

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION**

BOARD OF NURSING

**In Re: Lisa Caruso,
RN
Restricted License: 089839-21**

Docket No.: 2023-NUR-005

**FINAL DECISION AND
ORDER – 01/27/23**

I. ATTENDEES

Samantha O'Neill, Board Chair
Joni Menard, Board Vice-Chair
Melissa Underhill, Board Member
Matthew Kitsis, Board Member
Maureen Murtaugh, Board Member
Michele Melanson-Schmitt, Board Member
Wendy Stanley-Jones, Board Member
Dwayne Thibeault, Board Member
Attorney Lauren Warner, OPLC Board Counsel
Ashley Czechowicz, OPLC Board Administrator
Jeanne Webber, OPLC Board Administrator
Attorney Nikolas K. Frye, OPLC Hearings Examiner and Presiding Officer

II. CASE SUMMARY/PROCEDURAL HISTORY

On or about 10/24/22, the Office of Professional Licensure and Certification (“OPLC”) granted Lisa Caruso (“Licensee”) an active restricted license on behalf of the New Hampshire Board of Nursing (“Board”). The License was granted subject to and contingent upon the Board reviewing and approving the Licensee’s criminal background check when it was received. After receiving and reviewing the Licensee’s criminal background check, the Board noted that it contained a past criminal conviction from 2008. Due to concerns about why the Licensee failed to disclose having a criminal history on the questionnaire section of her application, the Board voted to commence an adjudicatory hearing. The

purpose of the hearing was to obtain clarification on why she failed to disclose the conviction and determine if the Licensee meets the qualifications for active, unrestricted licensure as an RN A Notice of Adjudicative Hearing followed, and the Board then held the adjudicatory hearing on 12/15/22 at 1:00 PM EST. This Final Decision and Order follows.

III. SUMMARY OF THE EVIDENCE

The Board received the following evidence pursuant to RSA 541-A:33 and Rule 207.09:

a. Exhibits were submitted by the Board, numbered as follows:

1. Licensee's application and related documentation submitted therewith

b. Exhibits were submitted by Licensee, labeled as follows:

A. None.

b. Testimony was received from:

A. Not applicable, the Licensee failed to appear.

IV. PRELIMINARY MATTERS

The Licensee failed to appear for the hearing, which was available via in-person and Zoom. The Board took administrative notice of its file in this matter. The Board's file shows the Licensee failed to appear for the prehearing conference in this matter held on 01/18/23 at 10:00 AM EST. The information for joining the prehearing conference was contained in the Notice of Hearing for the show cause hearing. The Board's file shows the Notice of Hearing contains the date, time, and location of the adjudicatory hearing, as well as the items required by RSA 541-A:31, III. The Board's file shows that the notice of hearing was sent via certified mail, return receipt requested and first class mail to the last known address on file with the Board on 12/29/22. The first class mail was not returned and the certified mail's status was "in transit, return to sender." The Board's file also shows that the notice of hearing was emailed to the Licensee on 12/29/22 at the last known email address on file with the Board.

Based upon the foregoing, the Board finds that it has complied with the service requirements under RSA 326-B:38, IX. The Board additionally finds that it has provided “notice reasonably calculated, under all the circumstances, to apprise ... [the Licensee] ... of the pendency of the action and afford ... [her] ... an opportunity to present ... [her] ... objections.” *See, i.e., Jones v. Flowers*, 547 U.S. 220, 225-26 (2006). Although not necessarily required in this situation, the Board also finds its record demonstrate that the Board took “additional reasonable steps” to provide notice to the Licensee. *See Id.* For these reasons, the Presiding Officer recommended to the Board that it move forward with the hearing *in absentia* (without the Licensee present), pursuant to Rule 208.02(f). The Board voted unanimously in favor of this recommendation. **THIS ORDER SERVES AS THE PRESIDING OFFICER’S WRITTEN MEMORIALIZATION OF THAT RECOMMENDATION TO THE BOARD. PARTIES AND INTERVENORS HAVE 10 DAYS FROM THE DATE OF THIS ORDER TO FILE ANY WRITTEN OBJECTIONS WITH THE BOARD REGARDING THAT DECISION. RULE 208.02(F).**

V. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED

The Licensee bears the burden of proof by a preponderance of the evidence with respect to Issue Presented II.d.1, which states: “[w]hether or not the Licensee can demonstrate that she meets the qualifications for licensure as an RN pursuant to RSA 326-B:16(III) and Rule 302.01 (b) (including good professional character), notwithstanding her failure to disclose her criminal history on her license application when responding “No” to the following question: Have you ever been convicted of a felony, misdemeanor or any criminal act, not including traffic violations?” NOH at II.d.1. The Licensee provided no additional documentation in advance of the hearing, aside from the materials previously submitted with her application and upon which the Board had initially determined it desired to notice this application for a hearing. There was some level of communication from the Licensee to the Board Administrator with

respect to this matter, which the Board would describe as flippant. The Board accepted the Licensee's previously submitted application materials as a full exhibit. No witnesses testified.

V. DISCUSSION AND FINDINGS OF FACTS / CONCLUSIONS OF LAW:

After reviewing all the evidence and drawing all reasonable inferences therefrom, the Board finds the Licensee has failed to meet her burden of proof by a preponderance of the evidence that she is qualified for licensure despite the discrepancy between what her criminal record shows and what she stated she had for a criminal record on her application. The facts are straightforward: the Licensee failed to appear for the hearing or provide any additional documentation upon which the Board could determine that she was qualified for licensure, despite the Board's concern with her failure to disclose her past criminal history. Further the Licensee's communication with the Board Administrator in relation to this matter has been unprofessional in nature. Her application for full licensure as an RN is therefore denied.

The Board next turns to what it should do with the Licensee's restricted license given its finding that she fails to meet the qualifications for full licensure. Issue 2 in the notice of hearing states: "[i]f the Board finds that the Licensee does not meet the qualifications for licensure as an RN, what if any action it should take with respect to her 'Active Restricted' license, including but not limited to revocation and/or suspension. *See* RSA 541-A:30, II." NOH at II.d.2. For the same reasons the Board has denied her full licensure application as an RN, the Board finds and concludes that the appropriate action to take against the restricted license is revocation. The purpose of the restricted license is to provide an immediate gateway to those seeking full licensure to begin practicing. Nonetheless, the Licensee has failed to meet the qualifications for full licensure for the reasons stated herein and the Board is required to ensure applicant's meet the statutory requirements for licensure, as well as protect the public. *See* RSAs 326-B:4, 326-B:16, 326-B:17, and 326-B:1.

VI. ORDER AND DECISION:

Pursuant to RSAs 326-B:1, 326-B:4, 326-B:16, RSA 326-B:17, and Rules 300 et seq., the Board hereby DENIES Lisa Caruso's application for RN and **REVOKES** her restricted license as an RN. The Licensee is no longer licensed as a registered nurse in the state of New Hampshire.

DATED: 2/1/2023

_____/s/ Nikolas K. Frye, Esq._____
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