

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

GEORGIA BOARD OF NURSING,
Petitioner,

v.

RICHARD BILLSTROM,
Respondent.

Docket No.: 2211807
2211807-OSAH-PLBD-LPN-71-Walker

Agency Reference No.: LPN046987

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 appeared for 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 **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 March 26, 2021, the Board received a complaint from Advanced Care Partners

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

alleging that the Respondent had physically abused a child, E.P., while working as an LPN. (Testimony of Edye Tillman-Johnson; Exhibit P-3.)

3.

From October 2020 to March of 2021, the Respondent was employed by the P [REDACTED] family to care for their child, E.P. E.P. requires around the clock medical assistance. The family became concerned that the Respondent was not completing certain tasks appropriately. Accordingly, they installed a video camera in E.P.'s room to ensure that she was receiving adequate care. (Testimony of S [REDACTED] P [REDACTED].)

4.

Video footage recorded on March 17, 2021, and March 24, 2021, and played during the hearing, was shocking. The video showed the Respondent hitting E.P. with a cellphone, violently slamming her head against a chair, aggressively rubbing her face and pulling her hair. After the P [REDACTED]s reviewed the footage, they terminated the Respondent's employment and immediately called the police. (Testimony of S [REDACTED] P [REDACTED]; Exhibits P-5, P-6.)

5.

The Respondent has been a nurse for thirty years. He testified that he did not intend to harm E.P but had not been given guidance as to how to respond to her difficult behaviors, such as attempting to remove her tracheotomy tube. He maintained that the physical abuse was part of a "training program." According to the Respondent, he was attempting to prevent her negative behavior by "nip[ping] it in the bud." (Testimony of Respondent.)

6.

The Board incurred expenses totaling \$96.24 during its investigation. (Testimony of Edye Tillman-Johnson; Exhibit P-4.)

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;

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).

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; [...]

- (10) 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[.]

5.

Pursuant to Ga. Comp. R. & Regs. 410-10-.03(1), nursing 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 proved, via witness testimony and video evidence, that the Respondent physically attacked a patient 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). Moreover, the Respondent appears to have very little remorse or insight regarding his conduct; contrary to his testimony the video footage does not support his claim that he was “training” E.P. The Board’s duty is to protect the public and ensure that nurses can practice with reasonable skill and safety. To that end, and in accordance with the foregoing Findings of Fact and Conclusions of Law, the Respondent’s license to practice

as a licensed practical nurse in Georgia shall be **REVOKED**. Pursuant to O.C.G.A. § 43-1-19(d)(8), within ninety days of the date of this Initial Decision, the Respondent shall pay the Board's investigative costs of \$96.24. Payment should be forwarded to 237 Coliseum Drive, Macon, GA 31217-3858, in care of the Legal/Disciplinary Nurse Consultant.

SO ORDERED, this 14th day of January, 2022.

Ronit Walker

Ronit Walker
Administrative Law Judge

