

**BEFORE THE
BOARD OF NURSING
STATE OF OREGON**

In the Matter of the Proposed)	FINAL ORDER
Revocation of Registered Nurse)	
License Issued to:)	
)	Agency Case No. 14-01479
YVETTE MARIE HAZEN, RN,)	OAH Case No. 1403801
)	
License No. 200441130RN.)	
_____)	

On June 23, 2014, the Oregon State Board of Nursing (Board) issued a Notice of Proposed Revocation of Registered Nurse License to Yvette Marie Hazen. The Board proposed to revoke Ms. Hazen’s license pursuant to ORS 676.150(3), ORS 678.111(1)(a), (c), and (f), and OAR 851-045-0070(7)(b) and (c). On July 14, 2014, the Board received Ms. Hazen’s request for an administrative hearing.

On July 16, 2014, the Board referred the matter to the Office of Administrative Hearings (OAH). The OAH assigned Senior Administrative Law Judge (ALJ) Jennifer H. Rackstraw to preside over the matter.

On September 23, 2014, Senior ALJ A. Bernadette Bignon (formerly House) convened a telephone prehearing conference. Ms. Hazen appeared without counsel. Senior Assistant Attorney General Thomas Cowan appeared for the Board. A hearing was scheduled for March 25, 2015. Mr. Cowan agreed to a deadline of November 18, 2014 for the Board to file a Motion for Summary Determination. ALJ Bignon advised Ms. Hazen that she would have until December 8, 2014 to file a written response the Motion for Summary Determination.

On November 14, 2014, the Board filed a Motion for Summary Determination. Ms. Hazen did not file any response by December 8, 2014. ALJ Rackstraw subsequently took the matter under advisement. On December 22, 2014, ALJ Rackstraw issued a Ruling on Motion for Summary Determination and Proposed Order. Ms. Hazen was notified of her right to file exceptions to the Proposed Order. Any exceptions must be in writing and be filed with the Board within 10 days following the date of service of the Proposed Order. Ms. Hazen did not file any exceptions with the Board by January 2, 2015.

At its Board meeting on January 14, 2015, the Board deliberated regarding the Proposed Order. The Board voted to accept the Proposed Order, the recommendation of ALJ Rackstraw to revoke Ms. Hazen’s R.N. license, and to issue this Final Order. The Board has not made any changes to the Proposed Order that substantially modifies the ALJ’s proposed findings of historical fact or that change the ALJ’s recommended outcome or basis therefore. The Board has made changes to the Proposed Order to correct spelling, grammar, and/or textual placement.

ISSUES

1. Whether Ms. Hazen failed to report a felony conviction to the Board within 10 days of the conviction, in violation of ORS 676.150(3).
2. Whether Ms. Hazen has been convicted of a crime that bears a demonstrable relationship to the practice of nursing, in violation of ORS 678.111(1)(a).
3. Whether Ms. Hazen committed willful fraud or misrepresentation in applying for renewal of her registered nurse (R.N.) license, in violation of ORS 678.111(1)(c).
4. Whether Ms. Hazen engaged in conduct derogatory to the standards of nursing, as defined in OAR 851-045-0070(7)(b) and (c), and in violation of ORS 678.111(1)(f).
5. If Ms. Hazen committed one or more violations, whether the Board may revoke her R.N. license.

DOCUMENTS CONSIDERED

The Board's Motion for Summary Determination, the Board's Affidavit Exhibits 1 through 7, and the Affidavit of Jessica Van Horn, Board Investigator.

FINDINGS OF FACT

1. The Board has licensed Ms. Hazen as an R.N. since 2004. (Ex. 6 at 1.)
2. From approximately August 2011 to March 2012, Ms. Hazen and her significant other, Rochelle Manning, lived on property owned by G.A. (Ex. 1 at 45, 57.) G.A. is an 84-year-old woman who was born on September 20, 1930. (See Ex. 1 at 2.) G.A. allowed Ms. Hazen and Ms. Manning to live in a travel trailer on her property free of charge, in exchange for assisting G.A. with shopping tasks. (Exs. 2 at 4; 1 at 6, 24, 45-46.) From August 18, 2011 to April 18, 2013, Ms. Hazen was authorized as G.A.'s power of attorney. (Ex. 1 at 9, 47.)
3. On or about March 12, 2012, the Prineville office of Adult Protective Services (APS), a division of the Department of Human Services (DHS), received a complaint that Ms. Hazen and Ms. Manning were stealing money from G.A. APS commenced an investigation into the matter. (Ex. 2 at 1-6.) On March 12, 2012, APS Investigator Deanne Lockridge spoke to the individual who filed the complaint, who wished to remain anonymous. On March 22, 2012, Ms. Lockridge met with G.A., who reported the following to Ms. Lockridge:

G.A. let Ms. Hazen and Ms. Manning move onto her property to help care for her. They had agreed to help G.A. around the house and to take her shopping, in exchange for living in a trailer on her property for free.

G.A. added Ms. Hazen to her bank account[s] so that Ms. Hazen could pay bills for her.

G.A. discovered that Ms. Hazen had not been paying her bills, and G.A. therefore owes money to several utility companies.

G.A. believes that Ms. Hazen and Ms. Manning used her money, without permission, to purchase a sand rail, an ATV, and other items.

G.A. believes that approximately \$20,000 is missing from her bank account[s].

(*Id.* at 4.) Ms. Lockridge reviewed police reports and bank records for G.A. (*Id.* at 5.) Ms. Lockridge noted in her Complaint Report that she did not interview Ms. Hazen and Ms. Manning because they had “left the area.” (*Id.* at 6.) Ms. Lockridge also noted in the Complaint Report that Ms. Hazen and Ms. Manning “are not cooperating with the police investigation.” (*Id.* at 4.) APS notified the Crook County Sheriff’s Office of the matter. (*Id.* at 5.)

4. On April 17, 2012, the Crook County Sheriff’s Office began its own investigation after Ms. Manning’s mother, Lori Manning, reported that Ms. Hazen and Ms. (Rochelle) Manning were stealing money from G.A. (Ex. A1 at 4.)

5. On April 23, 2012, Ms. Hazen called the Crook County Sherriff’s Office and left a message requesting to speak with Deputy Mitchell Madden about the G.A. matter. Deputy Madden then returned Ms. Hazen’s phone call. Ms. Hazen told Deputy Madden that she had “heard” that G.A. was saying that Ms. Hazen had “stolen some things from her.” (Ex. 1 at 6.) Deputy Madden asked Ms. Hazen multiple questions regarding G.A., her responsibilities towards G.A., and financial matters involving GA. Among other things, Ms. Hazen told Deputy Madden the following:

Ms. Hazen was not G.A.’s “caretaker.” She merely helped G.A. out by purchasing groceries for her.

Ms. Hazen and Ms. Manning moved onto G.A.’s property in August 2011.

G.A. bought Ms. Hazen and Ms. Manning the ATV and the sand rail as birthday gifts.

Ms. Hazen has “power of attorney” over G.A. so that she could have access to G.A.’s bank account when needed.

Neither Ms. Hazen nor Ms. Manning was responsible for paying G.A.’s bills.

G.A. “frequently” gave Ms. Hazen her debit card so that Ms. Hazen could run errands and make purchases for her.

G.A. requested that Ms. Hazen withdraw money from her bank account on more than one occasion. The largest amount of money Ms. Hazen ever withdrew for G.A. was \$2,000.

Ms. Hazen's name was listed on the registration for G.A.'s Chevy Trailblazer because "[G.A.] wanted it that way."

Ms. Hazen was last on G.A.'s property approximately three weeks prior.

(*Id.* at 6-7.) Deputy Madden then spoke with Ms. Manning, who reported the following:

G.A. had given Ms. Manning her debit card approximately two to three weeks prior so Ms. Manning could purchase gas and groceries in the Portland area. Ms. Manning still had the debit card.

Ms. Manning used the debit card at Winco and Grocery Outlet. She also bought gas with the card.

(*Id.* at 7.) Deputy Madden noted the following in his report: "I asked [Ms. Manning] why they haven't been back to [G.A.]'s [to] which she told me this was in light of what was occurring." (*Id.*) Deputy Madden also noted the following in his report: "Upon ending my conversation completely with [Ms. Hazen] I could hear [her] crying." (*Id.*) After speaking with Ms. Hazen and Ms. Manning, Deputy Madden called them back the same day to ask them each additional questions regarding their employment status and sources of income. (*Id.*)

6. On April 30, 2012, Deputy Madden forwarded the case to Detective Theresa Plinski for further investigation. (Ex. 1 at 8-9.) Detective Plinski reviewed bank statements for G.A.'s money market account at Columbia River Bank. Based on the statements, Detective Plinski determined that G.A.'s money market account went from a balance of \$32,368.97 in March 2011 to \$702.22 in March 2012. She also determined that between August 18, 2011 and March 27, 2012, a total of \$34,550 was removed from the money market account via cash withdrawals by Ms. Hazen and phone transfers into G.A.'s checking account, made by G.A.'s power of attorney.¹ (*Id.* at 9, 13.)

7. Detective Plinski also reviewed bank statements for G.A.'s checking account at Columbia River Bank. (Ex. 1 at 9.) She determined that several transactions between the period of April 6, 2011 and April 5, 2012 appeared "questionable." (*Id.*) With regard to certain transactions, she requested and received itemized receipts directly from Target and Wal-Mart. (*Id.*)

8. On July 28, 2012, Detective Plinski went to G.A.'s residence to discuss G.A.'s bank accounts and the itemized receipts. G.A. informed Detective Plinski that she did not authorize numerous purchases reflected in the bank statements, including Shell gas and iTunes purchases.

¹ Ms. Manning subsequently admitted to Crook County Sheriff's Office detectives that she had made some of the phone transfers from G.A.'s money market account. (See Ex. 1 at 36-37, 39.)

In reviewing the itemized receipts, G.A. reported that she did not purchase, nor authorize anyone to purchase, many of the items on the receipts, including an iPad from Target and studded earrings and a ½ karat band from Wal-Mart. Based on the bank statements, receipts, and information G.A. provided, Detective Plinski determined that there were unauthorized purchases totaling \$8,804.78 from G.A.'s checking account from April 2011 to April 2012. (Ex. 1 at 9-10.) Detective Plinski forwarded the matter to the District Attorney's office and deemed the case "inactive pending an interview with [Ms. Hazen] in regards to the purchases and withdrawals made on this account." (*Id.* at 10.)

9. On August 29, 2012, Ms. Hazen submitted an R.N. license renewal application to the Board. (Ex. 4.) Question No. 3 on the application asks, "Are you being investigated currently, or have you been investigated since the 'date of your last renewal' (regardless of whether the investigation was substantiated), for any type of abuse or mistreatment in any state?" (*Id.* at 2.) Ms. Hazen answered "no" to the question. (*Id.*) By checking a specific box on the application, Ms. Hazen certified that the information she provided on the application was "true and correct" and that she was aware that "falsifying an application, supplying misleading information or withholding information is grounds for denial or revocation" of a nursing license. (*Id.* at 4.)

10. From September 24, 2012 to November 21, 2012, Detective Plinski tried numerous times to meet with Ms. Hazen, without success. Ms. Hazen either did not return Detective Plinski's phone calls, as previously promised, or failed to meet Detective Plinski in person, as previously arranged. (*See* Ex. 1 at 12, 16.)

11. On or about December 5, 2012, APS determined that allegations of financial exploitation by Ms. Hazen and Ms. Manning were substantiated. (Ex. 2.)

12. On January 9, 2013, Detective Plinski and Detective Ryan Seaney made an unannounced visit to Ms. Hazen's place of employment to question her regarding G.A.'s checking and money market accounts. Ms. Hazen denied making any purchases for herself with G.A.'s debit card. Ms. Hazen informed the detectives that she had noticed that the balance on G.A.'s money market account was getting low, but she claimed to have no explanation for the depletion of those funds. Following the interview, Detective Plinski placed Ms. Hazen under arrest for two counts of aggravated Theft I. The detectives then transported her to the Jefferson County Jail (where female Crook County arrestees are held). Ms. Manning was arrested later that same day. (Ex. 1 at 14-19, 32, 40-42.)

13. Ms. Hazen was ultimately charged with two counts of Theft I and two counts of Aggravated Theft I. (Ex. 3 at 1, 5-6.)

14. Ms. Hazen did not report her arrest to the Board within 10 days of January 9, 2013, nor at any time thereafter. (Van Horn Aff. at 1-2; *see* Ex. 5 at 1.)

15. On January 16, 2014, Ms. Hazen pled no contest to Theft I in Crook County Circuit Court. A judgment was entered, convicting Ms. Hazen of one felony count of Theft I, and dismissing the other charges. As part of her plea deal, Ms. Hazen agreed to testify against Ms. Manning in a separate criminal case. The Circuit Court ordered Ms. Hazen to pay a total of

\$36,507.68 in restitution and serve 10 days in jail. The Circuit Court also placed her on probation for 18 months. Ms. Hazen has the right to apply for misdemeanor treatment of the offense upon successful completion of her probation. (Ex. 3 at 1-2, 6, 31-33, 36-39.)

16. Ms. Hazen did not report her conviction to the Board within 10 days of January 16, 2014, nor at any time thereafter. (Van Horn Aff. at 1-2; *see* Ex. 5 at 1.)

17. On or about April 2, 2014, the Board received information regarding Ms. Hazen's conviction. The Board assigned Board Investigator Jessica Van Horn to investigate the matter. (Van Horn Aff. at 1.)

18. On or about April 3, 2014, Ms. Van Horn contacted Crook County Detective Theresa Plinski to request a copy of the incident report relating to Ms. Hazen's conviction. Ms. Plinski thereafter provided Ms. Van Horn with a copy of the incident report and the judgment issued by Crook County Circuit Court. (Van Horn Aff. at 1.)

19. On April 7, 2014, Ms. Van Horn mailed a letter to Ms. Hazen that stated, in relevant part:

[The Board] has received a complaint related to your performance as a Registered Nurse. The complaint alleges that you have engaged in theft from a client and failed to disclose the investigation on your RN renewal application. * * *. [Y]ou will need to make an appointment to discuss the facts in this matter.

(Ex. 5 at 1; Van Horn Aff. at 2.) The letter also directed Ms. Hazen to provide the Board with a copy of her work history and a written statement describing the details of the event that brought her to the Board's attention. (Ex. 5 at 1.)

20. On April 17, 2014, Ms. Hazen called Board staff to schedule a Board interview. She agreed to an interview with Ms. Van Horn at 10:00 a.m. on May 12, 2014, via telephone conference. She provided Board staff with a phone number that Ms. Van Horn could use to reach her for the interview. (Ex. 5 at 1; Van Horn Aff. at 2.)

21. On April 27, 2014, Ms. Hazen sent an email to Ms. Van Horn that contained a summary of her work history and a written explanation regarding her theft conviction. (Ex. 5 at 2; Van Horn Aff. at 2.) The written explanation stated as follows:

January 2013 I was arrested by Crook County detectives due to charges of theft from a friend in Prineville. I was very much unaware of what had happened in the dates that the charges were dated. In 2012 I met a woman that was selling puppies and we did become friends and later [she] asked if I could help her with some shopping and I did agree that I would help her with that or my S.O. could also help out. In August if I remember correctly she asked me to take her to the bank and asked me to sign for POA of accounts and I said I did not want to do that but in order to do

shopping for her it would make it legal for me to sign for purchases. I was not a caregiver or bill payor[;] it was for shopping only. Then she started requesting money out of the bank. I advised against it but she insisted. When I was given the documentation from the detectives there was a lot of shopping and money missing that I was completely unaware of. I unfortunately did not know who my SO was and that she has a long history of theft and criminal activity. I did plea[d] no contest to theft I class C due to feeling responsible because of the relationship I had with my SO, to pay back the money, and also due to misdemeanor treatment. When all is complete I can have it expunged. I have been completely devastated due to this. I have never been a criminal[;] nor have I ever stolen from anyone. I do however feel responsible to pay back the money because I am the one that trusted this person and so did my friend.

(Ex. 5 at 2.)

22. At 10:00 a.m. on May 12, 2014, Ms. Van Horn called the phone number Ms. Hazen had provided to Board staff. No one answered at that number. Ms. Van Horn then attempted to reach Ms. Hazen using the phone number listed in Ms. Hazen's application file. A male answered the phone and informed Ms. Van Horn that he did not know Ms. Hazen. (Van Horn Aff. at 3.)

23. Ms. Hazen did not contact the Board on or after May 12, 2014 to reschedule the telephone interview. Ms. Van Horn's last contact with Ms. Hazen was via the email Ms. Van Horn received from Ms. Hazen on April 27, 2014. (Van Horn Aff. at 3.)

24. On June 23, 2014, the Board issued the Notice of Proposed Revocation of Registered Nurse License to Ms. Hazen. (Ex. 6.) On July 14, 2014, the Board received Ms. Hazen's handwritten request for an administrative hearing. (Ex. 7.) In the request, Ms. Hazen stated, in part:

[W]hen I renewed my license in August 2012 – I was unaware of a pending investigation.

* * * * *

[T]he May 12th phone conference with Jessica never occurred because Jessica didn't call me. I left a voicemail on May 9th to leave my current telephone number. I had access to new – old number and no call was ever received and I have attempted contact multiple times to Jessica with no response[.]

(*Id.* at 1-2.)

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CONCLUSIONS OF LAW

1. Ms. Hazen failed to report a felony conviction to the Board within 10 days of the conviction, in violation of ORS 676.150(3).
2. Ms. Hazen has been convicted of a crime that bears a demonstrable relationship to the practice of nursing, in violation of ORS 678.111(1)(a).
3. Ms. Hazen committed willful fraud or misrepresentation in applying for renewal of her R.N. license, in violation of ORS 678.111(1)(c).
4. Ms. Hazen engaged in conduct derogatory to the standards of nursing, as defined in OAR 851-045-0070(7)(b) and (c), and in violation of ORS 678.111(1)(f).
5. Ms. Hazen's R.N. license is revoked.

OPINION

OAR 137-003-0580 is titled "Motion for Summary Determination" and provides, in relevant part:

(1) Not less than 28 calendar days before the date set for hearing, the agency or a party may file a motion requesting a ruling in favor of the agency or party on any or all legal issues (including claims and defenses) in the contested case[.]

(2) Within 14 calendar days after service of the motion, the agency or a party may file a response to the motion. The response may be accompanied by affidavits or other supporting documents and shall be served on the agency and parties in the manner required by OAR 137-003-0520.

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(6) The administrative law judge shall grant the motion for a summary determination if:

(a) The pleadings, affidavits, supporting documents (including any interrogatories and admissions) and the record in the contested case show that there is no genuine issue as to any material fact that is relevant to resolution of the legal issue as to which a decision is sought; and

(b) The agency or party filing the motion is entitled to a favorable ruling as a matter of law.

(7) The administrative law judge shall consider all evidence in a manner most favorable to the non-moving party or non-moving agency.

(8) Each party or the agency has the burden of producing evidence on any issue relevant to the motion as to which that party or the agency would have the burden of persuasion at the contested case hearing.

(9) A party or the agency may satisfy the burden of producing evidence through affidavits. Affidavits shall be made on personal knowledge, establish that the affiant is competent to testify to the matters stated therein and contain facts that would be admissible at the hearing.

(10) When a motion for summary determination is made and supported as provided in this rule, a non-moving party or non-moving agency may not rest upon the mere allegations or denials contained in that party's or agency's notice or answer, if any[.]

* * * * *

(12) If the administrative law judge's ruling on the motion resolves all issues in the contested case, the administrative law judge shall issue a proposed order in accordance with OAR 137-003-0645 incorporating that ruling[.]

The Board has the burden of proving its allegations against Ms. Hazen by a preponderance of the evidence. If one or more allegations are proven, the Board must then establish that revocation is warranted. ORS 183.450(2) ("The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position"); *Harris v. SAIF*, 292 Or 683, 690 (1982) (general rule regarding allocation of burden of proof is that the burden is on the proponent of the fact or position); *Metcalf v. AFSD*, 65 Or App 761, 765 (1983), *rev den* (1984) (in the absence of legislation specifying a different standard, the standard of proof in an administrative hearing is preponderance of the evidence). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

In its Notice, the Board proposed to revoke Ms. Hazen's nursing license pursuant to ORS 676.150(3) and ORS 678.111(1)(a), (c), and (f).

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1. Failure to report arrest and conviction within 10 days

ORS 676.150(3) provides:

A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime shall report the conviction or arrest to the licensee’s board within 10 days after the conviction or arrest.²

The facts relating to this alleged violation are undisputed. On or about January 9, 2013, Ms. Hazen was arrested for two felony counts of Aggravated Theft I. She was ultimately charged with two counts of Theft I and two counts of Aggravated Theft I. On January 16, 2014, she entered a no contest plea in Crook County Circuit Court and was convicted of one felony count of Theft I. She did not report her felony arrest or her felony conviction to the Board.

By failing to report her felony arrest to the Board within 10 days of the arrest, Ms. Hazen violated ORS 676.150(3). Similarly, her failure to report her felony conviction to the Board within 10 days constitutes an additional violation of ORS 676.150(3).

The Board finds that Ms. Hazen is in violation of ORS 676.150(3).

2. Conviction bearing demonstrable relationship to nursing practice

ORS 678.111(1) provides, in relevant part:

Issuance of the license to practice nursing * * * of any person * * * may be revoked or suspended or the licensee may be placed on probation for a period specified by the Oregon State Board of Nursing and subject to such condition as the board may impose or may be issued a limited license or may be reprimanded or censured by the board, for any of the following causes:

(a) Conviction of the licensee of crime where such crime bears demonstrable relationship to the practice of nursing. A copy of the record of such conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

It is undisputed that Ms. Hazen’s felony conviction involved the theft of money from G.A. The remaining issue is whether the crime bears a demonstrable relationship to the practice of nursing.

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² Under ORS 676.150(1)(a)(I) and (b), the requirements set forth in ORS 676.150 apply to health professionals licensed by the Board of Nursing.

ORS 678.010(8) defines the “practice of nursing” as follows:

“Practice of nursing” means diagnosing and treating human responses to actual or potential health problems through such services as identification thereof, health teaching, health counseling and providing care supportive to or restorative of life and well-being and including the performance of such additional services requiring education and training which are recognized by the nursing profession as proper to be performed by nurses licensed under ORS 678.010 to 678.410 and which are recognized by rules of the board. “Practice of nursing” includes executing medical orders as prescribed by a physician or dentist * * *. The practice of nursing includes providing supervision of nursing assistants.

The Board contends that Ms. Hazen’s crime bears a demonstrable relationship to the practice of nursing because it involves Ms. Hazen taking financial advantage of G.A., a vulnerable individual who trusted Ms. Hazen with her money and property. Trust is the *sine qua non* of the nurse-patient relationship, without which the nurse is unable to provide treatment or diagnose human responses to either actual or potential health issues. Further, the practice of nursing requires the exercise of ethical, sound judgment. Ms. Hazen’s theft crime clearly demonstrates her lack of such judgment.

Even considering the evidence in a manner most favorable to Ms. Hazen, the undisputed facts establish that Ms. Hazen was convicted of Theft I, a crime that bears a demonstrable relationship to nursing practice. Therefore, the Board finds that Ms. Hazen is in violation of ORS 678.111(1)(a).

3. Willful fraud or misrepresentation

ORS 678.111(1)(c) provides that the Board may discipline a licensee for “any willful fraud or misrepresentation in applying for or procuring a license or renewal thereof.”

The Board contends that Ms. Hazen committed willful fraud or misrepresentation on her August 29, 2012 Registered Nurse renewal application by answering “no” to Question No. 3, which asks, “[a]re you being investigated currently, or have you been investigated since the ‘date of your last renewal’ (regardless of whether the investigation was substantiated), for any type of abuse or mistreatment in any state?” Ex. 4 at 2.

In its Motion for Summary Determination, the Board asserted that Ms. Hazen knew she was under investigation for stealing money from G.A. when she applied for her renewal license on August 29, 2012. Ms. Hazen did not respond to the Board’s Motion, and she has offered no evidence to dispute the Board’s assertion. The denials and allegations set forth in her hearing request are not “evidence” and they are insufficient to challenge the Board’s evidence. *See* OAR 137-003-0580(10) (“When a motion for summary determination is made and supported * * *, a non-moving party * * * may not rest upon the mere allegations or denials contained in that party’s * * * answer[.]”)

The undisputed facts are as follows: APS began investigating the G.A. matter on March 12, 2012. An APS investigator noted in a Complaint Report that she did not interview Ms. Hazen and Ms. Manning because they had “left the area.” Ex. 2 at 4, 6. On April 17, 2012, the Crook County Sheriff’s Office began its investigation. On April 23, 2012, Ms. Hazen called the Sheriff’s Office, asking to speak with Deputy Mitchell Madden about the G.A. matter. After Deputy Madden returned Ms. Hazen’s phone call, she told him she had “heard” that G.A. was saying that Ms. Hazen had “stolen some things from her.” Ex. 1 at 6. Deputy Madden questioned Ms. Hazen regarding G.A., her responsibilities towards G.A., and G.A.’s money and bank accounts. Ms. Manning then spoke with Deputy Madden via telephone immediately after Ms. Hazen. Among other things, Ms. Manning told Deputy Madden that they had not been back to G.A.’s property “in light of what was occurring.” *Id.* at 7. On August 29, 2012, Ms. Hazen applied for renewal of her R.N. license.

Considering the evidence in a manner most favorable to Ms. Hazen, whether Ms. Hazen knew of the APS investigation when she applied for renewal of her R.N. license remains a question of fact. However, even considering the evidence in a manner most favorable to Ms. Hazen, the undisputed record establishes that Ms. Hazen knew the Crook County Sheriff’s Department was investigating her (or had investigated her) regarding the alleged theft of G.A.’s money when Ms. Hazen applied for her license renewal in August 2012. Ms. Hazen called the Sheriff’s Office on April 23, 2012, in response to learning of the allegations against her. Deputy Madden questioned both Ms. Hazen and Ms. Manning about the G.A. matter, and even called them a second time that day for additional questioning. Given those facts, Ms. Hazen had to know that she was the subject of a Sheriff’s Office investigation. She subsequently misrepresented having been the subject of such an investigation when she answered “no” to Question No. 3 on the Board’s renewal application.

The Board finds that Ms. Hazen is in violation of ORS 678.111(1)(c).

4. Conduct derogatory to standards of nursing

ORS 678.111(1)(f) allows the Board to discipline a licensee for “conduct derogatory to the standards of nursing.” OAR 851-045-0070 explains what actions may constitute “conduct derogatory to the standards of nursing,” in part, as follows:

Nurses, regardless of role, whose behavior fails to conform to the legal standard and accepted standards of the nursing profession, or who may adversely affect the health, safety, and welfare of the public, may be found guilty of conduct derogatory to the standards of nursing. Such conduct shall include, but is not limited to, the following:

* * * * *

(7) Conduct related to the licensee’s relationship with the Board:

* * * * *

(b) Failing to answer truthfully and completely any question asked by the Board on an application for licensure or during the course of an investigation or any other question asked by the Board.

(c) Failing to fully cooperate with the Board during the course of an investigation, including but not limited to, waiver of confidentiality privileges, except client-attorney privilege.

The Board may revoke Ms. Hazen's R.N. license under ORS 678.111(1)(f) for engaging in "conduct derogatory to the standards of nursing" under OAR 851-045-0070(7)(b) and (c).³

A. Failing to answer question on licensure application truthfully and completely

As discussed in the section involving the violation of ORS 678.111(1)(c), Ms. Hazen's "no" response to Question No. 3 on the Board's license renewal application was not truthful.

There are no material facts in dispute with regard to whether Ms. Hazen failed to answer all questions truthfully on her license renewal application. The Board, therefore finds that Ms. Hazen engaged in "conduct derogatory to the standards of nursing" under OAR 851-045-0070(7)(b).

B. Failing to fully cooperate with the Board during an investigation

The undisputed facts establish that Ms. Hazen did not participate in a telephone conference with Ms. Van Horn scheduled for 10:00 a.m. on May 12, 2014. When Ms. Van Horn called the phone number that Ms. Hazen had previously provided to Board staff, Ms. Hazen did not answer the phone. The Board finds that failing to participate in a pre-scheduled telephone conference is "clearly a refusal to cooperate with the Board's investigation." If Ms. Hazen had, hypothetically, contacted Ms. Van Horn sometime after the scheduled conference and provided a reasonable explanation for her failure to participate on May 12, then her lack of participation on that one occasion would likely *not* constitute a failure to "fully cooperate" with the Board. See OAR 851-045-0070(7)(c). However, the undisputed facts establish that after failing to participate in the May 12 phone conference, Ms. Hazen did not attempt to make any further contact with Ms. Van Horn—to either provide an explanation for her unavailability on May 12, or to reschedule the conference for another time.

³ In its Motion for Summary Determination, the Board also alleged that Ms. Hazen engaged in conduct derogatory to the standards of nursing under OAR 851-045-0070(2)(e) ("[f]ailing to report actual or suspected incidents of child abuse or elder abuse to the appropriate state agencies"). Motion for Summary Determination at 4-6. However, the Board did not allege that particular violation, or include a citation to subsection (2)(e) of the administrative rule, in its Notice of Proposed Revocation of Registered Nurse License (Notice). Ex. 6. The Board, therefore, did not comply with ORS 183.415(3)(c) and (d), requiring that a notice in a contested case include "reference to the particular sections of the statutes and rules involved" and "[a] short and plain statement of the matters asserted or charged." As a result, with respect to whether Ms. Hazen violated ORS 678.111(1)(f) pursuant to OAR 851-045-0070(2)(e), the Board's Notice is legally deficient, and the issue of whether Ms. Hazen failed to report elder abuse to appropriate state agencies was not addressed in the Proposed Order.

Even viewing this evidence in a manner most favorable to Ms. Hazen, the uncontroverted facts establish that Ms. Hazen failed to fully cooperate with the Board during its investigation.⁴ Consequently, the Board finds that Ms. Hazen engaged in “conduct derogatory to the standards of nursing” under OAR 851-045-0070(7)(c).

5. Revocation

The Board has a range of disciplinary action it may take against an R.N. and the R.N.’s license, including probation, license suspension, and license revocation. *See* ORS 678.111(1). Here, the Board has proposed revocation of Ms. Hazen’s R.N. license—the harshest sanction available to the Board.

Ms. Hazen did not respond to the Board’s Motion for Summary Determination, and she has provided no evidence to establish that revocation is unwarranted or an abuse of the Board’s discretion. Her conduct that led to the Theft I conviction demonstrates a lack of sound judgment and ethical decision-making—both of which are essential components of nursing practice. Moreover, her conduct leading to the Theft I conviction casts serious doubt on whether she can be trusted in the future to care for vulnerable individuals—and to have access to their money and property—in her capacity as an R.N. Finally, her failure to fully cooperate with the Board during its investigation is troubling and demonstrates a lack of professionalism and candor.

As set forth above, the facts in this case have demonstrated that Ms. Hazen violated ORS 676.150(3) and ORS 678.111(1)(a), (c), and (f). Pursuant to ORS 678.111(1) and ORS 676.150(5),⁵ the Board may, in its discretion, revoke Ms. Hazen’s R.N. license for those violations. As a matter of law, the Board revokes Ms. Hazen’s R.N. license.

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⁴ As previously set forth, Ms. Hazen did not respond to the Board’s Motion, and the denials and allegations contained in her hearing request are not “evidence” and they are insufficient to challenge the Board’s evidence. *See* OAR 137-003-0580(10).

⁵ ORS 676.150(5) states, in part, that “[a] licensee who fails to report * * * the licensee’s conviction or arrest as required by subsection (3) of this section is subject to discipline by the board responsible for the licensee.”

ORDER

The Oregon Board of Nursing issues the following order:

Yvette Marie Hazen's Registered Nurse license is REVOKED.

DATED this _____ day of January 2015.

FOR THE OREGON STATE BOARD OF NURSING

Gary Hickmann, RN
Board President

APPEAL

If you wish to appeal the final order, you must file a petition for review with the Oregon Court of Appeals within 60 days after the final order is served upon you. *See* ORS 183.480 *et seq.*