

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

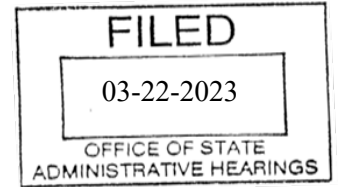
**GEORGIA BOARD OF NURSING,
Petitioner,**

v.

**CASSIE LANGSTON,
Respondent.**

**Docket No.: 2318400
2318400-OSAH-PLBD-LPN-115-Walker**

Agency Reference No.: LPN079805



INITIAL DECISION

I. Summary of Proceedings

The Petitioner, the Georgia Board of Nursing (“Board”), brought this action seeking to discipline the Respondent’s license to practice as a licensed practical nurse (“LPN”) based on alleged violations of the laws and rules governing nursing practices in Georgia. The evidentiary hearing took place on February 28, 2023, before the undersigned administrative law judge. Assistant Attorney General Kimberly Emm appeared for the Board. The Respondent, Cassie Langston, appeared and represented herself at the hearing. For the reasons set forth below, the Respondent’s license to practice as an LPN is hereby **REVOKED**.

II. Findings of Fact

1.

The Respondent holds a license to practice as an LPN in the state of Georgia and has held this professional license at all times relevant to this proceeding. The Board suspended her license on June 7, 2022. (Testimony of Board Nurse Consultant Janet Freeman; Exhibits P-1, P-5.)

2.

In April 2021 the Board received a complaint from Chulio Hills Health and Rehabilitation (also “the facility”), located in Rome, Georgia. According to the complaint, on or about October

2019, the facility learned that narcotic medication cards were missing. After reviewing video footage, the facility determined that the Respondent had diverted expired medication marked for destruction. When the facility showed the Respondent the video footage, she admitted to taking the medication but claimed she had been coerced by her boyfriend. (Testimony of Janet Freeman; Exhibit P-2.)

3.

The facility reported the theft to the Floyd County Police Department. On October 1, 2021, the Respondent pled guilty a charge of Theft by Taking based on her diversion of the expired medication and the Superior Court of Floyd County sentenced her to a term of probation. (Testimony of Janet Freeman; Exhibits P-2, P-13.)

4.

The Respondent did not comply with the conditions of her probation.¹ On February 28, 2022, the Superior Court ordered her probation revoked and she was required to serve 120 days in the Floyd County Jail. (Testimony of Janet Freeman; Exhibit P-13.)

5.

On or about October 8, 2021, the Board entered a Confidential Order for a Mental/Physical Examination (“Order” or “OMPE”), Docket No. 2021-1349, ordering the Respondent to undergo a mental/physical examination so that the Board could determine whether she could practice nursing with reasonable skill and safety. The OMPE required the Respondent to undergo the mental/physical examination within fourteen days of her receipt of the OMPE, and to provide a certified copy of the results of the examination to the Board within thirty days. The OMPE further

¹ The Respondent also did not report her March 2020 arrest in her April 2021 LPN renewal application. (Testimony of Janet Freeman.)

notified the Respondent that failure to comply with the OMPE could result in disciplinary proceedings to revoke, suspend, or otherwise sanction her license to practice as a licensed practical nurse in the State of Georgia. (Testimony of Janet Freeman; Exhibit P-2.)

6.

In October 2021, the Board sent the OMPE to the Respondent via certified mail to her address of record; however, the certified mail was returned to the Board as undelivered. Thereafter, on February 9, 2022, Mary Ann Tucker, a Complaint Compliance Specialist with the Board, attached the OMPE to an email and sent it to the Respondent's email address of record. The Respondent did not respond to the email. On March 1, 2022, Natara Miller, at the time a Nurse Consultant with the Board, sent the Respondent a letter via certified mail indicating that the Board had not received a mental/physical examination in violation of the OMPE. The letter was returned to sender. (Testimony of Janet Freeman; Exhibits P-2, P-3, P-4.)

7.

The Board's investigator also attempted to serve the Respondent via hand-delivery. Although the investigator was able to contact the Respondent, the Board's records indicate that she provided him with false information regarding her whereabouts. (Testimony of Janet Freeman; Exhibit P-5.)²

8.

The Respondent did not submit the results of a mental/physical examination to the Board. Finding that the Respondent's continued practice as an LPN posed a threat to the public health,

² The Respondent testified that she did not deliberately avoid service of the OMPE, but was unable to respond to the Board because she was incarcerated from January 23, 2022, until March 25, 2022. Given that the initial attempts to serve the Petitioner occurred in October of 2021, and that the Board presented evidence that she gave false information to the Board's investigator, the Respondent's explanation is unpersuasive.

safety and welfare of the public, and required emergency action, on June 7, 2022, the Board issued an Order of Summary Suspension, Docket No. 2022-0876, suspending her license to practice as an LPN under O.C.G.A. § 50-13-18(c)(1). (Testimony of Janet Freeman; Exhibit P-5.)

9.

Shortly thereafter, the Respondent learned that her license had been suspended and contacted the Board for more information. On June 16, 2022, Ms. Tucker sent the Respondent an email explaining that she would have to complete the mental/physical examination before she could petition the Board to reactivate her license. The Respondent was working as an LPN for Etowah Landing, a care facility in Rome, Georgia. She presented a letter to her employer, purportedly from Ms. Tucker, stating that she had a 30-day “unencumbered” license. The letter appeared to be on the Board’s letterhead and was dated June 17, 2022, one day after Ms. Tucker had advised the Respondent that her license was not active. (Testimony of Janet Freeman; Exhibits P-6, P-7.)

10.

On June 24, 2022, the director of Nursing at Etowah Landing, Shannon Gilligan, sent Ms. Tucker an email indicating that the Respondent was an employee at Etowah Landing and had “brought me a letter stating she had a 30 day unencumbered license that you signed.” Ms. Gilligan asked Ms. Tucker to confirm that she had prepared the letter. In response, Ms. Tucker informed Ms. Gilligan that the letter was fraudulent. (Testimony of Ava Davenport; Exhibits P-7, P-8.)

11.

On November 10, 2022, the Respondent petitioned the Board for reinstatement of her license. In conjunction with the Petition, she submitted a mental/physical examination³ conducted by Dr. James Craig, an Addiction Medicine Specialist. Despite the Respondent's admissions to her employer, and her plea of guilty to Theft by Taking, the Respondent told Dr. Craig that she had not diverted any medication, and, moreover, that she had never made any admissions to the facility. She further denied any history of substance abuse. In his written evaluation, Dr. Craig noted that the Respondent was taking medication for major depressive disorder and had tested negative for all substances tested. He concluded that she would be safe to practice nursing under certain conditions, including randomized urine drug screenings, quarterly hair follicle testing, and quarterly appointments with a physician specializing in addiction. (Testimony of Dr. James Craig; Exhibits P-8, P-9.)

12.

The Respondent testified that she is a single mother. Due to her failure to comply with the conditions of her probation, she was incarcerated from January 23, 2022, through March 25, 2022. After she had been released, she "was trying to keep myself afloat." She acknowledges that she should not have falsified the letter but testified that "I was grasping at straws." According to the Respondent, she is treating her mental health by taking the appropriate medicine. (Testimony of Respondent.)

³ The MPE is dated incorrectly; according to Dr. Craig, it should bear the date of August 26, 2022. (Testimony of Dr. Craig.)

III. Conclusions of Law

1.

The Board bears the burden of proof in this matter. Ga. Comp. R. & Regs. 616-1-2-.07(1). The standard of proof is a preponderance of evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4).

2.

When a contested case is referred to the Office of State Administrative Hearings, the administrative law judge assigned to the case has “all the powers of the referring agency” O.C.G.A. § 50-13-41(b). The evidentiary hearing is *de novo*, and the administrative law judge “shall make an independent determination on the basis of the competent evidence presented at the hearing.” Ga. Comp. R. & Regs. 616-1-2-.21(1).

3.

The Board is the entity responsible for licensing nurses in Georgia and establishing standards for the nursing profession. The Board is authorized to sanction an LPN who has violated the statutes and rules governing the profession as set forth in the Georgia Practical Nurses Practice Act, O.C.G.A. §§ 43-26-30 to -42; the rules of the Georgia Board of Nursing, Ga. Comp. R. & Regs. 410-1-.01 to 410-14-.01; and the general statutory provisions regarding disciplinary actions by professional licensing boards, found at O.C.G.A. § 43-1-19.⁴ The sanctions available to the Board are set forth in O.C.G.A. § 43-1-19(d), as follows:

- (1) Refuse to grant or renew a license to an applicant;
- (2) Administer a public or private reprimand, but a private reprimand shall not be disclosed to any person except the licensee;

⁴ Chapter 1 of Title 43 is expressly adopted and incorporated by reference into Chapter 26 of Title 43. O.C.G.A. § 43-26-5(c).

- (3) Suspend any license for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of such license;
- (4) Limit or restrict any license as the board deems necessary for the protection of the public;
- (5) Revoke any license;
- (6) Condition the penalty upon, or withhold formal disposition pending, the applicant's or licensee's submission to such care, counseling, or treatment as the board may direct;
- (7) Impose a fine not to exceed \$500.00 for each violation of a law, rule, or regulation relating to the licensed business or profession; or
- (8) Impose on a licensee or applicant fees or charges in an amount necessary to reimburse the professional licensing board for the administrative and legal costs incurred by the board in conducting an investigative or disciplinary proceeding.

O.C.G.A. § 43-1-19(d).

4.

Additionally, the Board “may impose the judgment and penalty but suspend enforcement thereof and place the licensee on probation, which may be vacated upon noncompliance with such reasonable terms as the [professional licensing board] may impose” O.C.G.A. § 43-1-19(e).

5.

Pursuant to O.C.G.A. § 43-1-19(a), a professional licensing board shall have the authority to refuse to grant a license to an applicant, to revoke the license of a person or to discipline a person licensed by a board, upon a finding by a majority of the entire board that the licensee has done the following:

- (3) Been convicted of any felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country or in the courts of the United States . . . the term “conviction” shall include a finding or verdict of

guilty or a plea of guilty, regardless of whether an appeal of the conviction has been sought; . . . ⁵

(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public that materially affects the fitness of the licensee . . . to practice a business or profession licensed under this title or is of a nature likely to jeopardize the interest of the public; such conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of the licensed business or profession but shows that the licensee or applicant has committed any act or omission which is indicative of bad moral character or untrustworthiness. Such conduct or practice shall also include any departure from, or the failure to conform to, the minimal reasonable standards of acceptable and prevailing practice of the business or profession licensed under this title; . . .

(8) Violated a statute, law, or any rule or regulation of this state, any other state, the professional licensing board regulating the business or profession licensed under this title, the United States, or any other lawful authority without regard to whether the violation is criminally punishable when such statute, law, or rule or regulation relates to or in part regulates the practice of a business or profession licensed under this title and when the licensee or applicant knows or should know that such action violates such statute, law, or rule; or violated a lawful order of the board previously entered by the board in a disciplinary hearing, consent decree, or license reinstatement; . . .

O.C.G.A. § 43-1-19(a)(3),(6),(8).

6.

In addition, O.C.G.A. § 43-26-40(a) provides that the Board shall have the authority to discipline the licensee upon a finding by the Board that the applicant or licensee has:

(1) Been convicted of a felony, a crime involving moral turpitude, or any crime violating a federal or state law relating to controlled substances or dangerous drugs or marijuana in the courts of this state, any other state, territory, or country, or in the courts of the United States, including, but not limited to, a plea of nolo contendere entered to the charge; . . .

(3) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice need not have

⁵ Under O.C.G.A. § 43-1-19 (q), a professional licensing board shall not revoke a professional license due solely or in part to a conviction for a felony or a crime of moral turpitude, unless the crime directly relates to the occupation for which the license is held. The undersigned finds that the Respondent's theft of narcotics while working as an LPN directly relates to her occupation.

resulted in actual injury to any person. As used in this paragraph, the term “unprofessional conduct” includes the improper charting of medication and any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing nursing practice;

7.

The Board’s rules define unprofessional conduct to include false, deceptive or misleading information in connection with the practice of nursing, violating an order of the Board, or removing, without authorization, a controlled substance from a workplace location. The undersigned concludes that the Respondent provided false information in connection with the practice of nursing by drafting a fraudulent letter purportedly from the Board, worked as an LPN while her license was suspended, and removed controlled substances from her workplace. See Ga. Comp. R. & Regs. 410-10-.03(2)(o), (q), and (6)(a).

8.

Additionally, O.C.G.A. § 43-26-42(3) provides that it shall be a misdemeanor for any person to “practice practical nursing as a licensed practical nurse during the time [a] license is suspended” The evidence at the hearing demonstrated that the Respondent practiced nursing at Etowah Landing while her license was suspended.


9.


Based on the evidence presented at the hearing, the undersigned finds that the Respondent’s conduct has violated O.C.G.A. § 43-1-19(a)(3),(6), and (8); O.C.G.A. § 43-26-40(a)(1), and (3); O.C.G.A. § 43-26-42(3); and Ga. Comp. R. & Regs. 410-10-.03(2)(o), (q), and (6)(a).

IV. Decision⁶

The evidence unequivocally demonstrates that the Respondent has been convicted of a felony, acted unprofessionally, and violated Georgia's laws and regulations. After stealing medication from her employer, she pled guilty to Theft by Taking in the Superior Court of Floyd County and received a sentence of probation. The Respondent then failed to comply with the conditions of probation imposed by the Superior Court, and her probation was revoked. She also apparently avoided service of the OMPE. Even worse, once the Respondent learned that her license was suspended, and a day after being cautioned that she could not practice nursing without undergoing a mental/physical examination, she forged a letter purporting to be from the Board and gave it to her employer. Finally, despite having admitted to stealing medication from her employer, and pleading guilty to theft, she told Dr. Craig that she had not taken the medication. It is the Board's duty to protect the public and ensure that nurses in Georgia can practice with reasonable skill and safety. The Respondent's repeated acts of dishonesty render her unfit to hold an LPN license. In accordance with the foregoing Findings of Fact and Conclusions of Law, the Respondent's licenses to practice as an LPN shall be **REVOKED**.

SO ORDERED, this 22nd day of March 2023.


Ronit Walker
Administrative Law Judge



⁶ This Court's decision constitutes an "Initial Decision." This Initial Decision will become the "Final Decision" of the Board in thirty days, unless either party makes a timely application for the Board to review the Initial Decision. If either party seeks timely review of the Initial Decision, the result of that review by the Board will constitute the Final Decision. See O.C.G.A. §§ 50-13-17(a), 50-13-41(d); Ga. Comp. R. & Regs. 616-1-2-.27.