

**BEFORE THE ALABAMA BOARD OF NURSING**

|   |   |                           |
|---|---|---------------------------|
| <b>IN THE MATTER OF:</b>                  | ) |                           |
|   | ) |                           |
| <b>ALANDA DIANE WOODS GREEN</b>           | ) | <b>PETITION FOR</b>       |
|   | ) | <b>DECLARATORY RULING</b> |
| <b>ABN LICENSE NO. 2-053412 (REVOKED)</b> | ) |                           |
|   | ) |                           |
| <b>Petitioner.</b>                        | ) |                           |

---

**DECLARATORY RULING**

**COMES NOW** the Alabama Board of Nursing (Board), by and through its Executive Officer, N. Genell Lee, MSN, RN, JD, and issues the following ruling:

**QUESTION PRESENTED**

May Alanda Diane Woods Green (Green)<sup>1</sup> be exempted from compliance with the Board's law and rules governing reinstatement of a revoked license based on her lack of knowledge of the revocation of her license by Order of the Board?

**FINDINGS OF FACT**

1. Green was licensed by the Board as a Licensed Practical Nurse by examination on October 30, 2003. Green's license was revoked by Order of the Board on January 18, 2013.
2. On September 9, 2013, the Board received a Petition for Declaratory Ruling (Petition) from Green, wherein Green asks the Board to "reconsider the facts and findings of the revocation order allowing me to begin the process of reinstatement."
3. On or about July 24, 2012, Green signed a proposed consent order for consideration by the Board at the Board meeting on September 20-21, 2012. The Board reviewed the consent order at its September 21, 2012, meeting. It was determined that Green's license number was inaccurate in the style of the case on the consent order; thus, the Board voted to approve the proposed consent order contingent upon Green agreeing to correct the license number on the order.
4. Board staff made multiple attempts to contact Green to obtain her consent to correction of the license number. By electronic mail of September 26, 2012, a docket clerk for the Board emailed Green, indicating that several messages had been left for Green to call the Board regarding her consent order. This email stated: "The Board requires that you acknowledge that your license number will be corrected in the style. You may acknowledge in writing by responding in such manner to this email or, you can call . . . . Either way, this matter requires your immediate attention and response." Green did not respond to this email communication. A letter from the Board's general counsel was sent to Green on September 28, 2012, wherein Green was told: "The Alabama Board of Nursing has been trying to contact you regarding your

---

<sup>1</sup> Green's former name was Alanda Diane Woods Glanton, and all of the events described in this Declaratory Ruling occurred under that name. On August 5, 2013, Green provided updated information to the Board changing her name to Alanda Diane Woods Green.

pending case with the Board and the Consent Order you signed on July 24, 2012. To date we have not received a response from you. Please contact me immediately at (334) 293-5222 so that we can resolve the matter at hand. This letter serves as our **FINAL** attempt to contact you regarding this matter. Please be aware that if you do not immediately respond to this letter, you leave us no option but to issue an administrative complaint against you scheduling your case for a hearing." Board records reflect no response from Green.

5. On or about October 23, 2012, the Board issued a Statement of Charges and Notice of Hearing to Green at her address of record with the Board. The Board sent the charges by certified mail and regular mail, and also forwarded the charges to the county sheriff for service. The certified mail and regular mail were both returned to the Board, marked: "return to sender, attempted not known, unable to forward." State's Exhibit 4 in the Administrative Record shows that certified mail service was "attempted not known" on October 31, 2013. The return on service from the sheriff was marked "unable to contact." At all times relevant to this case, Green's address on record with the Board remained the same.

6. A hearing was held on November 28, 2012. Following the hearing, the Hearing Officer recommended revocation of Green's license, and by Order of January 18, 2013, the Board revoked Green's license. Certified mail service of the order was returned to the Board as "attempted not known," with an attempted service date on or about January 22, 2013.

7. In her petition, Green asserts that she was "unaware of the email and did not respond." She further asserts that she relocated in September 2012 and failed to provide a change of address to the Board, although she asserts that she did provide a change of address to the United States Postal Service. She maintains that she "did not receive any forwarded certified mail from the Alabama Board of Nursing regarding the consent order."

## JURISDICTION

Pursuant to Section 41-22-11 of the Code of Alabama (1975), the Alabama Board of Nursing has jurisdiction to issue declaratory rulings with respect to the validity of a rule, with respect to the applicability to any person, property or state of facts of any rule or statute enforceable by it, or with respect to the meaning and scope of any order of the agency, if a written petition for declaratory ruling is filed by a person who states with specificity the reason why the person is substantially affected by the rule at issue. See also Alabama Board of Nursing Administrative Code § 610-X-1-.09.

## CONCLUSIONS OF LAW

1. A petition for declaratory ruling to the Alabama Board of Nursing should state the name and address of the petitioner, a statement of facts sufficient to show that the petitioner is substantially affected by the rule, and identification of the rule, statute or order and the reasons for the questions. Alabama Board of Nursing Administrative Code § 610-X-1-.09. Respondent has provided a statement of facts showing she is substantially affected by a rule and has identified the Board's Order and the reasons for her question.

2. "A revoked license may be considered for reinstatement after one year in accordance with board rules." Ala. Code (1975) § 34-21-25(g). Board rules governing reinstatement of a revoked license are found in Alabama Board of Nursing Administrative Code § 610-X-8-.11.

3. A final order of a Board "shall be delivered either by personal service as in civil actions or by certified mail, return receipt requested." Ala. Code § 41-22-16(d). Hearing notices may also be delivered by certified mail, return receipt requested. Ala. Code § 41-22-12(a). "Delivery of the notice referred to in this subsection shall constitute commencement of the contested case proceeding." Id.

4. Green was aware of the pendency of disciplinary action against her license, having signed a consent order on July 24, 2012. Green knew that the consent order would be considered by the Board at the September 20-21, 2012 Board meeting. Despite this knowledge, Green took no affirmative steps to inform the Board of her change in address. Thus, any lack of knowledge regarding the hearing and Board Order is better attributed to Green, rather than the Board, whose efforts to contact Green through multiple methods were well documented. See, e.g. Conner v. Alabama State Board of Pharmacy, 80 So. 3d 959, 964 (Ala. Civ. App. 2011) (finding that pharmacist could not frustrate a board's police powers by "refusing to retrieve a certified letter" and "it was Conner's conduct, and not the Board's, that supposedly 'deprived' him of due process.").


### RULING

Green's Petition for a Declaratory Ruling is hereby granted, and the Alabama Board of Nursing hereby rules as follows:

Green is not exempted from the Board's requirements for reinstatement of a revoked license. Green may apply to reinstate her revoked license in accordance with the procedures required in Alabama Board of Nursing Administrative Code § 610-X-8-.11 at any time on or after January 22, 2014.

**DONE** and **ORDERED** on this the 19<sup>th</sup> day of September, 2013.

ALABAMA BOARD OF NURSING

  
\_\_\_\_\_  
N. Genell Lee, RN, MSN, JD