

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

BOARD OF NURSING

**In Re: Jeanne Uwamungu
License # 013776-22 (LPN)**

Docket No.: 2023-NUR-023

NOTICE OF DECISION DATED 11/2/2023

Enclosed please find a copy of the Board’s Order dated 11/2/2023 relative to:

DISCIPLINARY HEARING FINAL DECISION AND ORDER

MOTIONS/PETITIONS FOR RECONSIDERATION OR REHEARING:

Pursuant to N.H. Code Admin. R. Plc 206.29(a) (“Rules”) and RSA 310:14, II, motions/petitions for reconsideration or rehearing shall be filed within 30 calendar days after service of a final adjudicative order. Pursuant to Rule 206.29(b), the Motion/Petition shall: 1) clearly identify points of law or fact that the movant asserts the Board and/or Presiding Officer has overlooked or misapprehended; 2) contain such argument in support of the motion as the movant desires to present; and 3) be served by the movant on all other participants in accordance with Rule 206.11. Pursuant to Rule 206.29, no answer to a motion/petition for reconsideration or rehearing shall be required, but any answer or objection filed shall be delivered to the Presiding Officer’s Office within 5 working days following receipt of service of the motion/petition for reconsideration. Pursuant to RSA 541:5, upon the filing of such motion/petition for rehearing or reconsideration, the Board or Presiding Officer shall within ten days either grant or deny the same, or suspend the order or decision complained of pending further consideration, and any order of suspension may be upon such terms and conditions as the Board or Presiding Officer may prescribe.

RIGHT TO APPEAL:

Pursuant to RSA 310:14, III, appeals from a decision on a rehearing and/or motion for reconsideration shall be by appeal to the New Hampshire Supreme Court pursuant to RSA 541. Pursuant to RSA 541:6, within 30 days after the application for a rehearing is denied, or, if the application is granted, then within thirty days after the decision on such rehearing, the applicant may appeal by petition to the New Hampshire Supreme Court. Pursuant to RSA 310:14, III, no sanction shall be stayed by the Board during an appeal.

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Docket No.: 2023-NUR-023

FINAL DECISION AND ORDER – 09/28/23

I. PARTICIPANTS:

Board Members and Support Staff and Counsel:

Samantha O’Neill, Board Chair and Member
Joni Menard, Board Vice Chair and Member
Dwayne Thibeault, Board Member
Wendy Stanley Jones, Board Member
Melissa M. Tuttle, Board Member
Maureen Murtagh, Board Member
Melissa A. Underhill, Board Member
Matthew Kitsis, Board Member
Jennifer Thibeault, Board Member
Michele Melanson-Schmitt, Board Member

Michael Gianunzio, OPLC Board Administrator
Jeannette Webber, OPLC Board Administrator
Rahkiya Medley, OPLC Board Counsel

Presiding Officer:

Nikolas Frye, OPLC Hearings Examiner

Parties:

Collin Phillips, OPLC Hearing Counsel
Jeanne Uwamungu, Licensee (appeared via Zoom)

II. CASE SUMMARY/PROCEDURAL HISTORY:

On 11/17/22 Jeanne Uwamungu, LPN (“Licensee”) and the New Hampshire Board of Nursing (“Board”) entered into a Settlement Agreement in the matter of Docket #22-NUR-018 which obligates the Licensee to adhere to the terms of a monitoring agreement with the New Hampshire Professionals Health Program (“NHPHP”). On or about 3/27/23 the Board received notice from Molly Rossignol, Medical Director of the NHPHP, that the Licensee had allegedly tested positive for a controlled substance on a 3/13/23 test. On 4/27/23 the Board voted to hold a disciplinary adjudicative hearing in this matter. A final hearing in this matter was held on 09/28/23. This final decision and order follows.

III. SUMMARY OF THE PROPOSED EVIDENCE AND EVIDENTIARY RULINGS:

The Board received the following evidence pursuant to RSA 541-A:33 and Plc Rules 206.22 and 206.18(d):

A. Exhibits were submitted by Hearing Counsel, numbered as follows:

1. Settlement Agreement in the matter of In Re: Jeanne Uwamungu (Docket #22-NUR-018) dated November 17, 2022 (Bates #HC001-007);
2. Dr. Rossignol letter to Board, dated March 27, 2023 (Bates #HC008); *****Filed under seal as containing private medical treatment information per RSA 91-A:5, IV*****
3. Dr. Rossignol letter to Board, dated April 7, 2023 (Bates #HC011); *****Filed under seal as containing private medical treatment information per RSA 91-A:5, IV*****
4. Dr. Rossignol letter to Board, dated August 24, 2023 (Bates #HC012). *****Filed under seal as containing private medical treatment information per RSA 91-A:5, IV*****
5. Dr. Rossignol letter to Board, dated 05/09/23
6. Dr. Rossignol letter to Board, dated 06/09/23

B. Exhibits were submitted by the Licensee and labeled as follows:

None.

C. Sworn testimony was received from:

1. Dr. Molly Rossignol, NHPHP
2. Jeanne Uwamungu, LPN and Licensee

Exhibits 1-4 were already fully admitted and **SEALED** by the Presiding Officer after a prehearing conference held in this matter. The Board asked to admit Exhibits 5 and at the time of the hearing. Neither party had an objection to them being fully admitted and **SEALED** pursuant to RSA 91-A:5, IV. Pursuant

to RSA 326-B:36-a, IV and RSA 91-A:3, II(c) (*see* RSA 310:10, I), the Board voted to hold the majority of the hearing in non-public session because it addressed the Licensee's participation in NHPHP and reports made by NHPHP.

IV. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED:

The hearing was held pursuant to RSA 310:10 with the burden of proof, by a preponderance of the evidence, placed upon Hearing Counsel. *See* Rule 206.07(e). The issues before the Board were:

- (1) Whether the Licensee committed professional misconduct as defined at RSA 326-B:37, II(o) and/or RSA 326-B:37(q)(2) by allegedly violating the terms of the Settlement Agreement dated 11/17/22 and the related NHPHP monitoring agreement (*see* Docket #22-NUR-018) (***See Letters from Dr. Molly Rossignol, NHPHP dated 03/27/23, 04/07/23, 05/09/23, and 06/09/23.***)
- (2) If a finding of misconduct is made pursuant to RSA 326-B:37, II, what if any disciplinary action the Board should take in accordance with RSA 326-B:37, III and/or RSA 310:12.

NOH at II.(c).

The Board heard evidence related to these inquiries as summarized below.

HEARING COUNSEL'S CASE-IN-CHIEF:

Dr. Rossignol, NHPHP

After explaining her training and experience and background with NHPHP in substance use and mental health treatment, Dr. Rossignol testified that the Licensee was referred to her care through NHPHP in the fall of 2022 and subject to a monitoring program. *See also* Exh. 1. Dr. Rossignol testified that between the fall of 2022 and March of 2023 the Licensee had a positive urine screen for alcohol and another controlled substance for which she did not have a prescription. *See also* Exhs. 2 and 3. Additionally, Dr. Rossignol testified that the Licensee had also failed to timely notify NHPHP that she had obtained a nursing position. Dr. Rossignol explained that after March of 2023, the Licensee had been inconsistent with attending drug screens, returning telephone calls, timely self-reporting, and had missed monthly participation meetings. *See also* Exhs. 4-6. Dr. Rossignol's testimony revealed that the Licensee

could not have positive screens under the terms of the monitoring agreement for alcohol and non-prescribed controlled substances/drugs, was supposed to attend random drug screens, stay in communication with NHPHP, self-report, and participate in monthly participation meetings. *See also* Exh.

1. Dr. Rossignol closed her testimony by saying that NHPHP had not been able to monitor the Licensee with the integrity they expect of themselves.

LICENSEE’S CASE-IN-CHIEF:

Jeanne Uwamungu, LPN, Licensee

The Licensee acknowledged the positive screens but clarified that she was unaware she had consumed alcohol or a controlled substance. She stated in November of 2022 a friend had given her a drink that apparently contained alcohol and in March of 2023 another friend had given her a pill that she thought was an over the counter pain medication. She also acknowledged missing some random drug screens, communication issues, inconsistent self-reporting, and missed attendance for monthly participation meetings. She explained her work and personal life was extremely busy and she has been prioritizing these things first, as well as getting sleep. She noted poor sleep was the reason she had made the medication mistakes that had led to this disciplinary case. She acknowledged having read the monitoring agreement and understanding what the requirements were, including those Dr. Rossignol said she had not completely followed.

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

Based upon the evidence that was presented to the Board at the hearing, and considering the presentation and demeanor of all the witnesses, the Board makes the following findings of facts:

1. Jeanne Uwamungu holds a current License # 013776-22 (LPN) issued on 1/20/2006 and expires 12/20/2023.
2. Ms. Uwamungu entered into a settlement agreement with the Board of Nursing on 11/17/2022. The terms of the Settlement Agreement included:

a probationary period of two (2) years or until such time as the Respondent has successfully completed the terms of a monitoring agreement with the New Hampshire Professionals health Program (“NHPHP”), whichever is later. During this probationary period, the following terms shall apply:

- 1) The Respondent shall not engage in any form of professional misconduct;
 - 2) The Respondent shall comply with all directives, treatment recommendations, terms, and restrictions, including abiding by professional work restrictions and completing any additional recommended professional education and development programs ordered by NHPHP;
 - 3) Respondent shall complete and, provide proof thereof to Hearing Counsel and the Board, 8 hours of continuing education in the administration and documentation of medications, including at least one course that focuses on the administration and documentation of controlled substance. The Respondent shall complete this requirement within 90 days from the date of approval of the settlement agreement. These hours shall be completed above and beyond any other continuing education required by Board statute and rule for licensure renewal and shall not count those hours; and
 - 4) Respondent shall provide a copy of this *Settlement Agreement* to any supervisor within 10 days of obtaining employment within her licensed scope of practice or, if already so employed, within 10 days of the effective date of this agreement.
3. Ms. Uwamungu entered into a monitoring program with NHPHP on 10/21/2022, specifically an abstinence monitoring program.
 4. Ms. Uwamungu was expected to refrain from using any controlled or psychoactive substances including alcohol.
 5. Dr. Molly Rossignol, Medical Director NHPHP, testified that Ms. Uwamungu tested positive for consuming alcohol in November 2022. A secondary test was used which suggested moderate alcohol consumption.
 6. In March 2023, Ms. Uwamungu tested positive through a urine test for tramadol.
 7. Dr. Rossignol notified the Board on 3/27/2023 that Ms. Uwamungu tested positive for a controlled substance on 3/13/2023.
 8. The controlled substance use was not in connection with a prescription.
 9. On April 7, 2023, following the positive drug test, three additional tests were taken.

10. Ms. Uwamungu was advised not to take any medication without first contacting NHPHP.
11. Ms. Uwamungu began a position in a professional capacity with a long-term care facility beginning in May 2023.
12. Ms. Uwamungu did not comply with NHPHP requirements for reporting employment in a timely manner.
13. Upon NHPHP becoming aware of the employment, a worksite monitor was established for Ms. Uwamungu. The worksite monitor consistently reported that Ms. Uwamungu was performing well. (Documenting care, showing up for work on time, and generally being a very reliable caregiver).
14. Dr. Rossignol notified the Board on 3/27/2023; 4/7/2023; 5/9/2023; 6/9/2023; & 8/24/2023 in writing of violations of the monitoring agreement including failing to abstain from all substances including alcohol and failing to follow random drug testing.
15. Since entering into a monitoring agreement with NHPHP Ms. Uwamungu tested positive for substances on two occasions and missed test dates but reported for testing the following days.
16. Ms. Uwamungu missed therapy appointments scheduled for 5/2/2023 and the rescheduled appointment on 6/12/2023. She was unresponsive to outreach by the therapist.
17. Dr. Rossignol testified that Ms. Uwamungu is unable to meet the requirements of the monitoring agreement.

Based upon the findings of fact made by the Board, the Presiding Officer makes the following conclusions of law:

1. The Licensee committed professional misconduct as defined at RSA 326-B:37, II(o) and RSA 326-B:37(q)(2) by violating the terms of the Settlement Agreement dated 11/17/22 and the related NHPHP monitoring agreement.

Upon a finding of misconduct made pursuant to RSA 326-B:37, II, the Board imposes the following disciplinary action against the Licensee:

1. The Licensee's license is **SUSPENDED** until such time as the Licensee is fully compliant with NHPHP for a minimum of six (6) consecutive months. After the six (6) month period ends, the

Licensee may petition the Board for reinstatement. If the Licensee's license expires before termination of the six (6) month period stated herein, there will be a stay on the suspension until such time as the Licensee applies for and is granted reinstatement.

VI. CONCLUSION AND DECISION:

Pursuant to RSA 310:10 and RSA 326-B:37., the Presiding Officer and Board hereby makes the herein findings of professional misconduct and imposes the stated sanctions.

DATED: 11/2/2023

_____/s/ Nikolas K. Frye, Presiding Officer_____
Presiding Officer
New Hampshire Office of
Professional Licensure & Certification
7 Eagle Square
Concord, NH 03301