT IS on this 30<sup>th</sup> day of October, 2015,

ORDERED that:

1. Upon the filing of a FINAL ORDER OF DISCIPLINE, Respondent's certificate to practice as a homemaker-home health aide will be suspended for a period of one (1) year.

2 Respondent is reprimanded for falsifying patient care records.

3. Upon the filing of a FINAL ORDER OF DISCIPLINE Respondent is assessed a civil penalty in the amount of two hundred fifty dollars (\$250). 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 Twalema Khonje, 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 a 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.

4. Upon the filing of a 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 practice in this State prior to such reinstatement shall constitute grounds for a charge of unlicensed practice.

5. The within order shall be subject to finalization by the Board at 5:00 p.m. on the 30<sup>th</sup> 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 Twalema Khonje, 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.

6. 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.

7. 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

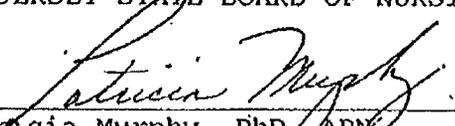
is held and upon review of the record, the Board shall not be limited to the findings, conclusions and sanctions stated herein.

8. 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.

9. 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  
President