

IN THE MATTER OF
RICHARD BALOGH, NHA
License No. R0797
Respondent

* **BEFORE THE**
* **STATE BOARD OF**
* **EXAMINERS OF NURSING**
* **HOME ADMINISTRATORS**
* **Case No. 2010-004**

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Examiners of Nursing Home Administrators (the "Board"), and subject to Md. Health Occ. Ann. § 9-101, et seq., (2009 Repl. Vol. and 2010) (the "Act"), the Board charged Richard Balogh, (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of § 9-314(b):

Subject to the hearing provisions of § 9-315 of this subtitle, the Board may deny a license or limited license to any applicant, reprimand any licensee or holder of a limited license, place any licensee or holder of a limited license on probation, or suspend or revoke a license or limited license if the applicant, holder, or licensee:

- (1) ...deceptively obtains or attempts to obtain a license for the licensee or for another;
- (2) Fraudulently or deceptively uses a license;
- (8) Willfully makes or files a false report or record in the practice of nursing home administration;
- (9) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- (11) Commits an act of unprofessional conduct in the licensee's practice as a nursing home administrator; or [.]

The Board further charges the Respondent with violations of its regulations found at Code Md. Regs, tit. 10§ 33.01.15 (December 15, 1986).

.15 Suspension and Revocation of Licenses.

- A. Pursuant to Health Occupations Article, §9-314(b) (3), Annotated Code of Maryland, the Board may deny a license or limited license to any applicant, suspend or revoke a license of a nursing home administrator, or reprimand or otherwise discipline an applicant or a licensee after due notice and an opportunity to be heard at a formal hearing, upon evidence that the applicant or licensee:
- (1) Has violated any of the provisions of the law pertaining to the licensing of nursing home administrators or the regulations of the Board pertaining to it;
 - (2) Has violated any of the provisions of the law or regulations of the licensing or supervising authority or agency of the State or political subdivision of it having jurisdiction of the operation and licensing of nursing facilities;
 - (13) Has violated the terms of the AIT contract;

The Board further charges the Respondent with violating its regulations found at Md. Code Regs. 10 tit.13 (December 15, 1986).

F. Application Requirements.

- (7) The preceptor shall devote a minimum of 16 hours per week of direct, on-site supervision for each AIT, which may be on an individual or combined basis in the case of two trainees.

The Respondent was given notice of the issues underlying the Board's charges by letter dated September 15, 2011. Accordingly, a Case Resolution Conference was held on October 28, 2011, and was attended by Jeffery Metz, N.H.A., John White, N.H.A., and Belinda Strayhorn, Consumer Member, Board members, Eleanor L. Eines, Deputy Executive Director of the Board, and David Wagner, Counsel to the Board. Also in attendance were Richard Balogh, N.H.A., and his attorney, Laurence B. Russell, and the Administrative Prosecutor, Roberta Gill.

Following the Case Resolution Conference, the parties and the Board agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

FINDINGS OF FACT

1. At all times relevant to the charges herein, Respondent was licensed to practice nursing home administration in the State of Maryland. The Respondent was first licensed on December 31, 1985. The Respondent's license expires on December 31, 2011.

2. At all times relevant hereto, the Respondent was the Administrator at a nursing home in Silver Spring, Maryland.

3. On June 1, 2010, the Respondent entered into a contract with the Board, agreeing to be the preceptor/mentor under an Administrator-in-Training (AIT) program for Yetunde Johnson, who was then the Director of Nursing at the facility. Because of her position, the Board waived several months of training and required that the training program for Ms. Johnson last six months. The contract was to begin on June 26, 2010. Ms. Johnson was prohibited from continuing her position as Director of Nursing and was to receive training from the Respondent in nine specific areas, including business office, environmental and dietary.

4. In preparation for visiting the nursing home at the end of October 2010, the Board's Executive Director and a Board member's staff placed several calls to the nursing home to set up the visit and found out that Ms. Johnson was still Director of Nursing.

5. At the site visit on November 10, 2010, when the Executive Director and the Board member visited the facility and interviewed Ms. Johnson and the Respondent, it was apparent that Ms. Johnson had not rotated through the different departments as required, in that she could only answer questions about nursing care. The Respondent acknowledged that he had not adhered to the terms of the AIT contract and acknowledged that Ms. Johnson had held the position of Director of Nursing while also serving as an AIT.

6. A review of the personnel records shows that Ms. Johnson was paid as the Director of Nursing throughout the time period of the AIT contract.

7. On April 4, 2011, following a hearing, the Board cancelled Ms. Johnson's AIT contract because the Respondent and Ms. Johnson had not complied with the training requirements therein, in violation of its terms and of the Act and regulations thereunder.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated Health Occ. § 9-314 (b) (1), (9) and (11); Code Md. Regs. tit. 10 § 33.01.15 A (1), (2) and (13); and Code Md. Regs. tit. 10 § 33.01.13 F(7). The Board dismisses Health Occ. § 9-314 (b) (2) and (8).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 9th day of November, 2011, by a majority of a quorum of the Board,

ORDERED that the Respondent is hereby **REPRIMANDED**; and be it further **ORDERED**, that the Respondent shall be placed on **PROBATION** for two years, subject to the following conditions:

A. The Respondent shall take and pass, within the first year of Probation, the Board's jurisprudence State's standards examination;

B. The Respondent shall take and pass, within the first year of Probation, a Board-pre-approved three (3)-credit college-level classroom ethics course that the Respondent may not use as part of his Continuing Educational Units towards his licensure renewal;

C. The Respondent may not be a Preceptor during his Probation;

D. The Respondent shall retake and pass the Preceptor certification course prior to the end of his probationary period.

ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it

ORDERED that, if the Respondent violates any conditions of this Order, after providing the Respondent with notice and an opportunity for a hearing, the Board may take any further disciplinary action against the Respondent, including, but not limited to, suspension or revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice of nursing home administration in Maryland; and be it

further

ORDERED that this is a public document for purposes of public disclosure, as permitted by Md. State Gov't. Code Ann. §10-617(h) (Repl. Vol. 2009 and 2011 Supp.).



J. Brian Pabst, NHA, President
State Board of Examiners of Nursing
Home Administrators

CONSENT OF RICHARD BALOGH

I, Richard Balogh, NHA., acknowledge that I am represented by counsel, Laurence B. Russell, and have consulted with counsel before entering into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed after any such hearing.

I sign this Consent Order, voluntarily and without reservation, after having an opportunity to consult with counsel, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

11/8/11
Date

R. Balogh, NHA
Richard Balogh, NHA

STATE OF MARYLAND _____:

CITY/COUNTY OF Baltimore :

I HEREBY CERTIFY that on this 8th day of November, 2011, before me, NATHY JO OSWINKLE, a Notary Public of the foregoing State and (City/County),
(Print Name)
personally appeared **Richard Balogh, License No. R0797**, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.


Notary Public

My Commission Expires: 3/12/14