


Devin Hamilton, Legal Assistant

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

GEORGIA BOARD OF NURSING,
Petitioner,

v.

ALGENO BOYD,
Respondent.

Docket No.: 2211808
2211808-OSAH-PLBD-LPN-48-Walker

Agency Reference No.: LPN055103

INITIAL DECISION

I. Summary of Proceedings

The Petitioner, the Georgia Board of Nursing (“Board”), brought this action seeking to sanction the Respondent’s license to practice as a licensed practical nurse (“LPN”) based on alleged violations of the laws and rules governing nursing practice in Georgia. The evidentiary hearing took place on December 14, 2021, before the undersigned administrative law judge. Assistant Attorney General Sandra Bailey represented the Board. The Respondent appeared and represented himself.¹ After consideration of the evidence presented, and for the reasons stated 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 held such license at all times relevant to the issues presented for hearing. The Respondent’s license is active. (Testimony of Edye Tillman-Johnson; Exhibit P-1).

2.

On or about October 29, 2020, the Board received a complaint regarding the Respondent.

¹ At the Respondent’s request he appeared via videoconference.

According to the complaint, S [REDACTED] T [REDACTED] had hired the Respondent, via Advanced Care Partners, to care for her adult son, R.T. During the course of his employment, the Respondent assaulted R.T. When Ms. T [REDACTED] learned of the assault, she terminated the Respondent's employment and filed a police report. The Respondent has been charged with Neglect to a Disabled Adult and Battery pursuant to O.C.G.A. §§ 16-5-23.1(a) and 16-5-102. (Testimony of S [REDACTED] T [REDACTED]; Exhibits P-3, P-4.)

3.

On or about October 26, 2020, Ms. T [REDACTED] left R.T. in the Respondent's care. R.T. has an autism spectrum disorder, epilepsy, developmental disabilities and a brain injury. At times he exhibits aggressive behavior. (Testimony of S [REDACTED] T [REDACTED].)

4.

While she was away, Ms. T [REDACTED] received a call from the Respondent indicating that he had had an altercation with her son. According to the Respondent, the incident involved R.T.'s interaction with a neighbor and subsequent refusal to come inside the home. The Respondent stated that when he attempted to bring R.T. into the home, R.T. had stepped on his shoes and kicked him. The Respondent told Ms. T [REDACTED] that he had kicked R.T. in response. (Testimony of S [REDACTED] T [REDACTED]; Testimony of Respondent.)

5.

Ms. T [REDACTED] has several video cameras located inside of her home. In addition to the altercation reported by the Respondent, R.T. told his mother that the Respondent had hit him. Ms. T [REDACTED] reviewed video footage and observed the Respondent push R.T. onto a bed and slap him in the face. Ms. T [REDACTED] also saw red marks on R.T.'s arms. (Testimony of Ms. T [REDACTED]; Exhibits P-6, P-7a, P-7b, P-7c.)

6.

The Respondent has been a nurse for twenty-seven years. While the Respondent apologized for his conduct, he maintained that he had been the victim during the altercation. He asserted that R.T. had attacked previous caregivers and that he was unprepared for R.T.'s aggressive behavior. Moreover, the Respondent asserted that he had feared for his life during the altercation and had the right to "stand his ground." (Testimony of Petitioner; Exhibit R-1.)

7.

The Board incurred expenses totaling \$304.15 during its investigation. (Testimony of Edye Tillman-Johnson; Exhibit P-5.)

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 ultimate decision maker in the 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. § 43-1-19.²

4.

Georgia Code Section 43-1-19(a) authorizes the Board to discipline a licensee upon a finding that the licensee has:

- (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; [...]
- (9) Displayed an inability to practice a business or profession licensed under this title with reasonable skill and safety to the public or has become unable to practice the licensed business or profession with reasonable skill and safety to the public by reason of illness or the use of alcohol, drugs, narcotics, chemicals, or any other type of material[.]

² 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).

5.

Pursuant to Ga. Comp. R. & Regs. 410-10-.03(1), conduct failing to meet the minimal standards of acceptable and prevailing nursing practice, which could jeopardize the health, safety, and welfare of the public, shall constitute unprofessional conduct. This conduct shall include causing or permitting physical, emotional, sexual or verbal abuse or injury or threatening or violent behavior in the workplace. See Ga. Comp. R. & Regs. 410-10-.03(2)(n), (7)(e).

6.

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;
- (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 (e) also permits the licensing board to “impose the judgment and penalty but suspend enforcement thereof and place the licensee on probation, which may be vacated upon

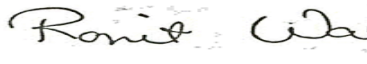
noncompliance with such reasonable terms as the board may impose.”

IV. Decision

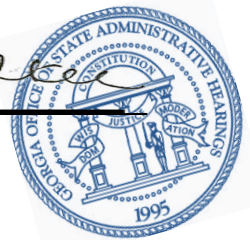
The Board’s duty is to protect the public and ensure that licensed practical nurses can practice with reasonable skill and safety. Via witness testimony and video evidence, the Board proved that the Respondent had kicked and hit his patient, R.T., in violation of state law. See O.C.G.A. § 43-1-19 (a)(6), (8), (10) and Ga. Comp. R. & Regs. 410-10-.03(1), (2)(n), (7)(e). Although the Respondent has been a nurse for twenty-seven years, he appears to have very little remorse or insight regarding his conduct.

In accordance with the foregoing Findings of Fact and Conclusions of Law, the Respondent’s license to practice as an LPN in Georgia shall be **REVOKED**. Additionally, within ninety days of the date of this Initial Decision, the Respondent shall pay the Board’s investigative costs of \$304.15. See O.C.G.A. § 43-1-19(d)(8). Payment should be forwarded to 237 Coliseum Drive, Macon, GA 31217-3858, in care of the Legal/Disciplinary Nurse Consultant.

SO ORDERED, this 13th day of January, 2022.³



Ronit Walker
Administrative Law Judge



³ 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.