

**Before the
New Hampshire Board of Medicine
Concord, New Hampshire**

**In the Matter of:
Gail S. Ford, D.O.
License No.: 8215
(Adjudicatory/Disciplinary Proceeding)**

Docket #: 14-02

FINAL DECISION AND ORDER

Before the New Hampshire Board of Medicine (“Board”) is an adjudicatory/disciplinary proceeding in the matter of Gail S. Ford, D.O. (“Respondent” or “Dr. Ford”).

**Background Information
(Procedural History and Motions)**

The Board of Medicine (“Board”) first granted a license to practice medicine in the State of New Hampshire to Dr. Ford on August 9, 1989. Dr. Ford holds license number 8215.

In September of 2013, the Board received the license renewal application filed by Respondent. Respondent’s answers to certain questions on her license renewal application caused the Board to initiate an investigation to determine whether Respondent committed professional misconduct pursuant to RSA 329:17, VI(a) in answering questions on her license renewal application.

The investigation revealed the following:

- A. On September 4, 2012, the Idaho State Board of Medicine (“Idaho Board”) received a complaint against Respondent from Lost Rivers Medical Center (“Lost Rivers”). The complaint alleged that on three dates during the Spring of 2012, Respondent failed to contact the administration to let them know that she would be unavailable, thus leaving the facility without coverage in the Emergency Room. The complaint noted that as of June 1, 2012, Respondent

“is no longer on the medical staff at Lost Rivers.” In a letter dated June 1, 2012, Respondent was informed that Lost Rivers was terminating her employment.

- B. Following the complaint to the Idaho Board, Respondent produced letters, records and other documentation in support of her contention that she was receiving emergency care for health issues brought on by difficult work circumstances on the dates alleged in the complaint.
- C. On March 1, 2013, Respondent and the Idaho Board entered into a stipulation in which Respondent agreed not to practice medicine and surgery in Idaho until the Idaho Board has made a final determination regarding any action to be taken as a result of Respondent’s “physical and mental impairments which affect her ability to practice with reasonable skill and safety.”
- D. On March 20, 2013, the Idaho Board issued an order accepting Respondent’s voluntary surrender of her Idaho medical license. The order noted that any further proceedings for reinstatement of Respondent’s license shall be governed by the Disabled Physician Act.
- E. Respondent’s New Hampshire medical license renewal application (dated June 13, 2013) was received by the Board on September 16, 2013. Page 2 of the application requires the applicant to answer ten “Yes” or “No” questions that are applicable for the past 24 months or since the applicant last reported to the Board if greater than 24 months.
- F. On her renewal application, Respondent checked off “No” as the answer to Question 1, which asked, in part, if she had “entered into any agreement with a licensing body for any reason [].” However, as noted above, Respondent

and the Idaho Board entered into a stipulation on March 1, 2013, in which Respondent agreed not to practice medicine and surgery in Idaho.

- G. On her renewal application, Respondent checked off “Yes” as the answer to Question 2, which asked, in part, if she had “surrendered . . . a license to practice medicine in any state other than New Hampshire.” Despite this affirmative answer, Respondent failed to enclose the required “complete written explanation of the circumstances including any required documents.”
- H. On her renewal application, Respondent checked off “No” as the answer to Question 5, which asked if she “had any emotional disturbance or mental or physical illness which has impaired [her] ability to practice medicine”. However, in her letter to the Board’s Investigator, dated November 21, 2013, Respondent noted that she voluntarily surrendered her Idaho medical license “due to physical concerns [].” These concerns were detailed, along with the impact they had on Respondent’s ability to practice medicine, in a letter from Respondent dated June 16, 2013.
- I. On her renewal application, Respondent checked off “No” as the answer to Question 7, which asked if she had been “reported to the National Practitioner’s Data Bank []”. However, on April 22, 2013, the Idaho Board reported Respondent’s voluntary surrender of her license as an Adverse Action to the National Practitioner’s Data Bank.
- J. On her renewal application, Respondent checked off “No” as the answer to Question 8, which asked if she had been “the subject of an investigation . . . regarding the practice of medicine”. However, as Respondent indicated in her letter to the Board’s Investigator, dated November 21, 2013, the appropriate answer to this question was “Yes”.

- K. On her renewal application, Respondent checked off “No” as the answer to Question 9, which asked, in part, if she had any hospital privileges “suspended, limited or denied other than for medical records violations [].” However, as acknowledged by Respondent, she was terminated by Lost Rivers in a letter dated June 1, 2012.
- L. When asked by the Board’s Investigator about her “No” answers to questions 5, 8 and 9 on her renewal application, Respondent explained (in her letter dated November 21, 2013) that when it came time to check the appropriate “Yes” boxes, “I felt like a criminal so I checked the wrong box.”

Given the investigatory revelations the Board found reasonable basis for commencing an adjudicatory/disciplinary proceeding against Respondent. On June 6, 2014 the Board issued a Notice of Hearing (“Notice”) commencing a proceeding pursuant to RSA 329:18-a and N.H. Admin. R. Med 206 for July 2, 2014 at 1:00 p.m. The specific issues to be determined at the adjudicatory/disciplinary proceeding included, but were not limited to, the following:

- A. Whether on or about June 13, 2013, Respondent checked off “No” as the answer to Question 1 on her license renewal application, and whether by doing so, she engaged in professional misconduct by knowingly providing false information in her license renewal application in the form of making false affirmative statements and/or failing to disclose material facts, in violation of RSA 329:17, VI (a); and/or
- B. Whether on or about June 13, 2013, Respondent failed to enclose a complete written explanation of the circumstances of her “Yes” answer to Question 2 on her license renewal application, and whether by doing so, she engaged in professional misconduct by knowingly providing false information in her license renewal application in the form of making false affirmative statements

and/or failing to disclose material facts, in violation of RSA 329:17, VI (a);
and/or

- C. Whether on or about June 13, 2013, Respondent checked off “No” as the answer to Question 5 on her license renewal application, and whether by doing so, she engaged in professional misconduct by knowingly providing false information in her license renewal application in the form of making false affirmative statements and/or failing to disclose material facts, in violation of RSA 329:17, VI (a); and/or
- D. Whether on or about June 13, 2013, Respondent checked off “No” as the answer to Question 7 on her license renewal application, and whether by doing so, she engaged in professional misconduct by knowingly providing false information in her license renewal application in the form of making false affirmative statements and/or failing to disclose material facts, in violation of RSA 329:17, VI (a); and/or
- E. Whether on or about June 13, 2013, Respondent checked off “No” as the answer to Question 8 on her license renewal application, and whether by doing so, she engaged in professional misconduct by knowingly providing false information in her license renewal application in the form of making false affirmative statements and/or failing to disclose material facts, in violation of RSA 329:17, VI (a); and/or
- F. Whether on or about June 13, 2013, Respondent checked off “No” as the answer to Question 9 on her license renewal application, and whether by doing so, she engaged in professional misconduct by knowingly providing false information in her license renewal application in the form of making

false affirmative statements and/or failing to disclose material facts, in violation of RSA 329:17, VI (a); and/or

The Notice further indicated that Respondent could be subjected to disciplinary sanctions pursuant to RSA 329:17, VII. The Notice also informed Respondent that she may be represented by counsel at the hearing, at her own expense; and that failure to appear may result in the hearing being held *in absentia* with disciplinary sanctions imposed without further notice or opportunity to be heard.

On June 29, 2014, at 5:32 p.m., Respondent sent the Board via e-mail, a so-called “Motion to Continue Hearing.” The e-mail indicated Respondent “did not work when I flew back to NH in June and I still had to fly back to Idaho to get the animals ready to be transported back to NH.” Respondent goes on to say she has no prospect of work until the end of July or the first of August, and further comments on her financial viability. She further indicates she could not make it back to the “meeting” on July 2nd and asked the Board to delay any action until she could get to NH for a “Board meeting.”

On June 30, 2014, the Board received *Hearing Counsel’s Objection to Respondent’s Motion to Continue Hearing* (“Objection”). Hearing Counsel indicated in his objection that the July hearing was chosen primarily because Respondent initially wanted to have her matter heard in June, and July 2nd was the date of the Board’s next regularly scheduled meeting. In the Objection, it was noted that Respondent received the Notice of Hearing on June 7, 2014, and Hearing Counsel had numerous communications with Respondent regarding the upcoming hearing. It was also noted that on June 12, 2014, a stipulation of facts signed by the parties was filed in this matter. Hearing Counsel explained that according to the Notice of Hearing, “any motion seeking to postpone a hearing or conference...shall be filed at least ten (10) days before the hearing [].” He indicated Respondent had plenty of notice of the time and place of the scheduled hearing and her request to continue the hearing is untimely. He went on to state that, with the stipulation of facts and the exhibits filed by Hearing Counsel, the Board has everything it needs to hear and decide this matter.

Subsequently, on June 30, 2014, the presiding officer denied the Motion to Continue for the reasons contained in Hearing Counsel's Objection.

Respondent subsequently forwarded another e-mail on June 30, 2014 at 4:58 p.m. In her e-mail, Respondent indicated "then I will have to be allowed to have a phone conference." On July 1, 2014, the presiding officer ruled that the Notice of Hearing contemplates that the licensee will be physically present and if the licensee does not physically attend the hearing, it will be held in absentia.

The hearing went forward as scheduled on July 2, 2014, commencing just after 1:00 p.m.

Board members present included:

Mark Sullivan, PA, President
John H. Wheeler, D.O., Vice President
Amy Feitelson, M.D.
Robert J. Andelman, M.D.
Robert Vidaver, M.D.
Michael Barr, M.D.
Emily R. Baker, M.D.
Gail Barba, Public Member
Daniel Morrissey, O.P., Public Member
Edmund J. Waters, Jr., Public Member

Edmund J. Waters, Jr., Public Member, served as presiding officer. Respondent did not appear, and Attorney Matthew Mavrogeorge appeared as hearing counsel.

Discussion and Rulings

It is first necessary to discuss Respondent's Motion to Continue ("Motion") and her decision not to attend the hearing. The Board finds substantively, the rationale for the Motion to Continue and her reasoning for not attending the hearing unpersuasive, given the notice Respondent had regarding the date of the hearing, and her dealings with hearing counsel throughout the month of June. While the Board sympathizes with the Respondent regarding her financial situation, her timeliness in requesting a continuance must be taken into consideration, where a reasonable inference can be made that she understood her situation earlier than two days before the scheduled hearing.

The issue before the Board is a narrow one. It is limited to whether Respondent violated RSA 329:17, VI (a) by providing false information in her license renewal application in the form of making false affirmative statements and/or failing to disclose material facts. The Board finds that timely notice had been provided to the Respondent with regard to the hearing. Here, where Respondent had almost a month to prepare and attend or timely ask for a continuance, her eleventh hour request to continue the proceeding was without merit. Respondent, simply indicated that she had already made a trip to NH, did not work when she flew back to NH in June, and still had to fly back to Idaho to get her animals ready to be transported back to NH. Given these facts combined with the fact Respondent reached a stipulation regarding the key issues with Hearing Counsel, the Board determined it was appropriate to proceed.

The Board opened the hearing just after 1:00 p.m. on July 2, 2014. The presiding officer read the stipulation of facts into the record. The Board then admitted Exhibits 1-10 and Respondents e-mail dated July 2, 2014 marked as Exhibit 11, as exhibits for Hearing Counsel. There were no exhibits filed by Respondent. Hearing Counsel's Exhibits 1 through 10, along with notice of witnesses to be presented, were provided to Respondent on June 6, 2014.

Hearing counsel was asked by a member of the Board if he had discussed the stipulation of facts with the Respondent after Respondent received them. Hearing Counsel indicated that he had a telephone conversation with Dr. Ford after she had received the stipulation of facts where Dr. Ford indicated to Hearing Counsel that she understood and agreed to all the stipulation of facts and would sign the document and return it to Hearing Counsel right away. Hearing Counsel indicated he had several conversations with Dr. Ford between the time the Notice of Hearing was issued and the date of the hearing and Dr. Ford had not requested a continuance of the hearing or to be allowed to have a phone conference on the day of the hearing, until Dr. Ford's email of June 30, 2014.

In Hearing Counsel's Exhibit 10, Respondent made the following statement in regards to the false information provided in her license renewal application: "When I went to check the appropriate

boxes; like yes to being investigated or surrendered a license I felt like a criminal so I checked the wrong box.” Dr. Ford agreed to all fifteen (15) stipulated facts and signed the Stipulation of Facts document on June 10, 2014. Hearing Counsel signed the document on June 12, 2014.

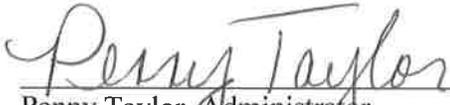
RSA 329:17, IV (a) reads that disciplinary action may be taken against a licensee where the Board finds the person “has knowingly provided false information during any application for professional licensure... whether by making any affirmative statement which was false at the time it was made or by failing to disclose any fact material to the application.” The Board finds that Respondent engaged in professional misconduct by knowingly providing false information on her license renewal application in the form of making false affirmative statements and/or failing to disclose material facts, as indicated in paragraph 5 (A through F) in the Notice of Hearing.

Accordingly, the license of Gail S. Ford, D.O. is SUSPENDED INDEFINITELY. Dr. Ford may request a Show Cause hearing to lift the suspension after ninety (90) days from the date of this Order. At the time of the expiration of license, or June 30, 2015, Dr. Ford may apply for renewal of her license or the license will lapse automatically.

*BY ORDER OF THE BOARD

Dated:

7/15/2014


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

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