

**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING**

In re:
Berenice Igwacho
License No. 026.0113334

Docket No. 2016-393

PROPOSED ORDER

Introduction

On or about July 25, 2016, the State filed a Specification of Charges against Respondent, Bernice Igwacho. The crux of the Specification is that Respondent was charged with, and convicted of a felony, Health Care Fraud, in violation of 18 U.S.C. § 1347.2, and that Respondent willfully failed to disclose the charge and conviction when she applied for a license as a Registered Nurse on June 23, 2015.

Respondent initially failed to file an Answer to the Specification. Consequently, the State filed a Request for Default on September 1, 2016. A hearing was scheduled for October 11, and Respondent was duly notified. On October 7, Respondent filed an Answer and the State withdrew the default request. Final hearing was then set for February 7, 2017, but was continued at the State's request until March 13, at 1:00 p.m.

Hearing was conducted before the undersigned Administrative Law Officer on the assigned date. Rachel Allen, Esq. was present on behalf of the Office of Professional Regulation. The Respondent did not appear either personally or through counsel. Neither did Respondent contact either the Office of Professional Regulation or the Administrative Law Officer to explain her absence or to request a continuance.

Findings of Fact

In Respondent's Answer, she indicated that she did not dispute paragraphs 1 through 16 of the Specification. She only disputed paragraph 17, which reads as follows:

17. Respondent answered "No" to the question, "Do you have any criminal charges pending against you in any jurisdiction (U.S. or elsewhere)."

In her narrative response ("Legal Defenses"), Respondent admitted that she was awaiting sentence on criminal charges in June, 2015, and consequently believed the charges were no longer "pending."

At hearing, the State introduced three exhibits. Exhibit no. 1 is a copy of a Judgment in a Criminal Case issued by the United States District Court for the District of Columbia, dated April 25, 2016, showing that Bernice Igwacho was convicted a Health Care Fraud in violation of

18 U.S.C. §§ 1347 and 2. She was sentenced to imprisonment for 3 months and placed on supervise release for 24 months. She was also ordered to pay restitution in the amount of \$120,994.

Exhibit no. 2 is a court docket sheet for the same case. It shows that a superseding indictment was filed against Respondent on December 18, 2014. It further shows that she was sentenced as aforesaid on April 22, 2016. Exhibit no. 3 is a copy of Respondent's Registered Nurse Endorsement Application filed July 18, 2015.

Conclusions of Law

In the Specification, the State alleged that Respondent committed misconduct in three ways: (1) that she willfully made or filed a false report or record in the practice of the profession; (2) that she was convicted of a crime related to the practice of the profession or a felony; and (3) that she used fraud or deception in the procurement of her nursing license. Putting aside the question of whether she had actually been *convicted* of a felony at the time she filed her application—she was awaiting sentencing at the time—and the question of whether she had a duty to report the conviction after she received her license, the State has proved by a preponderance of the evidence the Respondent made and filed a false report when she filed her application and that in so doing, she procured her license by fraud and deception.

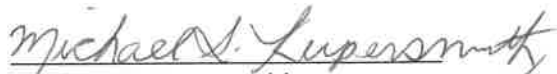
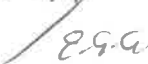
The Board of Nursing concludes that the health, safety, and welfare of the public are adequately protected by the following sanctions for the above violations.

PROPOSED ORDER

The Board of Nursing hereby suspends indefinitely the Respondent's license as a Registered Nurse. At such time as the Respondent applies to have her license reinstated, the Board reserves the right to conduct a hearing and to impose appropriate conditions.

The above Findings, Conclusions and Proposed Order are hereby reported to the Vermont Board of Nursing with a recommendation that the Respondent's license as a Registered Nurse be suspended indefinitely. It is also recommended that at such time as Respondent seeks reinstatement of her license, the Board of Nursing conduct a hearing and consider imposing appropriate conditions.

Dated at Montpelier, Vt., March 20, 2017.


Michael S. Kupersmith
Administrative Law Officer 

The Vermont Board of Nursing considered the report of the Administrative Law Officer at its meeting on 4/10/17, 2017. After considering the report, The Board takes the following action.

/ / Rejects the report and schedules the matter for hearing.

/ / Schedules the matter for additional evidence.

☒ Accepts the report, adopts the findings and conclusions and orders the recommended discipline as set forth above.

SO ORDERED:

Vermont Board of ~~Barbers and Cosmetologists~~ *Nursing EAW*

aw *g*

Jeanine Carr, Chair

aw *g*

Ellen Watson, Vice-Chair

4/11/17

Date of Entry

4-10-2017

date

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of ~~Barbers and Cosmetologists~~ *Nursing EAW*. A party aggrieved by a final decision by the Board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Office of Professional Regulation, 89 Main St., Fl. 3, Montpelier, VT 05620-3402, within 30 days of the entry of this Order. If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an Appellate Officer. The review shall be conducted on the basis of the record created before the Board. In cases of alleged irregularities in procedure before the Board, not shown in the record, proof on that issue may be taken by the Appellate Officer. 3 V.S.A. §§ 129(d) and 130a. A stay may also be requested.