

**State of New Hampshire
Board of Medicine
Concord, New Hampshire**

**In the Matter of:
Glenna C. Burton, M.D.
(Application for License)**

Docket No. 14-04

FINAL DECISION AND ORDER OF DENIAL OF LICENSE

Now before the NH Board of Medicine (“Board”) is the adjudicatory proceeding relating to the denial of licensure of Glenna C. Burton, MD (“the Applicant” or Dr. Burton”). The application was not sufficiently complete to permit Board action until May 1, 2014. The Board first reviewed Dr. Burton’s application at its regularly scheduled meeting of May 7, 2014 and then again at its regularly scheduled meeting of June 4, 2014. At the Board’s June 4, 2014 meeting, the Board voted to conditionally deny Dr. Burton’s application to practice medicine in New Hampshire based in part upon a determination under RSA 329:12(d) (2) and RSA 329:14, II that Dr. Burton had not demonstrated to the reasonable satisfaction of the Board that she is of good professional character.

The Board’s determination was based, in part, on concerns regarding Dr. Burton’s failure to be forthcoming in disclosing her disciplinary history to the Board. Dr. Burton initially applied for a locum tenens license which was reviewed by the Board at its December 2013 meeting. In the locum tenens application, Dr. Burton provided the following information about her disciplinary history: “When I moved my office in 2009 I misplaced 2 copies of controlled substance prescriptions. My Missouri [Bureau of Narcotics and Dangerous Drugs] license was placed on probation for two years. After two years the probation was lifted.” (Exhibit 5) She signed her locum tenens application on October 2, 2013. Dr. Burton entered into a Settlement Agreement with the Missouri Bureau of Narcotics and Dangerous Drugs (BNDD) on April 5, 2010. (See Exhibit 7). She also entered into a separate Settlement Agreement with the Missouri State Board of Registration for the

Healing Arts (Missouri Board) on October 26, 2010. (See Exhibit 7), but did not disclose this on her application.

In a December 9, 2013 letter, the Board asked Dr. Burton to provide additional information about the Missouri action. (See Exhibit 5). Dr. Burton's response was insufficient and misleading given information the Board subsequently received from the BNDD and Missouri Board. According to the Settlement Agreement documents, the disciplined conduct included failure to document necessary prescription information both in the chart and on the prescription. Multiple prescriptions did not include the dosage and quantity. Dr. Burton also post-dated prescriptions and she continued to prescribe controlled drugs after her Missouri Controlled Substance Registration had expired. (See Exhibit 7).

Dr. Burton then applied for a full, unrestricted New Hampshire license on March 14, 2014. Dr. Burton provided the additional information regarding the Missouri action:

In 2009 the Missouri BNDD cited me for:

- 1) Not having copies of four controlled substance prescriptions in my chart. (I had just moved my office and the used copy machine I had was not working at times)
- 2) I failed to put quantities on two prescriptions. This was corrected before the prescriptions were filled.
- 3) On a prescription for a stimulant I wrote the date the prescription could be filled rather than "do not fill before" as I had long believed this was the correct format.

My BNDD license was put on probation for three years and subsequently reinstated. (See Exhibit 3).

Again Dr. Burton failed to disclose that the Missouri Board also took action against her.

Hearing

Dr. Burton requested a hearing on the Board's conditional denial. On August 13, 2014, the Board issued a Notice of Hearing to Show Cause and held an adjudicatory hearing on May 6, 2015. After deliberation, the Board voted to uphold its denial of licensure to Dr. Burton after finding that Dr. Burton did not meet her burden of proof that she should be granted a license.

The following exhibits were admitted into evidence the day of the hearing:

Board's Exhibits

1. Dr. Burton's complete Federation Credentials Verification Service ("FCVS") application received by the Board on December 20, 2013
2. Dr. Burton's completed Uniform Application for Physician Licensure submitted to the Board dated March 17, 2014
3. Supplemental response from Dr. Burton dated March 16, 2014
4. The DataBank report dated April 2, 2014
5. Request for information to Dr. Burton from the Board dated December 9, 2013 regarding the DataBank report
6. Dr. Burton's response to the Board's December 9, 2013 request, dated December 13, 2013
7. Supplemental correspondence regarding the Missouri Bureau of Narcotics and dangerous Drugs submitted by the Missouri Department of Health and Senior Services, dated April 11, 2014
8. Supplemental correspondence from the State of Missouri, Division of Professional Registration, State Board of Registration for the Healing Arts, dated April 28, 2014

Respondent's Exhibits

- A. Letter from Glenna C. Burton, M.D. dated April 26, 2015 re: issues with Burrell Behavioral Health

Dr. Burton testified on her own behalf. She chose not to call any other witnesses to speak on her behalf. At the prehearing conference Dr. Burton indicated that she would obtain written statements from five witnesses who were unable to appear in person. However, she did not submit any witness statements and when asked why responded that she "didn't think it would have done any good."

In her application for a full, unrestricted license, Dr. Burton responded in the negative to the following question:

12. Is any investigation or disciplinary action pending or has any investigation or disciplinary action been taken against you in the last ten years by any governmental authority, by any hospital or health care facility or by any professional medical association (international, national, state or local)?

When questioned by Board members, Dr. Ford was unable to provide a reasonable explanation for her failure to disclose the action taken against her license by the Missouri Board. She testified that “[doesn’t] know why she answered no.” While Dr. Burton did disclose some information about the Missouri action, it was inconsistent with the NPDB summary. Dr. Burton was asked for additional information about this action during the application process. She reported that her initial response was based on her memory as she was unpacking from a move and could not find the relevant paperwork. (See Exhibit 6). Dr. Burton also responded in the negative to the following application question.

15. Have you ever been a defendant in a criminal proceeding including driving while under the influence or driving while suspended, which has not been annulled by a court, but not including traffic offenses not classified as misdemeanors or felonies?

As part of the Board’s standard application process, it received a criminal record check on Dr. Burton and learned that she had a misdemeanor criminal conviction. During her testimony, Dr. Burton confirmed that she has been convicted of a misdemeanor level theft charge in November of 2006. She did not provide any rationale for her failure to disclose this conviction on her application. Dr. Burton testified that the conduct occurred as a result of some medication that she had taken which impacted her judgement and led to her leaving a department store with merchandise that had not been paid for.

Findings of Fact and Rulings of Law

According to RSA 329:17, VI, the Board, after hearing, may take disciplinary action against any person licensed by it upon the finding that the person: “(a) has knowingly provided false information during any application for licensure or hospital privileges, whether by making any affirmative statement which was false at the time it was made or by failing to disclose any fact material to the application.” RSA 329:14, II, Action on License Applications, mandates that “No application shall be granted unless the board finds that the applicant possesses the necessary educational, character and other professional qualifications to practice medicine, and that no circumstances exist which would be grounds for disciplinary action against a licensed physician pursuant to RSA 329;17, I.”

Dr. Burton submitted false information on her application for licensure, contrary to Med 501.02 (b). This would be grounds for disciplinary action under RSA 329:17, VI (a) as the Board finds Dr. Burton has “knowingly provided false information during any application for professional

licensure... by making any affirmative statement which was false at the time it was made...” Pursuant to RSA 329:14, II, the Board finds that “circumstances exist which would be grounds for disciplinary action against a licensed physician pursuant to RSA 329:17, I.” For these reasons, the Board denies Dr. Burton a license.

Order

In consideration of the foregoing, the Board finds, by a preponderance of the evidence, that Dr. Burton has not met her burden of proof that she should be granted a license in the State of New Hampshire. Dr. Burton’s application for licensure is denied.

THEREFORE IT IS ORDERED this Decision and Order (“Order”) will become a ‘final order’ as of the effective date of the Order as further defined below; and

IT IS FURTHER ORDERED that in accordance with RSA 329:18-a, a ‘final order’ is a public document; and

IT IS FURTHER ORDERED that any motion for reconsideration or rehearing must conform to Med 208.01; and

IT IS FURTHER ORDERED that this Order shall take effect as an Order of the Board on the date it is signed by an authorized representative of the New Hampshire Board of Medicine.

BY ORDER OF THE BOARD*

Dated:

1/4/2016



Penny Taylor, Administrator
Authorized Representative of the
New Hampshire Board of Medicine

*Louis Rosenthal, M.D., Board Member, recused.