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New Jersey Board of Nursing

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STATE OF NEW JERSEY
DEP'T OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF NURSING

IN THE MATTER OF THE SUSPENSION : ADMINISTRATIVE ACTION
OR REVOCATION OF THE LICENSES OF

ASHLEY MORGAN LYONS-VALENTI
RN License No. 26NR10638700
APN License No. 26NJ00025300

ORDER OF VOLUNTARY
SURRENDER OF LICENSE
TO BE DEEMED A PERMANENT
REVOCATION

TO PRACTICE NURSING
IN THE STATE OF NEW JERSEY :

This matter was opened to the New Jersey State Board of Nursing ("Board") upon receipt of information that Ashley Morgan Lyons-Valenti ("Respondent"), an Advanced Practice Nurse (APN) and a Registered Professional Nurse (RN) in the State of New Jersey, was indicted on June 24, 2020 by the U.S. Attorney's Office for the District of New Jersey in Camden, New Jersey (Criminal Case #20-544(RBK)) along with two other defendants. The 33-Count Complaint alleges, as to Respondent, that while engaged in nursing and advanced nursing practice at a medical office in New Jersey, she knowingly and willfully conspired with others: to commit health care fraud; to deprive her employing medical practice and her patients of honest services, including by wire fraud; to commit

commercial bribery and receipt of kickbacks; and to make false statements relating to health care matters in connection with the delivery of and payment for health care services, in violation of Title 18, United States Code §371, §1035, §1343, §1346, and §1952(a)(3), Title 18, U.S.C. Section 2. She is also charged with obstruction of justice by tampering with a witness, in violation of Title 18, U.S.C. §1512(b). The conduct is alleged to have taken place between April 2014 through about October 2016 in Salem County, NJ and elsewhere.

At all relevant times, Respondent was employed as a licensed RN and APN at a medical office in Pennsville, New Jersey (Medical Office #1). As an APN, Respondent was authorized to prescribe medications. Both of her licenses are active.

The Indictment alleges that Respondent, conspired with the president of Medical Office #1, two pharmaceutical sales representatives, and Respondent's live-in boyfriend, to execute a scheme to unlawfully enrich herself by causing payments to be made by State Health Benefit Programs for costly and medically unnecessary prescriptions of compounded medications filled by Compounding Pharmacy #1 in Louisiana and Compounding Pharmacy #2 in Pennsylvania.

Compounding is a practice by which a licensed pharmacist combines, mixes or alters ingredients of one or more drugs in response to a prescription to create a unique medication tailored to the specific medical needs of an individual patient. The compounded drugs in this case included compounded vitamin combinations, pain creams, scar creams, antifungal creams, and libido creams.

The Indictment charges that Respondent was made aware on or about April 24, 2014 that her boyfriend had obtained a contract

which specified that he would receive a commission from "Compounding Pharmacy #2" for each prescription written by Respondent, after the state insurance program paid the bill. Respondent was to receive a kickback from her boyfriend of approximately half of each of the commission payments. It is alleged that Respondent wrote a Compounding Pharmacy #2 prescription the same day, and thereafter wrote at least 18 additional prescriptions to be filled by Compounding Pharmacy #2 between April 25, 2014 and May 2, 2014, and continued to sign such prescriptions to be filled by Pharmacy #2 in 2015. Respondent is alleged to have faxed the Pharmacy #2 prescriptions from the medical office where she practiced and also from her own home.

The Indictment alleges that Respondent did not disclose to her patients or to Medical Office #1 that she and her boyfriend were receiving payments for prescribing Pharmacy #2 medications. Respondent wrote over \$1,250,000.00 in Compounding Pharmacy #2 prescriptions, and received over \$90,000.00 in commissions for writing those prescriptions.

Also, in 2015, Respondent is alleged to have knowingly provided her signature on printed prescription forms for certain compounded medications which were to be sent to and filled by "Compounding Pharmacy #1" in Louisiana. For these prescriptions, she received half of her boyfriend's commission.

Respondent's receipt of part of her boyfriend's commission for the prescriptions she willfully wrote and sent to the two compounding pharmacies is alleged to constitute receipt of bribes and kickbacks.

The Indictment also charges that Respondent, along with the president of Compounding Pharmacy #1 in Louisiana, knowingly and willfully conspired and agreed with each other and others to travel

in interstate commerce and to use the mail and other facilities to promote, manage and carry on the unlawful activity of commercial bribery by paying for the prescribing of medication, contrary to N.J.S.A. 2C:21-10 and Title 18, U.S.C. §1952(a)(3).

The Indictment alleges that Respondent had a duty as an employee of the medical office to give honest services and to avoid conflicts of interest. She also had a fiduciary duty as an APN to act in the best interest of her patients, and to give honest services to her patients. Such duties included the duty to refrain from agreeing to accept or accepting bribes and kickbacks relating to the performance of her duties.

Respondent is also charged with knowingly and intentionally devising a scheme and artifice to defraud her patients of her honest services as an advanced practice nurse, to defraud her employer of its right to her honest services, and to transmit writings and signs for the purpose of executing such the scheme, contrary to Title 18, U.S.C. § 1343 and § 1346.

In addition, the Indictment alleges that Respondent asked her co-workers and subordinates at Medical Office #1 to agree to receive medications from Compounding Pharmacy #2, typically without performing a medical examination to determine if the medications were needed. Further, to conceal her prescribing to patients of Medical Office #1, Respondent did not include copies of the prescriptions in the medical files and did not list them in the patient records, contrary to office policies and contrary to her own duties to her patients. The Indictment also alleges that on August 25, 2015, Respondent signed an attestation for the medical office, containing false statements about her compliance with the office's conflict of interest policies.

Respondent also breached her duties to her patients by writing medically unnecessary Compounding Pharmacy #2 prescriptions in order to receive the commissions, of which she obtained half, and breached her duty to her employer by writing medically unnecessary scripts (which she did not disclose), in order that she and her boyfriend would receive the commissions. All such conduct was in violation of Title 18, U.S.C. § 371.

Additional Counts in the Indictment allege that Respondent agreed with a pharmaceutical sales representative to sign prescriptions for compounded medications for individuals who were neither her patients nor patients of her employer's medical office. Those prescriptions were to be filled by Compounding Pharmacy #1 in Louisiana. Respondent allegedly signed the prescriptions although she did not know or examine those patients, and did not determine if the medications might have any adverse effects on the patients. Moreover, each of the prescriptions was alleged to bear Respondent's false statement that the individual was her patient, that she had reviewed the individual's medical records, determined that the items were medically necessary and had a face-to-face examination with that individual all in violation of Title 18, U.S.C. § 1035 and Title 18, U.S.C. § 2.

It is further alleged that, to hide her fraudulent conduct, Respondent did not include copies of these prescriptions in the patient charts or document them in the patient records. Those prescriptions were faxed in interstate commerce from Respondent's employer's medical office to Compounding Pharmacy #1, which filled the scripts and submitted a claim to the Program Administrator, which paid the claims.

The Indictment further alleges Respondent engaged in obstruction of justice and witness tampering, in that she knew,

prior to November 2019, that the FBI and other federal criminal authorities were investigating her and that she likely would be charged with crimes, and that her co-worker would be interviewed by FBI agents. Before and after the FBI interview, Respondent communicated with her co-worker about the interview and learned that the co-worker was going to testify in the federal grand jury. It is alleged that Respondent repeatedly communicated with her co-worker regarding the FBI interview and the co-worker's statements to the FBI and grand jury, telling the individual falsely that Respondent did not receive kickbacks. It is further alleged that Respondent asked the co-worker to tell the FBI that Respondent had done nothing wrong and had examined her before prescribing but was too busy to document it, when in fact, Respondent had not first examined the individual. The Indictment alleges that from November 2019 through December 2019, Respondent knowingly engaged in misleading conduct with intent to influence the testimony of a person in an official proceeding, all in violation of Title 18, U.S.C. § 1512(b).

Respondent acknowledges that the above-described conduct, singly or cumulatively, if proven, would show that she abused a position of trust and used a special skill in a manner that significantly facilitated the commission and concealment of the offense, and that the above-described conduct would provide a basis under N.J.S.A. 45:1-21 for the Board to revoke Respondent's licenses as an RN and APN and to impose financial sanctions. Each instance of said conduct, singly or cumulatively, would constitute deception, misrepresentation and fraud, gross and repeated malpractice, professional misconduct, failure to comply with regulations of the Board, and failure to maintain the ongoing requirement of good moral character. Such conduct would constitute

both moral turpitude and conduct relating adversely to her practice of nursing and would be in violation of N.J.S.A. 45:11-26, N.J.S.A. 45:11-47, and N.J.S.A. 45:1-21(b), (c), (d), (e), (f), (h), specifically N.J.A.C. 13:37-2.

In addition, Respondent failed to notify the Board of Nursing, as required by N.J.A.C. 13:37-5.9 that she had been indicted on June 25, 2020, and was a defendant in a criminal complaint involving misconduct relating to her practice.

Respondent is aware that the Attorney General anticipates filing a Complaint for the above-described conduct, seeking revocation of her licenses as a Registered Nurse and as an Advanced Practice Nurse, all costs, Attorney General fees, and penalties.

Respondent, having had the opportunity to consult with her counsel, has determined to resolve the Board investigation without the need for a Complaint to be filed. The Board, finding that the within Order is adequately protective of the public health, safety and welfare and it appearing that good cause exists for the entry of the within Order,

IT IS, ON THIS 4th DAY OF September 2020,
AGREED AND ORDERED:

1. Respondent Ashley Morgan Lyons-Valenti, R.N., A.P.N. shall surrender her licenses to practice as a registered nurse and as an advanced practice nurse in the State of New Jersey, with such surrender to be deemed a permanent revocation, effective 30 days from the entry of this Order. This 30-day wind-down period is to allow Respondent time to notify and transfer current patients to other treatment providers. Respondent shall cease and desist from taking on new patients, effective immediately upon the entry of this Order.

2. The revocation of Respondent's licenses shall be with prejudice and she shall not seek a license as a registered nurse or as an advanced practice nurse in New Jersey at any future time.

3. Within 10 days of the filing of this Order, she is to notify Joanne Leone, Executive Director, State Board of Nursing, 124 Halsey Street, P.O. Box 45010, Newark, New Jersey 07101 as to where her patient records are secured and how her patients may obtain them.

4. Respondent shall notify current patients of the cessation of her practice and shall make their records available on request. Respondent shall make reasonable efforts to transfer all patients (and their records) currently being treated by her to another health care provider, or to an appropriate clinic, and shall document such referral in each patient's chart.

5. Thirty days after the entry of this Order, Respondent shall cease and desist from all patient contact at any location and the rendering of nursing care, including the issuance of any prescriptions for, or dispensation of, medications of any kind.

6. Thirty days after the entry of this Order, Respondent shall return both of her original New Jersey nursing licenses and current biennial registrations, and her original CDS registration No. P0014800 to Joanne Leone, Executive Director, New Jersey State Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. The Board shall forward the CDS Registration, along with a copy of this Final Order, to the Division of Consumer Affairs, Drug Control Unit.

7. The return of the CDS registration is independent of any action taken by the Board, the United States Drug Enforcement Administration ("DEA") or any other law enforcement or licensing

authority. Respondent shall notify the DEA of this Order within 10 days of its entry and provide proof of same to the Board.

8. Thirty days after the entry of this Order, Respondent shall send all of her remaining prescription blanks, along with a cover memorandum indicating that she will no longer be writing prescriptions and asking that her prescription blanks be destroyed pursuant to standard operating procedures, to Dana Pulizzano, Acting Executive Director, Drug Control Unit, P.O. Box 45045, Newark, NJ 07101.

9. Respondent shall make prompt arrangements with Acting Director Pulizzano for the lawful disposal or lawful transfer of all Controlled Dangerous Substances in Respondent's possession or under her control in New Jersey, except for medications prescribed for Respondent's personal use for a documented medical purpose by her treating physician.

10. Within thirty days after the effective date of the revocation of Respondent's licenses, Respondent shall ensure that all New Jersey office letterhead bearing her name is properly destroyed. Respondent shall make safe and appropriate disposition of all medical equipment in Respondent's possession or under Respondent's custody and control.

11. Respondent shall divest herself from any current and future financial interest in, or benefit derived from, the practice of nursing, including but not limited to the provision of healthcare activities taking place at her former office. Following her divestiture, Respondent shall not charge, receive or share in any fee for professional services rendered by others. She shall be permitted to collect accounts receivable with respect to lawful professional services rendered by her prior to the effective date of the revocation of her licenses.

12. Thirty days after the entry of this Order, Respondent shall no longer be permitted to enter the premises of her former nursing practice during business hours when patients may be present.

13. Thirty days after the entry of this Order, Respondent shall be precluded from managing, overseeing, supervising or influencing the practice of nursing or provision of healthcare activities in the State of New Jersey.

14. Respondent is assessed an aggregate civil penalty of \$170,000.00 for the offenses set forth above, pursuant to N.J.S.A. 45:1-25. Respondent shall pay the financial assessment within 10 days of the entry of this Order, to the State Board of Nursing, P.O. Box 45010, Newark, NJ 07101. For any payments ordered but not paid in full within 10 days of the entry of this Order, a Certificate of Debt shall be filed pursuant to N.J.S.A. 45:1-24.

15. In addition, but not in lieu of the filing of the Certificate of Debt, if installment payments are requested and approved by the Board, Respondent shall pay \$20,000 in full within the first 10 days, and may be permitted to pay the balance of the debt (\$150,000.00) in equal monthly installments to be arranged with the Division of Consumer Affairs, each installment due on the first day of the month commencing on October 1, 2020.

16. Interest on all financial assessments shall accrue in accordance with Rule of Court 4:42-11. All payments shall be made by certified bank check, certified check, money order, wire transfer or credit card payable to the State of New Jersey. Any other form of payment will be rejected and will be returned to the party making payment. In the event that a monthly payment is not received within five days of its due date, the entire balance of the civil penalty shall become due and owing.

17. In the event that the District Court assesses a criminal financial penalty in connection with the aforesaid Indictment, Respondent may petition the Board to credit payment of the court penalty against the Board penalty.

18. The parties hereby stipulate that the entry of this Order shall not limit the authority of the Attorney General, the Drug Control Unit or the Director of the Division of Consumer Affairs, nor shall the Order limit any other person or other agency to initiate any further action permitted by law in any court or other forum of competent jurisdiction in connection with any matters coming within that jurisdiction. The Board expressly reserves the right and jurisdiction to enforce the terms of this Order.

THIS ORDER IS EFFECTIVE UPON ENTRY.

NEW JERSEY STATE BOARD OF NURSING

By: Barbara Blozen Ed.D. MA RN-BC CNL
Barbara Blozen, Ed.D., MA, RN-BC, CNL
President

I have read the within Order, understand its terms and agree to be bound by them. I consent to entry of the Order by the Board of Nursing.

Ashley Morgan Lyons-Valenti Date: 8/27/2020
Ashley Morgan Lyons-Valenti, RN, APN

Witness:
A. Charles Peruto
A. Charles Peruto, Esq.,
Counsel to Ashley Morgan Lyons-Valenti

Date: 8/27/2020