

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

BOARD OF NURSING

**In Re: Marie Fletcher,
LNA Lic. # 039806-24**

**FINAL DECISION AND
ORDER – 11/10/22**

Docket No.: 2022-NUR-043

I. ATTENDEES

Samantha O'Neill, Board Chair
Joni Menard, Vice Chair
Melissa Tuttle, Board Member
Melissa Underhill, Board Member
Maureen Murtaugh, Board Member
Dwayne Thibeault, Board Member
Wendy Stanley Jones, Board Member
Lauren Warner, Board Counsel
Ashley Czechowicz, OPLC Board Administrator
Attorney Collin Phillips, OPLC Hearing Counsel
Attorney Nikolas K. Frye, OPLC Hearings Examiner and Presiding Officer
Marie Fletcher, Licensee
Dr. Molly Rossignol, Director of NHPHP

II. CASE SUMMARY/PROCEDURAL HISTORY

The Office of Professional Licensure and Certification, Division of Enforcement (“OPLC Enforcement”), acting on behalf of the Board of Nursing (“Board”), received a letter dated 10/11/22 from Dr. Molly Rossignol of the New Hampshire Professionals Health Program (“NHPHP”) alleging that Marie Fletcher (“Licensee”) was out of compliance with her monitoring agreement, which she is subject to pursuant to the Findings of Fact, Rulings of Law and Sanctions order of the Board in *In re Marie Fletcher*, Docket No. 19-061 2-0594-NA (“Order”). At its 10/27/22 regular meeting, the Board reviewed the 10/11/22 letter, the Order, and the Licensee’s monitoring agreement and voted to suspend the Licensee’s

license on an emergency basis pursuant RSA 541-A:30(III), RSA 310-A:1-m, RSA 326-B:37(IV), N.H. Code Admin. R., Title Nur 402.03(a) ("Rules"), and/or N.H. Code Admin. R., Title Plc 206.07 ("Plc").

The Board held an adjudicatory hearing in this matter on 11/10/22. 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 filed by Hearing Counsel, numbered as follows:

1. 10/17/19 Findings of Fact and Rulings of Law, *In re Marie Fletcher*
2. 10/11/22 Letter from Dr. Molly Rossignol NHPHP to the Board **SEALED**
3. Report of Investigation

b. Exhibits were filed by Licensee, numbered as follows:

A. None.

c. Sworn testimony was received from:

1. Dr. Molly Rossignol, NHPHP (called by Hearing Counsel) **HELD IN NON-PUBLIC PURSUANT TO RSA 326-B:26-a, IV.**
2. Licensee (called by Licensee) **HELD IN NON-PUBLIC PURSUANT TO RSA 326-B:26-a, IV.**

All exhibits were admitted into evidence as full exhibits after the Presiding Officer determined they were material and relevant.¹

IV. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED

The Board proceeded to adjudicate the matter. Hearing Counsel held the burden of proof by a preponderance of the evidence. Rule 207.10. The sole issue before the Board was “[w]hether or not the Licensee's license should be suspended pending a full adjudicatory hearing in this matter because she presents an imminent threat to the public health, safety or welfare, where, she is actively licensed in New

¹ The Licensee only objected to Exhibit 1 because she did not see how her past conduct related to the Board’s current concerns. Hearing Counsel explained she had violated the terms of Exhibit 1 by violating her NHPHP Monitoring Agreement. Exhibit 1 was admitted with instructions to the Board to give the underlying facts as to why the Licensee was originally disciplined little weight toward determining whether she is a current imminent threat.

Hampshire and [allegedly] remains out of compliance with multiple requirements of her NHPHP monitoring agreement, despite multiple attempts of NHPHP to outreach with her.” NOH at II(d)(1). Based upon the evidence presented at the hearing, the Board finds the following facts.

The Licensee is actively licensed in New Hampshire as a Licensed Nursing Assistant (“LNA”) with license number #039806-24. Exhibit 1 shows that on 10/07/20 the Board made a finding of professional misconduct against the Licensee based in part upon its determination that the Licensee had been convicted of a felony drug charge and acknowledged having a substance use and addiction issue. As part of the disciplinary sanctions the Board levied in relation to the finding of professional misconduct, the Licensee was required to participate in NHPHP and sign a Monitoring Agreement.

As noted above, Hearing Counsel’s sole witness was Dr. Molly Rossignol. The parties stipulated that Dr. Rossignol was the medical director of NHPHP and a doctor with training and experience in substance use treatment. Dr. Rossignol explained that in her role as Medical Director, she works with the Licensee, who has been a participant in the program since 2020. Dr. Rossignol further testified that since she began her work at NHPHP, she has monitored the Licensee.

Dr. Rossignol’s testimony then shifted to discussing the letter she filed with the Board on 10/11/22, which is labeled Exhibit 2. She testified that at the time she wrote it, the Licensee was out of compliance with multiple terms of her NHPHP Monitoring Agreement, including inconsistent participation in drug testing. Nonetheless, she also noted the Licensee has had no recent positive drug screen and willingly took a drug test that has a look-back period of three to six months shortly after the letter to the Board was written. Dr. Rossignol’s testimony revealed that the results of that test were negative. Dr. Rossignol also explained that the Licensee took another recent screen, which has a shorter look-back period for substances but was also negative. She described the Licensee as a good candidate for remaining in the NHPHP program. According to her testimony, the Licensee is not currently working as an LNA.

Neither the Board nor the Licensee had questions for Dr. Rossignol.

After Dr. Rossignol was excused as a witness, the Licensee testified on her own behalf. She stated that she has been sober since 04/19/21. She also confirmed Dr. Rossignol's testimony that she is not currently using her LNA license but explained that she still wanted to keep her license as she views it as an asset. According to her testimony, she moved to another area of New Hampshire in August of 2022 where she is working at a substance use treatment facility. She stated that her current location is far removed from testing locations, which has resulted in her being lax in consistently following the requirement of the monitoring agreement that she be screened for substances. Her testimony also revealed that the move has also displaced her from other resources she utilized previously in meeting the terms of the Monitoring Agreement, and she has not found substitute resources yet to meet those requirements. Nonetheless, the Licensee placed the onus for non-compliance on herself, but reaffirmed that time, not relapse was the issue. The Licensee also revealed that she views NHPHP as a favorable part of her life but does not see herself as a threat to the public as a licensed LNA. She stated she would respect whatever decision the Board makes.

Upon Board questioning, the Licensee acknowledged her shortcomings in meeting some of the requirements under the Monitoring Agreement and laid out a process by which she will strive to ensure she meets all the terms moving forward.

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

After reviewing all the evidence, and accounting for the presentation and demeanor of all the witnesses, the Board finds, by a preponderance of the evidence, that Hearing Counsel has not met his burden of proof. The Board finds the Licensee, while certainly not in full compliance with her Monitoring Agreement, is not an imminent danger to public health, safety, or welfare. The evidence shows she is sober, mostly engaged with NHPHP, and has a plan to re-engage herself fully. Nonetheless, the Board

stresses the importance of the Licensee fully engaging in her recovery program, even though it is reinstating her licensure.

VI. CONCLUSION AND DECISION:

Pursuant to RSA 326-B:27(IV), Rule 402.03, the Board hereby lifts its emergency suspension of Marie Fletcher's licenses as an LNA.

DATED: 11/14/2022

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