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ROBERT T. LOUGY
ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

Division of Consumer Affairs

By: Labinot A. Berlajolli
Deputy Attorney General
(973) 648-2500

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
DOCKET NO: 16-016

IN THE MATTER OF THE
REGISTRATION OF

BERGRE ACQUISITIONS, L.L.C. d/b/a
HOME CARE SPECIALISTS

AS A HEALTHCARE SERVICE FIRM IN
THE STATE OF NEW JERSEY.

Administrative Action

**PROVISIONAL ORDER
OF REVOCATION
OF REGISTRATION AND DISCIPLINE**

This matter was opened by the New Jersey Division of Consumer Affairs, Office of Consumer Protection (“Division”), upon an inspection of Bergre Acquisitions, L.L.C. d/b/a Home Care Specialists (“Respondent”) at its principal place of business at 1205 West Ave, Ocean City, New Jersey 08226. Upon review of certain documents the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. On or about August 27, 2009, Respondent filed an initial application with the Division for a Health Care Service Firm Registration (“HCSF Registration”) (hereafter “Initial Application”), pursuant to N.J.S.A. 34:8-43 et seq. and N.J.A.C. 13:45B-13.3. (See Certification of

Diana Petrella, dated March 24, 2016 (“Petrella Cert.”) ¶ 3, attached hereto as Exhibit 1.)

2. Respondent’s Initial Application listed its owner/principal as Edwin Gregory Sheppard and its principal place of business as 1645 Haven Ave, Suite D-2, Ocean City, New Jersey 08226. (Petrella Cert. ¶ 4.)

3. The Division assigned registration number HP0133400 to Respondent. (Petrella Cert. ¶ 5.)

4. From 2010 to 2015, Respondent renewed its registration annually. (Petrella Cert. ¶ 6.)

5. The 2015 renewal application disclosed a new business address for Respondent; specifically: 1205A West Avenue, Ocean City, New Jersey 08226. (Petrella Cert. ¶ 8.)

6. The 2015 renewal application identified Dorothy Wetzel as Respondent’s Nursing Supervisor. (Petrella Cert. ¶ 7, Exh. B.)

Inspection of Respondent

7. On September 29, 2015, Division Investigators Ronald Regan (“Investigator Regan”) and Ray Yee conducted an inspection of Respondent’s new business address. (“HCSF Inspection”) Their findings have been memorialized in a HCSF Inspection Report. (Certification of Ronald Regan, dated March 28, 2016 (“Regan Cert.”) ¶ 3, attached hereto as Exhibit 2.)

8. During the course of the HCSF Inspection, Investigator Regan interviewed Edwin Gregory Sheppard and Ed Sheppard in their capacity as owner and director of business development of Respondent, respectively (collectively the “Sheppards”). (Regan Cert. ¶ 4.)

9. Investigator Regan began the HCSF Inspection by asking the Sheppards for information relating to Respondent’s nurse supervisor and other licensed and unlicensed professionals on staff. A copy of the information provided to him is documented in the HCSF

Inspection Report. (Regan Cert. ¶5, Exhibit A, Section 2.)

10. Investigator Regen then began to review the Respondent's client records by randomly selecting five (5) client records. Once the client records were selected, Investigator Regen began to review the contents of the records and the four (4) employees assigned to them. (See Regan Cert. ¶ 6-7, Exhibit A, Section 4.)

11. At the conclusion of the HCSF Inspection, a subpoena was served upon Respondent ("Subpoena"). The Subpoena sought employee and client records. (Regan Cert. ¶ 8.)

12. The Subpoena requested records for the five (5) client records and four (4) employee records reviewed during the HCSH Inspection. (Id.)

13. Respondent supplied records for five (5) clients and three (3) employees. (Regan Cert. ¶10.)

Review of Employee Records

14. Respondent failed to maintain an employee application form for one (1) employee, in violation of N.J.A.C. 13:45B-14.2(a). (Regan Cert. ¶ 12, Exhibit B, column titled "Employee Name - Field, Robin".)

15. Respondent failed to include in the employee applications of four (4) employees, the license-issuing authority or board, in violation of N.J.A.C. 13:45B-14.2(a)(4). (Regan Cert. ¶ 13, Exhibit B, column titled "License Authority".)

16. Respondent failed to include in the employment applications of three (3) employees their license numbers, in violation of N.J.A.C. 13:45B-14.2(a)(5). (Regan Cert. ¶ 14, Exhibit B, column titled "License Number".)

17. Respondent failed to include in the employment applications of three (3) employees

their license expiration dates, in violation of N.J.A.C. 13:45B-14.2(a)(6). (Regan Cert. ¶ 15, Exhibit B, column titled “License Expiration Date”.)

18. Respondent failed to include in the employment application of two (2) employees a duly executed authorization, in violation of N.J.A.C. 13:45B-14.2(b). (Regan Cert. ¶ 16, Exhibit B, column titled “Duly Executed Authorization”.)

19. Respondent failed to verify the license status for four (4) employees prior to referral or placement, in violation of N.J.A.C. 13:45B-14.4(c). (Regan Cert. ¶ 17, Exhibit B, column titled “License Status Check Prior to Employment”.)

20. Respondent failed to maintain a copy of the license or registration with the required notation conspicuously written across the entire face of the license or registration, for four (4) employees, in violation of N.J.A.C. 13:45B-14.4(d). (Regan Cert. ¶ 18, Exhibit B, column titled “License Copy Notation”.)

21. Respondent failed to maintain a record of licensure verification with the required information for four (4) employees, in violation of N.J.A.C. 13:45B-14.4(e). (Regan Cert. ¶ 19, Exhibit B, column titled “License Verification”.)

22. Respondent failed to verify applicant's work history for two (2) employees, in violation of N.J.A.C. 13:45B-14.6(a). (Regan Cert. ¶ 20, Exhibit B, column titled “Work History Verified”.)

23. Respondent failed to maintain the information required by N.J.A.C. 13:45B-14.6(a) for one (1) employee, in violation of N.J.A.C. 13:45B-14.6(b). (Regan Cert. ¶ 21, Exhibit B.)

Review of Client Records

24. Respondent placed uncertified employees with clients requiring the services of a

Certified Homemaker-Home Health Aide for two (2) clients, in violation of N.J.A.C. 13:45B-14.4(a). (Regan Cert. ¶ 23, Exhibit C, columns titled “Name of Caregiver” and “Uncertified or Certified”.)

25. Respondent failed to create a Plan of Care for five (5) clients, in violation of N.J.A.C. 13:45B-14.9(a). (Regan Cert. ¶ 24, Exhibit C, column titled “Plan of Care”.)

26. Respondent failed to conduct the 30-day client health care review for four (4) clients, in violation of N.J.A.C. 13:45B-14.9(c). (Regan Cert. ¶ 25, Exhibit C, column titled “30 Day Phone Document”.)

27. Respondent failed to conduct 60-day on-site, in home evaluation, for four (4) clients, in violation of N.J.A.C. 13:45B-14.9(g). (Regan Cert. ¶ 26, Exhibit C, column titled “Revised Plan of Care”.)

Respondent’s Director of Nursing

28. At the time of the HCSF Inspection, Respondent identified Dorothy Wetzel, R.N. (“Nurse Wetzel”) as its Director of Nursing. (Regan Cert. ¶ 27.)

29. On or about September 30, 2015, the Division mailed a Health Care Supervisor Verification Statement (“Verification Statement”) to Nurse Wetzel. (Regan Cert. ¶ 28.)

30. On or about October 10, 2015, the Division received the Verification Statement. (Regan Cert. ¶ 29.)

Certification of Nurse Wetzel

31. In May 2015, Nurse Wetzel applied for a position with Respondent. (Certification of Dorothy Wetzel, dated March 17, 2016, (“Wetzel Cert.”) ¶ 3 attached hereto as Exhibit 3.) At that time, Respondent photocopied Nurse Wetzel’s nursing license and had her complete and sign a W-4

form.

32. After completing the employment application, Nurse Wetzel did not hear from Respondent until September 30, 2015. (Wetzel Cert. ¶ 5.)

33. On September 30, 2015, Nurse Wetzel received an email from Respondent regarding possible employment in the near future with Respondent. Nurse Wetzel never responded to the email. (Wetzel Cert. ¶ 4.)

34. Prior to September 30, 2015, Nurse Wetzel had not received any information from Respondent nor had she been employed by Respondent. (Wetzel Cert. ¶ 5.)

35. On or about October 8, 2015, Nurse Wetzel completed the Verification Statement sent to her by the Division and returned it to the Division. She noted in the Verification Statement that “[she] applied with this company in May 2015 [and she had] never heard from them until about 2 weeks ago.” She also stated: “They said they may have a visit for me to make. Do not plan on working for them.” (Wetzel Cert. ¶ 6-7, Exhibit A.)

36. On November 10, 2015, Nurse Wetzel received a phone call and voice mail message from Respondent stating it “[had] a client for me to visit.” She never returned the call. (Wetzel Cert. ¶ 8.)

37. On November 13, 2015, Nurse Wetzel received a phone call and voice mail message from Respondent asking her to get in touch with the company regarding possible employment. She never returned the call. (Wetzel Cert. ¶ 9.)

38. On November 16, 2015, Nurse Wetzel received a phone call from Respondent. She mistakenly picked up the phone and was informed about possible employment. She informed the caller that she was not interested in working with Respondent. (Wetzel Cert. ¶ 10.)

39. On November 21, 2015, Nurse Wetzel received a mailing from Respondent. The mailing had a post-marked date of November 19, 2015. Inside the mailing Nurse Wetzel found a check, dated November 13, 2014, in the amount of \$84.51 for pay period November 1 to November 7, 2015. (Wetzel Cert. ¶ 11, Exhibit B.)

40 Nurse Wetzel has never been employed by Respondent in any capacity nor has she ever seen any patients on behalf of Respondent. (Wetzel Cert. ¶ 12.)

41. Nurse Wetzel was alarmed that Respondent had used her nursing license to obtain a registration with the Division, which she never authorized it to do. (Wetzel Cert. ¶13.)

DISCUSSION

The Acting Director of the Division (“Acting Director”) has considered the status of Respondent’s HCSF Registration, in conjunction with the information stated above, to determine whether Respondent’s HCSF Registration should be revoked pursuant to N.J.S.A. 34:8-53 for having failed to operate in a manner consistent with the applicable regulations.

The Acting Director has preliminarily determined that the deficiencies detailed above, particularly the failure of the Respondent to maintain a Registered Nurse to oversee patient care, are in violation of the applicable regulations.

CONCLUSIONS OF LAW

The above preliminary findings of fact provide grounds for revoking Respondent’s HCSF Registration, pursuant to N.J.A.C. 34:8-53 and N.J.A.C. 13:45B-16.1(f), in that Respondent operated in a manner contrary to the applicable regulations.

ACCORDINGLY, IT IS on this 15th day of April, 2016,

ORDERED that:

- I. Respondent's registration as a HCSF in New Jersey is hereby provisionally revoked;
- II. Respondent shall ensure that all of its clients are placed with other HCSF registered with the Division within thirty (30) days;
- III. Respondent shall notify the Division of the placement of clients required under II above, within ten (10) days of placement;
- IV. Respondent shall pay a civil penalty of \$2,000, pursuant to N.J.S.A. 34:8-61;
- V. The within Order shall be subject to finalization by the Division at 5:00 p.m. on the 30th day following entry hereof unless Respondent submits a request for 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 James Rodriguez, Clerk, Regulated Business Section, Division of Consumer Affairs, P.O. Box 45025, 124 Halsey Street, Newark, New Jersey 07101; and
 - b. Setting forth in writing any and all reasons why these findings and conclusions should be modified or dismissed or whether mitigation should be considered; and
 - c. Submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.
- VI. Any submissions as outlined in Paragraph V above received within the thirty (30) day period, together with any additional evidence submitted by Respondent, will be reviewed by the Acting Director and the Acting Director will thereafter determine if further proceedings are necessary. If the Acting Director is not persuaded that the submitted materials merit further

consideration, a Final Order of Revocation will be entered.

VII. 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. In the event that an evidentiary hearing is ordered, the preliminary findings of fact and conclusions of law contained in this Order shall serve as notice of the factual and legal allegations in the proceeding.

NEW JERSEY DIVISION OF CONSUMER AFFAIRS

By: 

STEVE C. LEE, ACTING DIRECTOR