

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
LYNDA HARRIS : ORDER OF REVOCATION
_____ : DOCKET NO: 1415-216

At its meeting of April 17, 2015, the State Board of Examiners (Board) reviewed information received from the Criminal History Review Unit (CHRU) regarding Lynda Harris. The CHRU notified the Board that in 2010, Harris pled guilty in New York to Grand Larceny-Value Greater than \$3,000. Harris was charged by the Medicaid Fraud Control Unit. She surrendered her psychologist license in New York in 2012. The CHRU notified the Board that, as a result of her conviction, Harris was also disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* In New Jersey, Harris currently holds a School Psychologist certificate, issued in August 1975.

Harris did not challenge the accuracy of her criminal history record before the Commissioner of Education. Upon review of the above information, the Board voted at its meeting of May 21, 2015 to issue Harris an Order to Show Cause why her certificate should not be revoked.

The Board sent Harris the Order to Show Cause by regular and certified mail on May 26, 2015. The Order provided that Harris must file an Answer within 30 days. Harris filed a response on June 1, 2015.

In that Answer, Harris admitted that she pled guilty to a Class D felony in New York for failing to have written doctor's orders in the charts of mentally ill patients she had seen in adult homes. (Answer, p. 1). She stated that she did not read the Medicaid Manual for psychologists which had this legal requirement "to protect seriously and persistently mentally ill patients from being used as cash cows." (Answer, p. 1). Rather, Harris noted that she saw patients based on verbal referrals from their attending physicians, but because she did not have written orders in the charts, she had to pay a lot of money back "and rightfully so." (Answer, p. 1). Harris added that she could have just made civil or financial restitution without having to face the criminal charge of Medicaid Fraud, but because she was in a severe state of emotional duress she could not exercise good judgment. (Answer, p. 1). She stated that she took

on more work to deal with her emotional pain but admitted that “it was grossly inappropriate and unfair to counsel even a few chronically mentally ill patients as many as 4 times a week when one cannot possibly cure them.” (Answer, p. 2). Harris added that New York does not allow one to seal or expunge a felony conviction. (Answer, p. 2). She noted that she was still remorseful even though she did actually see the patients and put notes in their charts. (Answer, p. 2). Harris noted that with professional help, she was “more comfortable with myself, less needy work-wise and consistently read every professional, legal and ethical document not nailed down, if you will.” (Answer, pp. 2-3).

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.7(e)*, on June 8, 2015, the Board sent Harris a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Harris was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder, as well as arguments with regard to the appropriate sanction in the event that the Board found just cause to take action against her certificate. It also explained that, upon review of the charges against her and the legal arguments tendered in her defense, the Board would determine if her disqualifying offense warranted action against her certificate. Thereupon, the Board would also determine the appropriate sanction, if any. Harris was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Harris responded on June 16, 2015.

In that response, Harris noted that she was a caring and competent professional, both as a clinical and school psychologist. (Hearing Response, p. 1). She reiterated that she did not read the Medicaid Manual to know that she needed written doctors’ orders in the charts of patients she saw. (Hearing Response, p. 1). She stated that it was an honest mistake and that she saw every patient. (Hearing Response, p. 1). Harris noted that she made financial restitution and was grateful to do so. (Hearing Response, p. 1). She added that she was “still deeply sorry that I made this grievous error...” (Hearing Response, p. 1). Harris also requested to appear before the Board. (Hearing Response, pp. 1-2).

In testimony before the board, Harris reiterated her remorse for her actions and again stated that she had made an honest mistake. She added that she was on probation and had reimbursed all of the

money. She also claimed that her judgment was compromised at the time of her actions from antidepressants she had been on all of her life.

The threshold issue before the Board in this matter is whether Harris' conduct and her conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. At its meeting of September 17, 2015, the Board considered the allegations in the Order to Show Cause, as well as Harris' Answer, Hearing Response and her testimony. The Board determined that no material facts related to Harris' offense were in dispute since she never denied that she had been convicted of the offense charged and been subsequently disqualified. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*.

The Board must now determine whether Harris' conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against her certificate pursuant to *N.J.A.C. 6A:9B-4.5*. The Board finds that they do.

In enacting the Criminal History Review statute, *N.J.S.A. 18A:6-7.1 et seq.* in 1986, the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be a danger. Individuals convicted of a crime such as Grand Larceny fall squarely within this category. The strong legislative policy statement is also in accord with the Commissioner's long-standing belief that teachers must serve as role models for their students. "Teachers... are professional employees to whom the people have entrusted the care and custody of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment." *Tenure of Sammons*, 1972 *S.L.D.* 302, 321. Moreover, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. *Redcay v. State Bd. of Educ.*, 130 *N.J.L.* 369, 371 (1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). In this matter, Harris' conviction for Grand Larceny resulted in the forfeiture of her psychologist license in New York. Although Harris may have many accomplishments as both a clinical and school psychologist, the fact remains that she has a serious conviction. That conviction clearly demonstrates behavior that falls short of a role model.

The strong policy statement on the part of the Legislature set forth in *N.J.S.A. 18A:6-7.1(b)* also offers guidance to the Board as to the appropriate sanction in this matter. An individual whose offense is so great that he or she is barred from service in public schools should not be permitted to retain the certificate that authorizes such service. Nor should a person who has been disqualified from teaching in a public school be permitted to continue to hold himself out as a teacher. Thus, because the Legislature and the Commissioner consider Harris' offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of her certificate.

Accordingly, on September 17, 2015, the Board voted to revoke Lynda Harris' School Psychologist certificate. On this 30th day of October 2015 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Lynda Harris' certificate be effective immediately. It is further ORDERED that Harris return her certificate to the Secretary of the State Board of Examiners, Office of Certification and Induction, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Robert R. Higgins, Secretary
State Board of Examiners

RRH/MZ/th

Date of Mailing:

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.S.A. 18A:6-38.4*.