STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

In the Matter of the Petition of:

JANE NUGENT AND FAMILY CARE HEALTH
NURSE PRACTITIONER, P.C.,
Petitioners,

To Review Under Section 101 of the Labor Law:
An Order to Comply with Article 19 of the Labor Law,
dated December 11, 2020,

- against -

THE COMMISSIONER OF LABOR,
Respondent.

DOCKET NO. PR 21-010

RESOLUTION OF DECISION

APPEARANCES

Michael Paglialonga, Acting General Counsel, NYS Department of Labor, Albany (Benjamin T. Garry of counsel), for respondent.

WHEREAS:

1. The above proceeding was commenced by the filing of a petition for review pursuant to Labor Law § 101 and Industrial Board of Appeals’ Rules of Procedure and Practice (hereinafter “Board Rules”) (12 NYCRR) Part 661 on February 9, 2021; and

2. Respondent filed an answer to the petition on March 18, 2021; and

3. Upon notice to the parties, dated February 17, 2022, the hearing was scheduled for March 10, 2022; and

4. Petitioners failed to appear at the March 10, 2022, hearing; and

5. Pursuant to Labor Law § 103 and Board Rules (12 NYCRR) § 65.39, the burden of proof is on petitioners to prove that the determination under review is not valid or reasonable; and

6. A party waives all rights for failing to appear at a hearing pursuant to Board Rules (12 NYCRR) § 65.51 [formerly Board Rules § 65.24] except the right to ask the Board to reconsider its decision under Board Rule § 65.60 [formerly Board Rules § 65.41], unless application for reinstatement is made within five days after the scheduled hearing; and

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1 The Board Rules were amended on March 30, 2022 so that the current corresponding section of the Board Rules is Part 65 but at the time of filing under the former Board Rules, the relevant section was Part 66.
7. Petitioners have not made any application for reinstatement.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

The petition for review be, and the same hereby is, dismissed in accordance with the Board's Rules.

Dated and signed by the Members of the Industrial Board of Appeals on March 30, 2022.

Molly Doherty, Chairperson

Michael A. Arcuri, Member

Najah Farley, Member

Patricia Kakalec, Member

Sandra Abeles, Member