

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON  
REFERRAL BY THE BOARD OF NURSING**

In the Matter of	)	
	)	
SAMUEL ACHA	)	OAH No. 17-0906-NUR
_____	)	Agency No. 2017-000731

**FINAL DECISION**

The Alaska Board of Nursing has considered the proposed decision submitted by Administrative Law Judge Bride Seifert. The Board does not modify the findings of fact in the proposed decision. In accordance with AS 44.64.060(e)(3), revises the disposition of the case as follows:

Apart from differences in the educational and other requirements set out in statutes and regulations, the Board does not attach a different standard to licensure as an Advanced Practice Registered Nurse (APRN) from the standard for a Registered Nurse (RN). Insofar as the proposed decision might be read to imply that a less stringent level of trustworthiness or integrity is required for RN licensure, the Board rejects that implication.<sup>1</sup>

In its decisions, the Board has differentiated between applications for a new Alaska license, on the one hand, and discipline against practitioners who already hold a license, on the other. The consent agreements cited at footnotes 50-52 of the proposed decision relate to Alaskans who already hold a license. In appropriate cases, the Board has been willing to work with these individuals to return them to good standing. The Board has been cautious, however, to issue new licenses to applicants whose history gives rise to concerns about whether they have the good character needed to practice. Where prior misconduct, such as theft, is long in the past, the Board has been willing to grant a license in some circumstances.<sup>2</sup> Misconduct that occurs just prior to seeking an Alaska license is of special concern.

In the case of Mr. Acha, the Board notes that the misconduct regarding the laptop, which resulted in a reprimand from another state's board, occurred in late 2016 and early 2017. Mr. Acha has shown a pattern of concealing or minimizing that conduct that continued through his Alaska application process and his Alaska hearing in 2017. As this Board has held in prior decisions, it is critically important for nurses to be honest, forthright and willing to acknowledge the errors they make.<sup>3</sup> Under the circumstances of this case, a majority of the Board believe it would be unwise to grant Mr. Acha either of the new licenses for which he has applied.

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<sup>1</sup> This aspect of the Board's decision is unanimous.  
<sup>2</sup> *E.g., In re Dyett*, Case No. 2015-000411 (Consent Agreement, April 1, 2015) (theft conviction in 2002).  
<sup>3</sup> This key trait is discussed in more detail in *In re Kimble*, OAH No. 06-0032-NUR (Alaska Board of Nursing 2006), at page 10 (<http://aws.state.ak.us/officeofadminhearings/Documents/NUR/NUR060032.pdf>).

The Alaska Board of Nursing denies the applications of Samuel Acha for Registered Nurse by Endorsement and Advanced Nurse Practitioner Authorization.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 8<sup>th</sup> day of February, 2018.

By: Signed  
Jennifer Stukey  
Chair  
Alaska Board of Nursing

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**[PARTIALLY REJECTED PROPOSED] DECISION**

**I. Introduction**

Samuel Acha applied for both a registered nurse (RN) and an advanced practice registered nurse (APRN) license. The Board of Nursing denied his applications because it concluded that Mr. Acha willfully attempted to obtain the licenses by fraud or deceit, and engaged in unprofessional conduct.<sup>4</sup> Mr. Acha requested a hearing to challenge the denial.<sup>5</sup>

The evidence establishes that Mr. Acha attempted to obtain his license by fraud or deceit and engaged in unprofessional conduct. Therefore, the Board’s decision to deny Mr. Acha’s applications was supportable. The Board, however, after consideration of the full record, will approve Mr. Acha’s RN license, with conditions. The Board’s decision to deny Mr. Acha’s APRN license is affirmed.

**II. Facts**

*A. The Computer Incident*

Mr. Acha holds both a RN and APRN license in Maine.<sup>6</sup> Mr. Acha worked first as a certified nurse assistant, and then as an RN at St. Joesph’s Rehabilitation and Residence, rotating floors and units. He often studied for his APRN exam while at work, and used work laptops to do so. Sometimes he would bring a unit’s laptop in his backpack to another unit to continue studying. On October 21, 2016, Mr. Acha inadvertently brought a work laptop home in his backpack. Mr. Acha used the laptop to study at his home until he returned it to work. The date he returned the laptop is unclear. Mr. Acha asserts he returned it the day of his next scheduled shift, on or about October 24, 2016. As described below, this return date is difficult to align with other information.

<sup>4</sup> Exhibit 11. *See also* [Maine board of nursing, license search.](#)

<sup>5</sup> R. 48.

<sup>6</sup> R. 788.

St. Joseph's noticed the laptop was missing and questioned employees the following week. Mr. Acha offered that someone may have moved the laptop within the facility. He did not mention that he accidentally removed a laptop from the facility. St. Joseph's information technology (IT) department "pinged" the computer to a single IP address and location on November 8, 2016, and November 9, 2016.<sup>7</sup> On November 11, 2016, St. Joseph's reported the theft to local police. The police did not begin its investigation into the missing laptop until January 11, 2017.<sup>8</sup> Detective Paul Murphy obtained a subpoena for the IP address. From this, Detective Murphy determined the physical location of the IP address - Mr. Acha's home.<sup>9</sup>

Detective Murphy interviewed Mr. Acha on January 25, 2017. Mr. Acha explained that he brought a work laptop home without permission to study for his APRN exams. Mr. Acha added that his own laptop did not have a dvd/cd player which he needed to study.<sup>10</sup> Mr. Acha explained that he returned the computer to work when he was finished studying.<sup>11</sup> Mr. Acha allowed Detective Murphy to search his home, backpack, and automobile.<sup>12</sup> The search did not uncover the laptop.

After the Detective left, Mr. Acha emailed St. Joseph's and explained that "it might be possible that I might have brought a laptop home from work...and the only thing left now is for me to search about at St. Joseph's because I remember criss-crossing between various units...otherwise I am dumbfounded as to its whereabouts." On January 26, 2017, at 11:00 p.m. Mr. Acha went to St. Joseph's look for the laptop, even though he was not scheduled to work. He wore a backpack.<sup>13</sup> On January 27, 2017, Mr. Acha brought the missing laptop to a meeting with St. Joseph's staff. He could not explain why the laptop was pinged to his home on two occasions in November 2016.

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<sup>7</sup> A ping is a query sent out on a network to determine a connection location. An IP address is a unique string of numbers separated by periods that identifies each computer using the Internet Protocol over a network.

<sup>8</sup> Ex. 8, p. 6.

<sup>9</sup> Ex. 8, p. 6; Murphy testimony. Time Warner confirmed that the IP address was registered to Mr. Acha's roommate. The roommate informed police that Mr. Acha moved in with him in October 2016.

<sup>10</sup> Detective Murphy observed Mr. Acha's personal laptop.

<sup>11</sup> Ex. 8, p. 6.

<sup>12</sup> Ex. 8; Murphy testimony.

<sup>13</sup> In the early morning hours of January 27, 2017, Mr. Acha emailed St. Joseph's staff and let them know that he went in to look for the computer late in the evening.

St. Joseph's terminated Mr. Acha's employment for theft and dishonesty. On February 22, 2017, St. Joseph's notified the Maine Board of Nursing of Mr. Acha's termination.<sup>14</sup> The notification included a copy of an employee counseling form. The counseling form detailed that:

- a laptop went missing on October 21, 2016;
- Mr. Acha did not indicate he had taken a laptop when questioned;
- the laptop was tracked to an IP address where Mr. Acha was living;
- Mr. Acha admitted to taking a laptop from the facility after being questioned by police; and that
- regardless of Mr. Acha's intentions, Mr. Acha's "dishonesty and theft of company property serve as a means for termination [of] his employment effective immediately"
- The counseling form also stated "The Maine Board of Nursing will be notified of this decision."<sup>15</sup>

On March 21, 2017, the Maine Board of Nursing sent Mr. Acha a notice of complaint, and included a copy of the counseling form.<sup>16</sup> The notice stated that a provider sent a complaint indicating a possible violation of the nursing code of ethics and that Mr. Acha had to provide a response within 30 days.<sup>17</sup> On May 1, 2017, Mr. Acha applied for his Maine RN license renewal. A question on the application asks if there are any complaints pending against the applicant.<sup>18</sup> Mr. Acha answered yes.<sup>19</sup> A "yes" answer automatically pends the application for review.<sup>20</sup>

On May 10, 2017, Cindy Griffin, an investigator with the Maine Board of Nursing, interviewed Mr. Acha. Mr. Acha told Ms. Griffin that he had inadvertently taken the laptop, but returned it a few days later.<sup>21</sup> Ms. Griffin interviewed Mr. Acha again on May 17, 2017, and asked Mr. Acha to explain how a signal from the laptop emitted from his home in early

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<sup>14</sup> Amanda Garland, Maine Board of Nursing compliance officer and professional licensing supervisor, testimony.

<sup>15</sup> Ex. 19, p. 3 -4; Garland testimony.

<sup>16</sup> Garland testimony. The notice is not in the record.

<sup>17</sup> Garland testimony.

<sup>18</sup> Garland testimony.

<sup>19</sup> Garland testimony. Mr. Acha's Maine nursing application is not in the record.

<sup>20</sup> Garland testimony.

<sup>21</sup> Ex. 19, p. 10.

November if he returned it in October. Mr. Acha could not explain this discrepancy, and again stated that he only had the laptop at his home for a few days.<sup>22</sup>

On May 4 and May 17, 2017, The Maine Board of Nursing mailed Mr. Acha notice that the Maine Board of Nursing would consider Mr. Acha's application at its June meeting. This was Mr. Acha's first indication that his RN license would not automatically renew.<sup>23</sup> The Board and Mr. Acha resolved the complaint through a consent agreement finalized on July 27, 2017.<sup>24</sup>

In the consent agreement, Mr. Acha admitted that he inadvertently brought a work laptop to his residence. Mr. Acha also admitted that he failed to disclose this information when asked. Mr. Acha agreed that the "Portland Police" pinged the laptop at his address on November 8 – 9, 2016, but maintained that he returned the laptop to a different unit approximately three days after its removal.<sup>25</sup> Mr. Acha agreed that diverting health care provider property and failing to demonstrate honesty constitute unprofessional conduct.<sup>26</sup> The Maine Board of Nursing gave Mr. Acha a warning, but took no further action.<sup>27</sup>

*B. Alaska Applications, Investigation, and Denial*

On May 2, 2017, Mr. Acha completed an application for advanced nurse practitioner authorization with the State of Alaska.<sup>28</sup> On May 17, 2017, Mr. Acha completed an application for RN license by endorsement.<sup>29</sup> Both applications ask about disciplinary history. One question is, "Have you ever been or are you currently the subject of an inquiry or under investigation by any state board or other licensing agency concerning a violation or alleged violation of any state regulation, statute, or for any violation or alleged violation of the Nursing Practice Act, or professional or unethical conduct?"<sup>30</sup> Mr. Acha answered "No" on the APRN application, and "Yes, alleged violation of policy" on the RN application.

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<sup>22</sup> Ex. 19, p. 10.

<sup>23</sup> Garland testimony.

<sup>24</sup> Ex. 3.

<sup>25</sup> The Portland Police did not ping the laptop. St. Joseph's IT department did. The police determined the physical location after subpoenaing Time Warner in January 2017. It is unlikely that Mr. Acha knew this distinction when he signed the consent agreement. Furthermore, it is unlikely that Mr. Acha would attribute any consequence to this difference. This significance of this distinction is discussed later in the decision.

<sup>26</sup> Ex. 3.

<sup>27</sup> Ex. 3; Garland testimony.

<sup>28</sup> Ex. 2.

<sup>29</sup> Ex. 1.

<sup>30</sup> Ex. 1, p. 2; Ex. 2, p. 9.

On May 23, 2017, Mr. Acha sent the Alaska Board of Nursing a letter stating that St. Joseph's filed a complaint in Maine, alleging a violation of facility policy.<sup>31</sup> The letter stated that he unintentionally took a laptop home from work and took it back the next working day.<sup>32</sup> It made no mention of a police investigation, his failure to respond to questions about the missing laptop, or the identification of the laptop at his residence in November.

Licensing examiner Madeline Henderson noticed the discrepancy between the two applications and forwarded them for follow up.<sup>33</sup> Jennifer Summers investigated on behalf of the Alaska Board of Nursing. Ms. Henderson and Investigator Summers received information from the Maine Board of Nursing investigator, Detective Murphy, and Mr. Acha. Investigator Summers spoke with Mr. Acha on July 18, 2017, and recorded the conversation.<sup>34</sup> They discussed the Maine consent agreement. Mr. Acha stated that he completed the consent agreement to maintain his license. Mr. Acha explained to Investigator Summers that he inadvertently removed the laptop and returned it on his next work day.

As to the discrepancy between applications, Mr. Acha stated that he submitted an incorrect and incomplete APRN application.<sup>35</sup> He also told Investigator Summers that he did not intentionally fail to disclose the Maine investigation, as evidenced by his answer on the RN application and subsequent letter.

At the end of the conversation, Investigator Summers informed Mr. Acha that she would submit the results of her investigation. Investigator Summers told Mr. Acha that she did not have authority to decide his case. She went on to say that the Board may approve his license or require a consent agreement, as in Maine. Investigator Summers did not mention that the Board may also deny both licenses.

Wendy Thon, Alaska Board of Nursing member and Advanced Nurse Practitioner, reviewed Investigative Summers' report and recommended that the Board deny Mr. Acha's applications.<sup>36</sup> The Alaska Board of Nursing considered Mr. Acha's application at its August 2 – 4, 2017, meeting. The Board denied Mr. Acha's application for two reasons: (1) attempting to

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<sup>31</sup> Ex. 1, p. 4.

<sup>32</sup> Ex. 1, p. 4.

<sup>33</sup> Summers testimony.

<sup>34</sup> Ex. 4 – 5; Summers testimony.

<sup>35</sup> The record supports this assertion.

<sup>36</sup> R.54. The form Ms. Thon completed only addresses "the ANP applicant" and does not mention the RN license application.

obtain a license by fraud or deceit; and (2) unprofessional conduct.<sup>37</sup> The Board’s unprofessional conduct regulation included “intentionally misappropriating...property of the client or agency for personal and unauthorized use.”<sup>38</sup> The Board notified Mr. Acha’s of its decision to deny his nursing license application on August 12, 2017.<sup>39</sup> Mr. Acha appealed the denial on August 25, 2017.<sup>40</sup>

A telephonic hearing occurred on November 20, 2017. Assistant Attorney General Joan Wilson represented the Division of Corporations, Business and Professional Licensing. Amanda Garland, Maine Board of Nursing professional licensing supervisor, Investigator Summers, and Detective Murphy testified on behalf of the Division. Mr. Acha represented himself and called Jane Doe as a character witness.

Mr. Acha testified to the same version of events – he inadvertently took the laptop, used it to study, and returned it the next shift. Mr. Acha compared his inadvertent removal of the laptop to the removal of cotton swabs, exam gloves, or other items one might accidentally bring home in one’s pocket. Mr. Acha’s testified credibly that he did not intend to steal the laptop. His explanation that he returned the computer three days later was less credible.

Investigator Summers explained her understanding of “pinging” a laptop. The ping occurs at a specific moment in time, and identifies the location of the laptop at that time. Here, the laptop pinged to Mr. Acha’s home on November 8<sup>th</sup> and 9<sup>th</sup>. Mr. Acha did not provide an alternative theory to rebut this evidence.

Mr. Acha also testified that he was not attempting to get a license by fraud or deceit when he filled out the Alaska APRN application. He admitted that, in retrospect, he should have answered yes to the question about being the subject of an investigation.

### **III. Discussion**

#### *A. Legal Standard and Burden of Proof*

The Board has the discretion to deny a license if it concludes that the applicant falls within any of the disqualifying conditions found at AS 08.68.270. Attempting to obtain a license by fraud or deceit is a disqualifying condition, as is engaging in unprofessional conduct.<sup>41</sup> The

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<sup>37</sup> Ex. 11.

<sup>38</sup> Ex. 11.

<sup>39</sup> Ex. 11.

<sup>40</sup> Appeal, contained in referral to OAH.

<sup>41</sup> AS 08.68.270(1),(7).

Board has discretion to grant or deny a license and must seek consistency in the application of discipline.<sup>42</sup> This means that the Board may, but is not required to, refuse licensure.

The Board may, depending on the circumstances, select from a range of actions including probation or the placing of limitations or conditions on a license.<sup>43</sup> When granting or denying a license, the Board weighs the interest of an individual in pursuing his or her chosen profession with its obligation to assure competency of licensees and its obligation to protect the public's health, safety, and welfare.<sup>44</sup>

A respondent seeking a new a license carries the burden of proof under the Administrative Procedures Act.<sup>45</sup> Therefore, the burden of proof is on Mr. Acha to establish by a preponderance of the evidence that the Board of Nursing's denial is unwarranted.

*B. Mr. Acha Attempted to Obtain a License by Fraud or Deceit.*

To establish that Mr. Acha attempted to obtain a license by fraud or deceit, the Division must establish that Mr. Acha intended to provide an incorrect answer on his application or that he had doubts as to the accuracy of his answer.<sup>46</sup> It seems apparent that Mr. Acha knew or should have known that he was under investigation for an alleged violation of nursing regulations or professional ethics.

First, St. Joseph's fired Mr. Acha for theft and dishonesty in January 2017. Then, on March 21, 2017, the Maine Board of Nursing mailed Mr. Acha a notice that an employer filed a complaint against him he had been convicted. But this notice is not in the agency record or exhibits. Ms. Garland testified credibly that the notice informed Mr. Acha of the complaint, offered him the opportunity to reply, and included a copy of the St. Joseph's report. Ms. Garland did not testify that the notice told Mr. Acha of a formal investigation. Instead, Ms. Garland

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<sup>42</sup> AS 08.68.270; AS 08.68.275(f).

<sup>43</sup> The Board's disciplinary powers derive from AS 08.68.275 and AS 08.01.075.

<sup>44</sup> See *Allison v. State*, 583 P.2d 813, 816 (Alaska 1978) ("Title 8 contains many chapters which contemplate protection of the public's health and safety and assure competency of those providing the service regulated").

<sup>45</sup> AS 44.62.460(e).

<sup>46</sup> *In re Rydberg*, OAH No. 12-0049-NUR (October 2012). "An incorrect answer on an application is only fraudulent, deceitful or an intentional misrepresentation if the applicant knew it was wrong or had doubts about the accuracy of the answer." Citing, *In re Susan Taylor*, OAH No. 10-0409-CNA at 4 (December 2010) *aff'd Taylor v. Alaska Board of Nursing*, 3AN-11-0763CI at 10 (July 5, 2012).

stated that Mr. Acha would not have known until at least early May 2017, that Maine would not act on his RN license renewal or APRN application until after its investigation was complete.<sup>47</sup>

Mr. Acha completed his Alaska APRN application on May 5, 2017, before knowing this information. Additionally, the Alaska Board's reliance on the March 21, 2017, notice of complaint may be misplaced. For example, on July 12, 2017, Investigator Summers sent Mr. Acha a letter, notifying him that the Division received a complaint that he may have attempted to obtain a license by fraud and deceit.<sup>48</sup> The next line reads, "At this time we are contacting you as part of an initial inquiry into this complaint and you **are not** the subject of an official investigation."<sup>49</sup>

If Maine used similar language, it is feasible that Mr. Acha may not, at the time of his APRN application, known he was the subject of an official investigation. This is somewhat undermined by the fact that Mr. Acha answered "yes" to the Maine Board of Nursing's question of whether there was a complaint against him. We do not have the Maine application in front of us, but it appears there are two distinct questions. Maine's application asks if there is a complaint; Alaska's asks if there is an investigation. Even considering this distinction, Mr. Acha's "yes" answer to the Maine question supports a finding that he had, at the very least, doubts about the accuracy of his "no" answer on the Alaska APRN application. Therefore, Mr. Acha's actions meet the criteria for finding that he attempted to obtain a license by fraud or deceit, even though he may not have acted to intentionally deceive.

*C. Mr. Acha is Guilty of Unprofessional Conduct.*

The Board's second basis for denying Mr. Acha's application was unprofessional conduct.<sup>50</sup> As discussed above, Mr. Acha removed a laptop from his employer's facility. Even if the removal was unintentional, his failure to disclose this removal when questioned about the missing laptop amounts to unprofessional conduct. Similarly, his email to St. Joseph's stating "it might be possible that I might have brought a laptop home from work" is not accurate. Mr. Acha knew he removed a laptop, failed to report its removal, and, at a minimum, failed to return it to

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<sup>47</sup> Ms. Garland testified that the Board mailed Mr. Acha this notification on May 16, 2017. The Maine Board of Nursing also mailed Mr. Acha notice on May 4, 2017, that it would consider his application at its June meeting. *See Ex. 19, p. 1; p. 7.*

<sup>48</sup> Ex. 6.

<sup>49</sup> Ex. 6. Emphasis in original.

<sup>50</sup> 12 AAC 44.705(4).

the appropriate work station. The more likely scenario is that Mr. Acha kept the laptop through at least November 9, 2016, and possibly until January 26, 2017.

These actions are quite dissimilar from inadvertently bringing home cotton balls or a syringe in one's pocket, as suggested by Mr. Acha. Mr. Acha's removal, and subsequent actions meet the Board's definition of unprofessional conduct. And once the Board determined that Mr. Acha engaged in unprofessional conduct, it had discretion in determining whether licensure was appropriate.

*E. Alternatives to Denial of Both Licenses.*

This case, however, is not so clear cut. The Alaska Board should consider that the Maine Board of Nursing approved Mr. Acha's RN and APRN licenses and resolved this matter by consent agreement under the same set of facts, including the discrepancy between Mr. Acha's statements and the eventual return of the computer. The Board should also consider that there were some issues with the Alaska Board's investigation.

Investigator Summers' conversation with Mr. Acha included unintentional inaccuracies. For example, she asked Mr. Acha how he agreed to a consent agreement that stated the laptop was missing from the facility from October 21, 2016, until January 27, 2017. That is not quite right. Instead, the consent agreement states that the laptop went missing on October 21<sup>st</sup>; it was pinged at his home in November; Mr. Acha went to St. Joseph's on January 26, 2017; and he produced the laptop on January 27, 2017. Mr. Acha agreed that he produced the laptop on January 27<sup>th</sup>, not that it was missing from the facility that entire time frame. The consent agreement also notes that Mr. Acha stated that he did remove the laptop, but returned it on this next shift. Although one may infer that the laptop was missing from St. Joseph's the entire time, the consent agreement does not explicitly require Mr. Acha's agreement to this inference.

Investigator Summers' written summary of their conversation also included inaccuracies. Investigator Summers wrote and testified that Mr. Acha told her he had no knowledge that the Portland Police Department pinged the laptop to his home in November, and that he did not speak to police. St. Joseph's IT department (not the police) pinged the laptop in November, but it was not until the police obtained a subpoena and followed up on the information from St. Joseph's IT department that the location was linked to Mr. Acha's home. Mr. Acha's response to Investigator Summers was accurate, and not evasive. Mr. Acha knew nothing about "pinging"

or the police in November. He did not meet with police and learn of the pinging until January, which Mr. Acha discussed with Investigator Summers.<sup>51</sup>

Investigator Summers' confusion is understandable. First, she would have had no way to know that the consent agreement wrongly reported that the police (not IT) placed the laptop with Mr. Acha in November. Second, Mr. Acha is, at times, difficult to understand. English is not his first language, and he his speech accelerates when under stress. This happened during both the hearing and interview with Investigator Summers. It was only after careful review of the July 18, 2017, audio that Mr. Acha's statements were understood, and even then, there is some difficulty with clarity.

Next, Mr. Acha appears willing to work under any consent agreement imposed by the Board. At hearing, the Division pointed out and expressed concern that APRN's work without the same level of supervision as RNs, and that APRNs can prescribe medication. Mr. Acha worked as a nurse assistant and later as a nurse. Nothing in the record indicates concern for Mr. Acha's ability to deliver quality patient care in a safe manner. The general concern is with honesty. And although honesty is of utmost importance, there is some evidence that Mr. Acha's failure to disclose the Maine investigation on his ARPN application may have been unintentional. The finding of deceit, made above, is technically correct, but is not supported by overwhelming evidence.

This fact and the discrepancies in Investigator Summers' report provide a reasonable basis for the Board's approval of Mr. Acha's RN license, with the potential for eventual approval of his APRN license. Approving only the RN license ensures that Mr. Acha works under a doctor's or higher-level nursing professional's supervision. The Board, therefore, approves Mr. Acha's RN license, subject to the following conditions:

- Mr. Acha's RN license is subject to a five-year probationary period;
- Mr. Acha will receive a public reprimand for failing to provide an accurate application, and for unprofessional conduct in another jurisdiction.

This decision also aligns with other Board of Nursing disciplinary actions, as required by statute.<sup>52</sup> For example, the Board resolved the following cases through consent agreements. In

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<sup>51</sup> "Discussed" may be inappropriate. Mr. Acha spoke rapidly and emotionally during his conversation with Investigator Summers. Mr. Acha explained that he spoke with police, but denied (correctly) that he spoke with them in November.

<sup>52</sup> AS 08.01.075(f).

one, it imposed a one-year suspension, a case where a nurse intentionally misappropriated medication, including narcotics for personal use.<sup>53</sup> The Board imposed a three-year probation period on a nurse who failed to report a disciplinary action in one state, abandoned patients, and failed to document and follow up after a patient in his care was injured.<sup>54</sup> It publicly reprimanded and imposed a \$1,500 fine on a nurse who forged a prescription for narcotics, and used the narcotics herself.<sup>55</sup>

In contrast, in *In re Fromm*, the board denied a nursing application when a nurse, already working under a consent agreement, failed to report a termination for a positive drug test; failed to report convictions, and failed to report a new conviction received since his last application renewal.<sup>56</sup> The Board also denied a license for “pervasive misrepresentation, concealment, and forgery” in *In re Kimble*.<sup>57</sup> There, the applicant submitted forged recommendation letters, omitted significant work history, and included employers that did not exist. Mr. Acha’s actions are less serious than Fromm and Kimble, and more akin to those resolved by consent agreement with consequences short of outright license denial.

#### IV. Conclusion

Though a close call, Mr. Acha failed to establish that he did not attempt to obtain a license fraud or deceit. Likewise, the record demonstrates that he engaged in unprofessional conduct. Based on this, the Board’s denial of Mr. Acha’s licenses was reasonable. However, in this situation, and considering all the facts in the record, the Board will exercise its discretion and approve Mr. Acha’s RN license, with appropriate conditions.

DATED: January 5, 2018.

Signed  
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Bride Seifert  
Administrative Law Judge

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]

<sup>53</sup> <https://www.commerce.alaska.gov/CBP/Main/Document/Prof/?r=475289&v=231942&d=1888286>

<sup>54</sup> <https://www.commerce.alaska.gov/CBP/Main/Document/Prof/?r=136933&v=233382&d=1891762>

<sup>55</sup> <https://www.commerce.alaska.gov/CBP/Main/Document/Prof/?r=130643&v=231195&d=1886808>

<sup>56</sup> OAH No. 14-0214-NUR (Board of Nursing, 2014).

<sup>57</sup> OAH No. 06-0032-NUR (Board of Nursing, 2006).