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BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

Kevin Westray, Legal Assistant

GEORGIA BOARD OF NURSING,
Petitioner,

Docket No.: OSAH-PLBD-RN-1514107-92-
Walker

v.

CHAKA KHAN ROBINSON,
Respondent.

INITIAL DECISION

Petitioner, Georgia Board of Nursing, seeks to revoke Respondent's license to practice as a licensed practical nurse in the State of Georgia. Pursuant to Respondent's¹ request, a hearing was held via telephone on November 17, 2014.² For the following reasons, Petitioner's action is **AFFIRMED**.

FINDINGS OF FACT

1.

Respondent holds license number LPN061892 and was issued such license on February 16, 2001. Respondent's license expires on March 15, 2015. *Petitioner's Exhibit A*.

2.

On or about January 29, 2010, Respondent was convicted in the Superior Court of Lowndes County, Georgia, to the felony offense of Theft by Taking.³ The Superior Court sentenced Respondent to ten years, three years in custody with the balance to be

¹ The original pleadings in this matter reference Chaka Khan Wright; however, Respondent is now known as Chaka Khan Robinson. *Testimony of Respondent*.

² On October 17, 2014, Petitioner filed a Motion for Summary Determination. The undersigned received Respondent's Response to this Motion on November 10, 2014. The undersigned does not find this matter to be appropriate for Summary Determination and Petitioner's Motion is **DENIED**.

³ The Felony Sentencing Document signed by the Superior Court indicates that Respondent pled guilty; however, a verdict form attached to this document states that a jury entered a guilty verdict in this matter. At the hearing Respondent confirmed that she was convicted by jury. *Testimony of Respondent*.

served on probation. She was also ordered to pay restitution in the amount of \$36,341.13 to Southern Nursing Registry. *Petitioner's Exhibit B.*

3.

Lisa Durden, Division Director of the Professional Licensing Boards Division of the Georgia Secretary of State, and custodian of records for all professional licensing boards, testified that Respondent had not notified Petitioner about her conviction for Theft by Taking within the mandated time period following her conviction.⁴ Respondent explained at the hearing that her attorney indicated that she would notify Petitioner of her conviction and she was unaware that it had not been received by Petitioner. *Petitioner's Exhibit C; Testimony of Lisa Durden; Testimony of Respondent.*

4.

On or about September 29, 2014, Petitioner filed a Statement of Matters Asserted moving for disciplinary action against Respondent's license. *Petitioner's Statement of Matters Asserted.*

5.

Respondent testified that she is currently working as a licensed practical nurse and that she would lose her position if her license was revoked. *Testimony of Respondent.*

CONCLUSIONS OF LAW

1.

Georgia Code Section 43-26-1 et seq. provides that the Georgia Board of Nursing shall have authority to regulate the license of and impose disciplinary action against any licensed practical nurse in Georgia.

⁴ Respondent also argued that her conviction was not final until her appeal was denied. Nonetheless, there was no evidence that she had submitted the required notification following the denial of her appeal.

Georgia Code Section 43-1-19, as amended, provides:

(a) A professional licensing board shall have the authority to refuse to grant a license to an applicant therefor or to revoke the license of a person licensed by that board or to discipline a person licensed by that board, upon a finding by a majority of the entire board that the license or applicant has...

(3) Been convicted of any felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country or in the courts of the United States; as used in this paragraph and paragraph (4) of this subsection, the term "felony" shall include any offense which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere; and, as used in this paragraph, the term "conviction" shall include a finding or verdict of guilty or a pleas of guilty, regardless of whether an appeal of the conviction has been sought;

(4) Been arrested, charged and sentenced for the commission of any felony, or any crime involving moral turpitude, where:

(A) First offender treatment without adjudication of guilty pursuant to the charge was granted...

(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the licensee or applicant to practice a business or profession licensed under this title, or of a nature likely to jeopardize the interest of the public, which conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of the licensed business or profession but shows that the licensee or applicant has committed any act or omission which is indicative of bad moral character or untrustworthiness; unprofessional conduct shall also include any departure from, or the failure to conform to, the minimal reasonable standards of acceptable and prevailing practice of the business or profession licensed under this title...

(8) Violated a statute, law, or any rule or regulation of this state, any other state, the professional licensing board regulating the business or profession licensed under this title, the United States, or any other lawful authority (without regard to whether the violation is criminally punishable), which statute, law, or rule or regulation relates to or in part regulates the practice of a business or profession licensed under this title, when the licensee or applicant knows or

should know that such action is violative of such statute, law, or rule; or violated a lawful order of the board previously entered by the board in a disciplinary hearing, consent decree, or license reinstatement...

3.

Georgia Code Section 43-1-27 provides as follows:

Any licensed individual who is convicted under the laws of this state, the United States, or any other state, territory, or country of a felony as defined in paragraph (3) of subsection (a) of Code Section 43-1-19 shall be required to notify the appropriate licensing authority of the conviction within ten days of the conviction. The failure of a licensed individual to notify the appropriate licensing authority of a conviction shall be considered grounds for revocation of his or her license, permit, registration, certification, or other authorization to conduct a licensed profession.

4.

The felony criminal offense of Theft by Taking is a felony that falls under the provisions of O.C.G. A. § 43-1-19, and is also a crime of moral turpitude. *Sapp v. State*, 271 Ga. 446, 448 (1999).⁵ Under O.C.G.A. § 43-26-40, grounds for discipline, including revocation, of a licensed practical nurse include a felony conviction or a crime of moral turpitude.

5.

The Board has proven the allegations contained in the Statement of Matters Asserted by a preponderance of the evidence and may impose a variety of sanctions against a license holder subject to discipline. Sanctions for Respondent's violations of the above stated statutes include, among others, revocation of her license, suspension of her license, limiting or restricting her license, withholding formal disposition pending the licensee's submission to such care, counseling, or treatment as the board may direct, and administering a reprimand, or imposing a fine. O.C.G.A. § 43-1-19(d).

⁵ Although *Sapp* has been superseded by *Adams v. State*, 284 Ga. App. 534 (2007), the proposition that theft is a crime of moral turpitude still stands.

ORDER

In this case, given the gravity of the offense, and Respondent's failure to notify the licensing authority of her conviction, the undersigned **RECOMMENDS** that Petitioner **REVOKE** Respondent's license to practice as a Licensed Practical Nurse in the State of Georgia. Even if Respondent had notified the licensing authority of her conviction, the gravity and recency of the offense would warrant this sanction. Moreover, during the hearing, Respondent did not express remorse for her criminal conduct, present any witnesses other than her own testimony, or offer any persuasive reason that the severity or recency of her offense did not warrant revocation of her license.

SO ORDERED, this 18 day of Nov, 2014.



RONIT WALKER, ALJ