

IN THE MATTER OF

PHILIP N. GBAKA

LICENSE NO.: LP50202  
CERTIFICATE NO.: A00086082

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BEFORE THE

MARYLAND

BOARD OF NURSING

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**FINAL DECISION AND ORDER OF REVOCATION OF  
LICENSED PRACTICAL NURSE LICENSE**

**I. PROCEDURAL HISTORY**

In 2021, the Maryland Board of Nursing (the "Board") received information about a licensed practical nursing education program called the National School of Nursing and Allied Health located in Virginia (the "Virginia Program"). The Board conducted an investigation, and during that investigation, the Board identified Philip N. Gbaka (the "Respondent"), a licensed practical nurse ("LPN"), license number LP50202, and certified nursing assistant ("CNA")/geriatric nursing assistant ("GNA"), certificate number A00086082, as a graduate of the Virginia Program.

On May 25, 2022, the Board issued an "Order for Summary Suspension of Licensed Practical Nurse License Pursuant to Section 10-226(c)(2) of the Administrative Procedure Act" to the Respondent ("Order for Summary Suspension"), which notified the Respondent that the Board had summarily suspended his LPN license based on the Board's finding that the public health, safety, and welfare imperatively required emergency action. The Order for Summary Suspension notified the Respondent that a show cause hearing was scheduled for June 21, 2022. On June 21, 2022, the Board held the scheduled show cause hearing, and the Respondent was present. Following the show cause hearing, on June 21, 2022, the Board issued an "Order Continuing Summary Suspension of Licensed Practical Nursing License," which continued the summary suspension of the Respondent's LPN license. The Order Continuing Summary

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Suspension notified the Respondent of the opportunity to request an evidentiary hearing on the merits of the summary suspension.

Also on May 25, 2022, the Board issued a "Notice of Agency Action – Charges Under the Maryland Nurse Practice Act" (the "Charges") to the Respondent, which notified the Respondent that the Board was charging him with violations of the Maryland Nurse Practice Act, Md. Code Ann., Health Occupations Article ("Health Occ.") §§ 8-101 *et seq.* (2021 Repl. Vol.), specifically:

§ 8-316(a) Subject to the hearing provisions of § 8-317 of this subtitle, the Board may . . . reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee if the . . . licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or for another;
- (2) Fraudulently or deceptively uses a license;
- ...
- (25) Engages in conduct that violates the professional code of ethics; *to wit*:

Code of Maryland Regulations ("COMAR") 10.27.19.02B. A nurse may not, when acting in the capacity or identity of a licensed nurse:

- (1) Knowingly participate in or condone dishonesty, fraud, deceit, or misrepresentation;

...

- (30) Violates regulations adopted by the Board or an order from the Board; *to wit*:

COMAR 10.27.01.05B. An applicant for the licensed practical nurse licensure examination shall:

- (1) Meet all requirements for a high school diploma or its equivalent and complete satisfactorily and meet all requirements for a diploma from:

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- (b) A licensed practical nursing education program in any other state, territory, or country determined by the Board to be substantially equivalent<sup>1</sup> to the licensed practical nursing education programs approved in this State at the time of the applicant's graduation;

And

§ 8-6A-10(a) Subject to the hearing provisions of § 8-317 of this title and § 8-6A-10.1 of this subtitle, the Board may . . . reprimand any certificate holder, place any certificate holder on probation, or suspend or revoke the certificate of a certificate holder, if the . . . certificate holder:

- (20) Has violated any provision of this title or has aided or knowingly permitted any individual to violate any provision of this title; *to wit*, § 8-316(a)(1), (2), (25), and/or (30);

...

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<sup>1</sup> COMAR 10.27.01.01C provides: "Substantially equivalent" means a registered nursing or licensed practical nursing education program that:

- (1) Contains theoretical learning experiences and related clinical learning experiences that include direct patient care within various settings consistent with program objectives, outcomes, or competencies conducted either concurrently with or after the theoretical learning experience; and
- (2) Meets the curriculum requirements for Maryland schools of nursing at the time of the applicant's graduation, including, but not limited to:
  - (a) The appropriate level of the graduate's intended scope of practice;
  - (b) Didactic and clinical learning experiences that are diverse and consistent with program objectives, outcomes, or competencies;
  - (c) Didactic and clinical instruction in nursing care of families and clients throughout the life span in a variety of care settings requiring nursing measures appropriate for:
    - (i) The maintenance or restoration of mental and physical health;
    - (ii) Preventive, rehabilitative, and curative aspects of health care;
    - (iii) Biophysical, psychosocial, cultural, and spiritual components of health and illness; and
    - (iv) Professional issues content; and
  - (d) Didactic and clinical instructional content that includes, but is not limited to, the areas of:
    - (i) Medical and surgical nursing;
    - (ii) Maternal and child health;
    - (iii) Psychiatric nursing; and
    - (iv) Geriatric nursing.

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- (26) When holding an expired certificate or a lapsed certificate, commits any act that would be grounds for disciplinary cation under this section[.]

The Charges also notified the Respondent of the opportunity to request an evidentiary hearing. On or about June 24, 2022, the Respondent submitted a timely request for an evidentiary hearing on the Charges.<sup>2</sup>

By letter dated August 25, 2022, the Board notified the Respondent that an evidentiary hearing was scheduled for September 28, 2022.<sup>3</sup> The Board held an evidentiary hearing on October 26, 2022, and a quorum of the Board was present. An Administrative Prosecutor was present on behalf of the State, and the Respondent was present with legal counsel.

**Evidentiary Exhibits and Witnesses**

State's Exhibits

1. The Respondent's Licensure and Certification Information (5 pages)
  - MyLicense Office Printout for LPN license
  - MyLicense Office Printout for CNA/GNA certificate
  - NURSYS Printout, dated August 29, 2022
2. Maryland Board of Nursing Report of Investigation regarding the Respondent, dated March 15, 2022 (11 pages)
3. Maryland Application for Exam of LPN License for the Respondent, dated August 18, 2012 (8 pages)
  - Declaration of Primary State of Residence, dated August 18, 2012
  - License Application Retrieval System (LARS), scanned August 24, 2012
4. Official Transcript for the Respondent from the Virginia Program (2 pages)

<sup>2</sup> The Respondent did not request an evidentiary hearing on the merits of the Order for Summary Suspension. However, the Board deemed the request for an evidentiary hearing on the Charges to include a request for an evidentiary hearing on the merits of the Order for Summary suspension.

<sup>3</sup> By letter dated August 22, 2022, the Board notified the Respondent that an evidentiary hearing was scheduled for October 26, 2022. The evidentiary hearing was rescheduled for September 28, 2022.

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5. Letter and Subpoena Duces Tecum sent to the Respondent, dated August 31, 2022 (with USPS tracking receipt) (4 pages)
6. Email from General Counsel of Clinical Facility A to Board Investigator, dated August 31, 2022 (3 pages)
7. Letter from Administrator of Clinical Facility B to Board Investigator, dated September 8, 2021 (1 page)
8. E-mail from Executive Director of Clinical Facility D to Board Investigator, dated August 25, 2021 (2 pages)
9. Virginia Consent Order: Before the Board of Nursing, In Re: National School of Nursing and Allied Health Practical Nursing Program, dated July 21, 2010 (6 pages)
10. Virginia Consent Order: Before the Board of Nursing, In Re: National School of Nursing and Allied Health Practical Nursing Program, dated May 15, 2012 (4 pages)
11. Criminal Complaint, *United States of America v. Musa Bangura*, United States District Court for the District of Maryland, Case No.: 21-mj-2013-TJS, dated July 8, 2021 (35 pages)
  - Affidavit in Support of Criminal Complaints and Arrest Warrants
12. Audio Recording of Interview of the Respondent, dated September 17, 2021 (CD)
13. *Order for Summary Suspension of Licensed Practical Nurse License Pursuant to Section 10-226(c)(2) of the Administrative Procedure Act* – In the Matter of Philip N. Gbaka, License No.: LP50202, dated May 25, 2022 (with cover letter) (11 pages)
14. *Notice of Agency Action – Charges Under the Maryland Nurse Practice Act*—In the Matter of Philip N. Gbaka, LP50202, A00086082, dated May 25, 2022 (13 pages)
15. *Order Continuing Summary Suspension of Licensed Practical Nurse License* – In the Matter of Philip Gbaka – License No.: LP50202, dated June 21, 2022 (5 pages)
16. Request for Hearing from the Respondent, dated June 24, 2022 (1 page)
17. Entry of Appearance, dated June 5, 2022 (1 page)
18. Notice of Hearing: In the Matter of Philip Gbaka—License No.: LP50202, A00086082, dated August 22, 2022 (2 pages)
19. Notice of Rescheduled Hearing: In the Matter of Philip Gbaka – License No.: LP50202, A00086082, dated August 25, 2022 (USPS certified mail tracking receipt) (24 pages)

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State's Witnesses

- Investigator, Maryland Board of Nursing

The Respondent's Exhibits

1. The Respondent's Academic Transcript from the D.C. Program (1 page)
2. The Respondent's Transcript from Stratford (2 pages)
3. The Respondent's Student ID Card for Stratford (1 page)
4. Printout of Stratford Seal (1 page)
5. A copy of the Respondent's Maryland Driver's License (1 page)
6. The Respondent's Certificate of Completion issued by the Virginia Program (1 page)
7. The Respondent's paper LPN Nursing License issued by the Board (1 page)
8. The Respondent's Certificate of Completion of "Essentials of Infusion Therapy" on May 8-9, 2019 (1 page)
9. The Respondent's Official Transcript from the Virginia Program (2 pages)
10. Letter from Director of Nursing at Senior Living Facility to the Respondent (1 page)
11. Letter of Recommendation from the Director of Nursing at Senior Living Facility (1 page)
12. Letter of Recommendation from the Nursing Home Administrator at Senior Living Facility (1 page)

The Respondent's Witnesses

- Former Classmate of the Respondent's at the Virginia Program and the D.C. Program
- Director of Nursing at the Respondent's prior employer
- The Respondent testified on own behalf.

## II. FINDINGS OF FACT

The Board makes the following findings of fact based upon the entirety of the record:

### CNA Certification

1. On June 13, 2007, the Board issued a certificate to practice as a CNA in the State of Maryland to the Respondent. (State's Exhibit 1, p. 2). On November 16, 2007, the Board granted GNA status to the Respondent. (State's Exhibit 1, p. 3). The Respondent's CNA/GNA certificate is nonrenewed, having expired on September 28, 2015. (State's Exhibit 1, pp. 2-3).

### LPN Application

2. On or about August 18, 2012, the Respondent submitted an application for licensure as an LPN by examination ("Application") to the Board. (State's Exhibit 3).

3. The Application includes a section called "Education" that is to be completed by the applicant. Under this section, the Respondent documented that he graduated from his basic nursing education program in 2012 and that he received a diploma. (State's Exhibit 3, p. 17).

4. The Application also includes a section called "School of Nursing Certification" that is to be completed and signed by the present director of the school of nursing from which the applicant graduated. The program director of the Virginia Program ("Program Director") completed this section on the Respondent's application as follows:

It is hereby certified that Philip Nte Gbaka  will receive  
(Applicant's full name)

received from the National School of Nursing and Allied Health, Inc. School of  
(Name of Institution)

Nursing Located in Woodbridge, Virginia a diploma dated 6/15/2012 which  
(City, State) (DATE)

certified that he/she completed in full a 13 months PN year<sup>(4)</sup> program in nursing

<sup>4</sup> The word "year" was struck out on the Respondent's application.

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that began on 04/04/2011 and ended on 06/15/2012. It is further certified that the  
(DATE) (DATE)

was approved by the \_\_\_\_\_<sup>[5]</sup> Board of Nursing at the time the applicant graduated, and that the applicant demonstrated oral competence in the ENGLISH language and that his/her academic and professional standing during his/her program was satisfactory to the officers of this school.

The Program Director signed this section of the Respondent's application. (State's Exhibit 3, p. 18; State's Exhibit 2, p. 9).

5. The Application also includes a section called "Signature" to be completed by the applicant that provides:

I hereby make application for examination and registration in Maryland according to the NURSE PRACTICE ACT and the regulations of the Maryland Board of Nursing.

I affirm that the contents of this document are true and correct to the best of my knowledge and belief.

Failure to providing [sic] accurate information may result in denial of licensure.

The Respondent signed the Signature section of his application on August 18, 2012. (State's Exhibit 3, p. 18).

6. The Respondent's transcript from the Virginia Program ("Virginia Program Transcript") was submitted to the Board as a part of the application process. (State's Exhibit 3, p. 23; State's Exhibit 4, p. 25).

7. The Virginia Program Transcript documents that the Respondent began the Virginia Program on April 4, 2011 and completed the Virginia Program on June 15, 2012. (State's Exhibit 3, p. 23; State's Exhibit 4, p. 25; Respondent's Exhibit 9).

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<sup>5</sup> This line was left blank on the Respondent's application.



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8. The Virginia Program Transcript further documents the following:

<u>FIRST QUARTER</u>			<u>THIRD QUARTER</u>		
From: 04/04/2011		To: 06/10/2011	From: 09/19/2011		To: 01/06/2012
Course Description	Contact Hours	Letter Grade	Course Description	Contact Hours	Letter Grade
Basic Computer	30	Pass	Med/Surg I	120	B
Medical Terminology	60	A	Med/Surg II	120	B
Anatomy and Physiology	180	A	Med/Surg Clinical	200	S
			Med/Surg Lab	40	S
Total Contact Hours Required: 270			Geriatrics Theory	30	A
			Geriatrics Clinical	40	S
			Total Contact Hours Required: 550		
<u>SECOND QUARTER</u>			<u>FOURTH QUARTER</u>		
From: 06/13/2011		To: 09/16/2011	From: 01/09/2012		To: 06/15/2012
Course Description	Contact Hours	Letter Grade	Course Description	Contact Hours	Letter Grade
Diet and Nutrition	60	A	Pediatric Nursing	90	B
Pharmacology	120	B	Pediatric Nursing Clinical	40	S
Nursing Fundamentals	210	B	Maternity Nursing	90	B
Nursing Fundamentals Lab	60	S	Maternity Nursing Clinical	40	S
Nursing Fundamentals Clinical	40	S	Mental Health Nursing	30	B
Total Contact Hours Required: 490			Mental Health Clinical	40	S
			Professional Development & NCLEX Review	60	B
			Total Contact Hours Required: 390		

(State's Exhibit 3, p. 23; State's Exhibit 4, p. 25; Respondent's Exhibit 9).

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9. The Virginia Program Transcript further provides a "Summary of Clinical Agencies/Facilities and dates for each experience":

<b>Clinical Courses</b>	<b>Clinical Agency</b>	<b>Clinical Start Date</b>	<b>Clinical End Date</b>	<b>Total Hours</b>
Nsg Fundamentals	. . . Healthcare and Rehabilitation Center [{"Clinical Facility A"}]	09/12/11	09/16/11	40
Medical-Surgical Nsg.	[Long-term Care Facility], Arlington [{"Clinical Facility B"}] and [Clinical Facility A]	11/07/11	12/09/11	200
Geriatrics Nsg	[Clinical Facility A]	01/03/12	01/07/12	40
Maternity Nsg	. . . Clinics [{"Clinical Facility C"}]	04/16/12	04/20/12	40
Pediatrics Nsg	[Clinical Facility C]	04/23/12	04/27/12	40
Mental Health Nsg	[Senior Living Facility ("Clinical Facility D")]	05/07/12	05/11/12	40

(State's Exhibit 3, p. 24; State's Exhibit 4, p. 26; Respondent's Exhibit 9).

10. The Virginia Program Transcript also contains a key that includes "TC=Transfer credit." The abbreviation "TC" does not appear on the Respondent's Virginia Program Transcript. (State's Exhibit 3, p. 23; State's Exhibit 4, p. 25; Respondent's Exhibit 9).

11. The Virginia Program Transcript also states: "All students must maintain a grade A or B, and pass the school's Exit exam to graduate." (State's Exhibit 3, p. 23; State's Exhibit 4, p. 25; Respondent's Exhibit 9).

#### **LPN Licensure**

12. On September 20, 2012, after the Respondent passed the NCLEX-PN examination, the Board issued a license to practice as an LPN in the State of Maryland to the Respondent. (State's Exhibit 1, p. 1).

13. The Respondent's LPN license is currently suspended pursuant to this matter, but is otherwise scheduled to expire on September 28, 2023. (State's Exhibit 1, p. 1).

**Virginia Program**

14. In 2021, the Board discovered information about the Program Director of the Virginia Program. Specifically, on July 8, 2021, in the United States District Court for the District of Maryland, the Program Director, along with two others, was indicted for Conspiracy to Commit Health Care Fraud; Conspiracy to Commit False Statements Relating to Health Care Matters; and False Statements Relating to Health Care Matters in violation of federal law. The indictment was based on selling fraudulent transcripts and diplomas that indicate that various individuals completed necessary courses and clinical hours to obtain nursing degrees. (State's Exhibit 11).

15. The Board reviewed the Virginia Board of Nursing's approval history of the Virginia Program, which is as follows:

- On July 18, 2008, the Virginia Board of Nursing granted provisional approval to the Virginia Program to operate as a practical nursing education program in the Commonwealth of Virginia. (State's Exhibit 9, p. 37).
- On July 21, 2010, the Virginia Board of Nursing issued a Consent Order, to which the Program Director agreed, that placed the Virginia Program on conditional provisional approval for not less than one (1) year subject to certain terms and conditions.<sup>6</sup> (State's Exhibit 9).

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<sup>6</sup> The Consent Order was based on the Virginia Board's findings: "(1) That six (6) graduates of [the Program]'s practical nursing education program did not complete clinical experiences in OB, Pediatrics, and Mental Health prior to graduation on October 17, 2009; (2) that transcripts were submitted to the Board indicating that all classroom and clinical courses had been completed, when, in fact, six (6) graduates of the program were required to return after graduation to complete additional testing and clinical hours; and (3) that six (6) graduates of the program did not receive at least four hundred (400) hours of direct client care experience prior to graduation." (State's Exhibit 9).

- On May 15, 2012, the Virginia Board of Nursing issued a Consent Order, to which the Program Director agreed, that ordered withdrawal of the Virginia Board's approval from the Virginia Program and that the Program shall cease operations no later than June 30, 2013, when all students have either graduated or transferred to an approved program.<sup>7</sup> (State's Exhibit 10).

### **Board Investigation into the Respondent**

16. Based on the above information about the Virginia Program, the Board searched its records for individuals who graduated from the Virginia Program and identified the Respondent as such a graduate. The Board then opened an investigation into the Respondent. (Transcript, pp. 35-38).

17. As a part of the investigation, the Board's investigators contacted each clinical facility identified on the Respondent's transcript and received the following responses:

- By e-mail dated August 5, 2021, the General Counsel for Clinical Facility A stated: "I searched our contracts database and do not find any contracts with [Virginia Program]. Additionally, as a skilled nursing facility, I do not believe we would have hosted clinicals for surgical nursing." (State's Exhibit 6, p. 31).
- By letter dated September 8, 2021, the Administrator for Clinical Facility B stated: "Thank you for contacting us regarding a School agreement for clinical rotation with [the Virginia Program]. We regret to inform you that after searching our records, we were unable to locate any school agreement for clinical rotations with [the Virginia Program]." (State's Exhibit 7).

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<sup>7</sup> The Consent Order was based on the Program's various violations of Virginia law, including deficiencies in the Program's NCLEX-PN pass rates, organizational plan, faculty's involvement in formulating the Program's philosophy, licensure and competence of faculty members, student files, curriculum, and clinical experience. (State's Exhibit 10).

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- During a phone call between the Board's investigator and the Executive Director of Clinical Facility C, the Executive Director stated that the Facility does not offer OB/GYN or pediatric care. The Executive Director stated that the Facility is a program for troubled teens and provides transitional housing, parenting classes, and food programs for teen nurses. The Executive Director further stated that there are no nurses on staff and that the Facility does not provide any medical services. The Executive Director further stated that the Facility hosted nursing students previously, but the school provided the preceptors. (State's Exhibit 3, pp. 9-10)
- By e-mail dated August 25, 2021, the Executive Director at Clinical Facility D stated: "[Clinical Facility D] does not have any affiliation or contracts with any Nursing institute for any clinical hours." (State's Exhibit 8).

18. Board Investigators also interviewed the Respondent under oath. During the interview, the Respondent stated that he began the LPN program at Comprehensive Care Academy in Washington, D.C. ("D.C. Program") in late 2009 and finished in 2011. He stated that he failed the comprehensive exam twice and decided to leave the D.C. Program. He stated that another classmate told him about the Virginia Program and that he decided to enroll there. He stated that the Program Director told him that they do not normally take students at this stage, but that if he wanted to enroll, he would only have to repeat his Medical/Surgical ("Med/Surg") class. He then stated that the Program Director told him that he only needed to take two classes because he took the comprehensive exam already but failed it. (State's Exhibit 2, p. 8).

19. The Respondent stated that he started the Virginia Program in November 2011 and enrolled in two classes: Med/Surg and Pharmacology. The Respondent stated that he attended a clinical for the Med/Surg course, but did not at first recall the facility. He later stated

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that he went to a long-term care facility (with the same name as Clinical Facility B) for the clinical experience. The Respondent stated that he attended class Monday through Thursday and later attended clinical experiences twice a week. He stated that during the clinical experience, he viewed and participated in IV administration, G-tube feeding, and regular nursing care. (State's Exhibit 2, p. 8).

20. The Respondent stated that he completed both classes and then took the comprehensive exam. The Respondent stated that he completed the Virginia Program in either May or June 2012. The Respondent stated that there was no official graduation; once classes were validated and an exit exam was completed, students were informed they were finished. (State's Exhibit 2, p. 8).

21. The Respondent stated that he paid \$2,500 in cash for the Virginia Program. (State's Exhibit 2, p. 8).

22. The Respondent stated that he completed the Board's LPN application himself. When reviewing his application with the Board's Investigator, the Respondent stated that the information in School of Nursing Certification section was complete when he signed the application. When the Board's Investigator asked if the information in that section was correct, the Respondent stated that he was unsure of the dates that he attended and does not remember if it was a 13-month program. The Respondent stated that he was only there for 6 months. (State's Exhibit 2, pp. 8-9).

23. When reviewing his Virginia Program Transcript with the Board's Investigator, the Respondent stated that the dates of enrollment were incorrect because he left the D.C. Program in December 2011. The Respondent admitted that he did not complete the classes for the first and second quarters as listed on the Virginia Program Transcript, and that he only

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remembers taking two or three classes. The Respondent stated that the dates for the classes for the third quarter as listed on the Virginia Program Transcript were incorrect. The Respondent further stated that he does not remember taking the classes for the fourth quarter as listed on the Virginia Program Transcript. The Respondent stated that he was enrolled in the D.C. Program on the dates indicated for the first, second, and part of the third quarters and that he was not enrolled in both programs concurrently. (State's Exhibit 2, p. 9).

24. When reviewing the clinical experiences listed on the Virginia Program Transcript with the Board's Investigator, the Respondent stated that:

- He did not complete the Nursing Fundamentals clinical experience on the dates listed on the transcript and did not go to Clinical Facility A;
- He did not go to Clinical Facility A for the geriatric clinical experience;
- He does not recall ever seeing maternity patients while enrolled at the Program;
- He does remember completing a pediatric clinical experience but does not recall the name of the facility. He went to a facility once or twice a week and saw how to take temperatures and how to prevent choking. It was not hands-on every day; sometimes the professor would just demonstrate; and
- He does not recall completing the mental health class at the Virginia Program, but does recall going to the dementia ward at a long-term care facility (same name as Clinical Facility B) while completing the Med/Surg clinical experience.

(State's Exhibit 2, p. 9).

25. The Respondent stated that he never saw his Virginia Program Transcript until he reviewed it with the Board's Investigator. (State's Exhibit 2, p. 9).

**Discussion**Evidentiary Hearing

At the evidentiary hearing, a Board investigator testified on behalf of the State, and the Respondent called two witnesses and testified on his own behalf.

The Respondent called a former classmate ("Classmate") who also attended the D.C. Program and the Virginia Program. The Classmate testified that she also failed the comprehensive examination at the D.C. Program and then went to the Virginia Program. (Transcript, pp. 227-229). The Classmate testified that she took four or five classes with the Respondent at the Virginia Program, including Med/Surg, Geriatric, and Maternity. (Transcript, pp. 231-232). The Classmate testified that she attended clinicals at a long-term care facility (same name as Clinical Facility B) for Med/Surg. (Transcript, p. 233). The Respondent also called the director of nursing at his prior place of employment, who testified that the Respondent is a dedicated, thorough, and gentle nurse with very good bedside manners. (Transcript, p. 245).

The Respondent testified that he started at the D.C. Program in September 2009 and submitted his transcript from the D.C. Program ("D.C. Program Transcript") as evidence. The D.C. Program Transcript documented the following:

**DATE ENROLLED:** September 2009

**DATE COMPLETED:** N/A

**DATE DISMISSED:** December 15, 2011

First Quarter	Class Hours	Lab/Clinical Hours	Total Hours	Grade	Status*
Anatomy & Physiology	140		140	C	P
Fundamentals of Nursing	100	100	200	C	P
Nutrition	35		35	C	P
Microbiology	30		30	B	P

Second Quarter	Class Hours	Lab/Clinical Hours	Total Hours	Grade	Status*
Medical Surgical Nursing I	148	200	348	B	P



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Medical Surgical Nursing II	148	200	348	C	P
Pharmacology	80		80	F	F
Pharmacology (Repeat)				C	P
Nursing in Society	40		40	C	P

Third Quarter	Class Hours	Lab/Clinical Hours	Total Hours	Grade	Status*
Pediatric Nursing	60	40	100	F	F
Pediatric Nursing (Repeat)				C	P
Maternal Health Nursing	60	40	100	F	F
Maternal Health Nursing				C	P
Mental Health Nursing	60	40	100	F	F
Mental Health Nursing				C	P
Gerontology	40	40	80	C	C
Comprehensive Exam				F	F
Comprehensive Exam				F	F
Comprehensive Exam				F	F

(Respondent's Exhibit 1). He testified that he completed all of the courses listed on the D.C. Program Transcript. (Transcript, pp. 123-124).

The Respondent testified that after failing the exit examination two times, he left and went to the Virginia Program because many of the D.C. Program's students were going there and said "it was a good school to them" and that "they were passing very well." (Transcript, p. 128). The Respondent testified that he gave his D.C. Program Transcript to the Program Director to evaluate. The Respondent testified that the Program Director told him that he could not just let him take the exit examination at the Virginia Program, but he would let the Respondent take two courses: Pharmacology and Med/Surg. (Transcript, pp. 129-130). The Respondent testified that he began the classes in January and that he completed them in 6 months. (Transcript, p. 131). The Respondent testified that he went to two clinical sites: one was a long-term care facility<sup>8</sup> and the other he could not remember. (Transcript, pp. 132-133). The Respondent testified that he did not have any knowledge of any impropriety of the Virginia Program or the Program Director.

<sup>8</sup> The long-term care facility referenced by the Respondent shares the same name as Clinical Facility B, listed on the Respondent's Virginia Program Transcript.

(Transcript, p. 135).

The Respondent testified that he did not see his transcript from the Virginia Program until his interview at the Board. (Transcript, pp. 135-136). The Respondent testified that the transcript is false. (Transcript, p. 137). The Respondent testified that he only took two classes and the Program Director was supposed to add what was covered from the D.C. Program to qualify him to complete the program. (Transcript, pp. 137-138).

The Respondent testified that the Program Director had completed the School of Nursing Certification portion of his application and that the Respondent thereafter signed the Signature section of his application. (Transcript, pp. 139, 148-149). When asked why he signed the application, the Respondent testified:

I signed this form because usually we know that when you transfer from a school to a school, the school that was the initial school, like, the [Virginia Program] was supposed to combine my credit from my previous school into his own school and they were transferred to represent my transfer from this school. So, when he said 13 months I was, what I have in my mind was I completed 13 months in Washington, D.C. Then, I did two courses with him. Maybe that's what he meant by 13 months. English is not my first language, so they were—I should have asked why I did have to sign it. But it could be that that was a mistake on my part. . .

(Transcript, p. 140). The Respondent testified that he did not intend to commit any fraud in signing his application. (Transcript, pp. 140-141).

During cross-examination, the Respondent admitted that he did not begin the Virginia Program on April 4, 2011 and that he did not attend the Virginia Program for 13 months as documented on his application. (Transcript, pp. 146-148). When asked whether the information in the top part of his application (the Nursing School Certification) was false, the Respondent answered "yes." (Transcript, p. 150).

Regarding his Virginia Program Transcript, the Respondent testified that he did not

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attend the Virginia Program for the First Quarter (April 4, 2011 to June 10, 2011), the Second Quarter (June 13, 2011 to September 16, 2011), or for the entire Third Quarter (September 19, 2011 to January 6, 2012), as documented on the transcript. (Transcript, pp. 150-152). The Respondent testified that he did not complete any of the courses documented on the Virginia Program Transcript except Pharmacology and Med/Surg, although the Respondent testified that he took those courses upon his enrollment in November or December 2011 and not in the quarters documented on the Virginia Program Transcript. (Transcript, pp. 150-155).

Regarding his clinicals, the Respondent testified that there would be one to two clinical instructors for 16 to 20 students. (Transcript, pp. 155-157). The Respondent testified that the clinical instructors separated them into groups and that he cared for patients during his clinicals along with and under the supervision and instruction of the facility nurse. He testified that the clinical instructor made rounds. (Transcript, p. 171). He further testified that he would prepare a nursing care plan for a patient each morning after finding out his assignment and that he would show the care plan to his clinical instructor and then the facility nurse. The Respondent testified that he participated in ADL care and that only the facility nurse would administer medication to a patient. The Respondent testified that he did not administer medication during his clinicals. (Transcript, pp. 162-172).

The Respondent testified that he did clinicals for Med/Surg one or two days a week, but he does not know the duration or how many days it covered. (Transcript, pp. 155-157, 176). When asked whether the Virginia Program Transcript, indicating 200 clinical hours over 33 days for Med/Surg, was incorrect, the Respondent answered yes. (Transcript, pp. 178-179). The Respondent testified that he completed the hours required by the school. (Transcript, p. 177). The Respondent testified that, when he stated in his Board interview that he did a pediatric

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clinical at the Virginia Program, he got mixed up and only did a pediatric clinical at the D.C. Program. (Transcript, pp. 182-183). Regarding the D.C. Program, the Respondent testified that he did not receive a certificate of completion from the D.C. Program. (Transcript, p. 191).

During re-direct, when asked about signing his application, the Respondent answered:

That was the reason I didn't read it well and I did not read it properly based upon my English language level. So, I sign it based on the fact that my transcript was going to reflect what I covered in Virginia and what I covered in D.C. But, unfortunately, when they showed me my transcript, it did not reflect that whole thing. So, it didn't show what I did in [the D.C. Program]. . . . This is a class actually that I joined. That's in 2011. But I joint it in the middle of the program. So, my transcript should reflect the two courses took there and what I did as well.

(Transcript, p. 197).

In response to questions from Board members, the Respondent testified that his exams were in English. With regard to his understanding of what 13 months meant, the Respondent testified that he "was looking at the whole program, not just me" and "was not looking at specifically to me that I did 13 months." The Respondent testified that he thought "it's a 13-month program that we joined. Maybe that's what it meant." (Transcript, pp. 199-200). When asked whether it made sense that he would only have to take two courses at the Virginia Program, the Respondent answered, "Yeah. Because those are the classes I already take in here." When asked why a school would give him a degree for courses he did not take at the school, the Respondent answered that he knew transfer from one school to another is allowed. (Transcript, pp. 206-207). When asked how a student sees his or her "overall" score for a course, the Respondent's answer was not entirely clear to the Board, but the Respondent testified that he received a score for each exam taken and that you could combine those scores to know your "overall" score. (Transcript, pp. 207-219).

Findings

A. *Charges*

The Board charged the Respondent with fraudulently or deceptively obtaining an LPN license in violation of Health Occ. § 8-316(a)(1). The Board finds, and the Respondent admits, that the Virginia Program Transcript submitted to the Board as part of the Respondent's application for licensure as an LPN was false and fraudulent. The Respondent admits that he did not begin the Virginia Program on April 4, 2011, as documented on the Transcript, and that he did not complete any of the courses documented on the Transcript, with only two exceptions: he states that he completed Pharmacology and Med/Surg, including a clinical experience for Med/Surg,<sup>9</sup> although not on the dates indicated on the Transcript.

Although the Respondent admits that his Virginia Program Transcript was false, the Respondent stated during both his interview with the Board's investigator and during his testimony before the Board that he did not see his Transcript until his interview with the Board's investigator. Consequently, he argues, he was unaware of the fraud committed by the Program Director in submitting the false transcript to the Board.

Even assuming that the Respondent had not seen his transcript before applying for licensure, the Respondent did sign his application, affirming that the contents therein were true and correct to the best of his knowledge and belief, when the application contained false and misleading information about his nursing education. Indeed, the Respondent admits that the "School of Nursing Certification" section of his application completed by the Program Director

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<sup>9</sup> The Board notes that all of the clinical facilities listed on the Virginia Program Transcript—including the clinical facility listed for Med/Surg (a long-term care facility), which shares the same name as the clinical facility at which the Respondent claims to have completed his clinical experience—did not locate any record of hosting clinicals for the Virginia Program. The Board also took note of the substance of the Respondent's Med/Surg clinical experience, including that the Respondent did not administer any medications.

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was complete at the time he signed his application, and that the information provided in that section was incorrect. Specifically, he admits that he did not attend the program for 13 months, nor did he attend the program from April 4, 2011 to June 15, 2012. The Respondent states that he completed only two classes at the Virginia Program over a 6-month period.

When questioned at the evidentiary hearing about why he signed the application, the Respondent's testimony was varying. He noted that English was not his first language, and first testified that he thought the 13 months referred to the 13 months he completed at the D.C. Program, along with the two courses he took at the Virginia Program. He later testified that he thought the 13 months referred to the length of the Virginia Program, into which he transferred from the D.C. Program. Ultimately, the Board did not find the Respondent's testimony to be credible.

Upon weighing the entirety of the evidence against the lack of credible testimony in this case, the Board finds, by a preponderance of the evidence, that the Respondent was aware that the information on his application about his nursing education program was incorrect and misleading, but signed his application affirming that the contents therein were true and correct to the best of his knowledge and belief. Accordingly, the Board finds that the Respondent fraudulently and deceptively obtained an LPN license in violation of Health Occ. § 8-316(a)(1).

The Board also charged the Respondent with violating the professional code of ethics by knowingly participating in or condoning dishonesty, fraud, deceit, or misrepresentation in violation of Health Occ. § 8-316(a)(25), with the underlying ground of COMAR 10.27.19.02B(1). By signing his application and based on the discussion above, the Board finds that the Respondent violated the professional code of ethics by knowingly participating in and condoning dishonesty, fraud, deceit, and misrepresentation in violation Health Occ. § 8-

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316(a)(25), with the underlying ground of COMAR 10.27.19.02B(1).

The Board also charged the Respondent with fraudulently or deceptively using a license in violation of Health Occ. 8-316(a)(2). The Board finds that, by practicing nursing under an LPN license that was obtained by fraud or deceit, the Respondent fraudulently and deceptively used that license in violation of Health Occ. § 8-316(a)(2).

The Board also charged the Respondent with violating the regulations adopted by the Board that require an applicant for the LPN examination to complete satisfactorily and meet all requirements for a diploma from an LPN education program in any other state determined by the Board to be substantially equivalent<sup>10</sup> to the licensed practical nursing education programs approved in this State at the time of the applicant's graduation, in violation of Health Occ. § 8-316(a)(30), with the underlying ground of COMAR 10.27.01.05B(1)(b). The Respondent does not argue that the Virginia Program was substantially equivalent, and as discussed above, the Board finds, and the Respondent admits, that the Virginia Program Transcript submitted with his application for LPN licensure was fraudulent. Accordingly, the Board finds that the Respondent did not satisfactorily complete or receive a valid diploma from the Virginia Program.

The Respondent argues that because he completed all the coursework necessary to sit for the LPN licensure examination and should be able to maintain LPN licensure. The Board rejects this argument. The Maryland Nurse Practice Act requires a *diploma* from a nursing education program that is determined to be substantially equivalent to a Maryland program. The Respondent did not receive a diploma from the D.C. Program.

Accordingly, because the Respondent does not hold a valid diploma from a substantially equivalent LPN education program, the Board finds that the Respondent has violated the Board's

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<sup>10</sup> See Footnote 1.

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regulations by not meeting the educational qualifications for licensure as an LPN in the State of Maryland in violation of Health Occ. § 8-316(a)(30) with the underlying ground of COMAR 10.27.01.05B(1)(b).

Finally, the Board also charged the Respondent with violating the Nurse Practice Act while holding a nonrenewed CNA/GNA certificate in violation of Health Occ. § 8-6A-10(a)(20) and (26). The Board finds that the Respondent's CNA/GNA certificate was nonrenewed at the time of the above violations. Accordingly, the Board finds that the Respondent violated the Nurse Practice Act, specifically Health Occ. § 8-316(a)(1), (2), (25), and (30), while holding a nonrenewed CNA/GNA certificate in violation of Health Occ. § 8-6A-10(a)(20) and (26).

**B. *Summary Suspension***

On May 25, 2022, the Board summarily suspended the Respondent's LPN license based on the Board's finding that the public health, safety, and welfare imperatively required emergency action, and continued that summary suspension on June 1, 2022. It is critical for the health, safety, and welfare of all Marylanders that nurses who are practicing in the State of Maryland meet all minimum qualifications for licensure and that they obtain licensure based on valid documents and information. As stated above, the Board finds that the Respondent does not meet minimum qualifications for licensure as an LPN in the State of Maryland, that the transcript submitted with the Respondent's application was false and fraudulent, and that the Respondent fraudulently and deceptively obtained an LPN license in the State of Maryland. Accordingly, the Board affirms the summary suspension of the Respondent's LPN license on May 25, 2022.

Sanction

The Board finds that the Respondent's violations of the Nurse Practice Act fall within Category L(2) of the Board's sanctioning guidelines. COMAR 10.27.26.07L(2) ("Fraudulent or



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deceitful conduct or misrepresentation with physical, emotional, or financial harm or a risk of physical, emotional, or financial harm.”). Category L(2) ranges from reprimand to revocation, and a monetary penalty range of \$1,000 to \$5,000. *Id.*

Because the Respondent does not meet minimum qualifications for licensure as an LPN in the State of Maryland, the Board finds that the only appropriate sanction in this case is a *permanent* revocation of the Respondent’s LPN license, license number LP50202, such that the Respondent’s LPN license, license number LP50202, shall never be eligible for reinstatement. The Board will, however, accept an application from the Respondent for *initial* licensure as an LPN in the future, provided that the Respondent completes a practical nursing education program that meets the laws and regulations by the Board.

The Board, in its discretion, declines to impose any disciplinary sanction(s) on the Respondent’s CNA certificate.

**III. CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board concludes that the public health, safety, and welfare imperatively required the summary suspension of the Respondent’s LPN license, as ordered by the Board in its May 25, 2022 “Order for Summary Suspension of Licensed Practical Nurse License Pursuant to Section 10-226(c)(2) of the Administrative Procedure Act.”

Based on the foregoing Findings of Fact, the Board concludes, as a matter of law, that the Respondent violated Health Occ.:

§ 8-316(a):

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or for another;
- (2) Fraudulently or deceptively uses a license;

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- (25) Engages in conduct that violates the professional code of ethics; *to wit*:

COMAR 10.27.19.02B. A nurse may not, when acting in the capacity or identity of a licensed nurse:

- (1) Knowingly participate in or condone dishonesty, fraud, deceit, or misrepresentation;

- (30) Violates regulations adopted by the Board or an order from the Board; *to wit*:

COMAR 10.27.01.05B. An applicant for the licensed practical nurse licensure examination shall:

- (1) Meet all requirements for a high school diploma or its equivalent and complete satisfactorily and met all requirements for a diploma from:

- (b) A licensed practical nursing education program in any other state, territory, or country determined by the Board to be substantially equivalent to the licensed practical nursing education programs approved in this State at the time of the applicant's graduation;

And

§ 8-6A-10(a):

- (20) Has violated any provision of this title or has aided or knowingly permitted any individual to violate any provision of this title; to wit, § 8-316(a)(1), (2), (25), and/or (30);
- (26) When holding an expired certificate or a lapsed certificate, commits any act that would be grounds for disciplinary cation under this section[.]

**IV. ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby:

**ORDERED** that the summary suspension of the license of the Respondent, Philip N. Gbaka, to practice as a licensed practical nurse in the State of Maryland, license number

**GBAKA, Philip N. (LP50202; A00086082)**

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LP50202, as ordered by the Board in its May 25, 2022 "Order for Summary Suspension of Licensed Practical Nurse License Pursuant to Section 10-226(c)(2) of the Administrative Procedure Act," is hereby **AFFIRMED** and **LIFTED AND TERMINATED**; and it is further

**ORDERED** that the license of the Respondent, Philip N. Gbaka, to practice as a licensed practical nurse in the State of Maryland, license number LP50202, is hereby **PERMANENTLY REVOKED**; and it is further

**ORDERED** that the Respondent shall never be eligible for reinstatement of his licensed practical nurse license, license number LP50202; and it is further

**ORDERED** that the Respondent may apply for initial licensure as a licensed practical nurse after a minimum of one (1) year from the effective date of this Order has passed, provided that the Respondent produces evidence of completion of a licensed practical nursing education program that is either approved by the Board or that the Board finds to be substantially equivalent pursuant to section 8-302(c)(2)(ii) of the Health Occupations Article, Maryland Annotated Code, as well as meeting all other minimum qualifications to be issued an initial license to practice licensed practical nursing in the State of Maryland; and it is further


**ORDERED** that pursuant to the Nurse Licensure Compact, the multistate status of the Respondent's revoked LPN license shall be **deactivated**. Accordingly, the Respondent shall not have a multistate licensure privilege to practice as an LPN in any party state to the Nurse Licensure Compact unless and until the Board, in its discretion, grants a new LPN license to the Respondent and the Respondent is not otherwise disqualified from holding a multistate license at that time; and it is further

**GBAKA, Philip N. (LP50202; A00086082)**

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**ORDERED** that this Order is a **PUBLIC RECORD** under Md. Code Ann., General Provisions Article §§ 4-101 *et seq.* (2019).

*3/9/2023*  
Date

  
Karen E.B. Evans, MSN, RN-BC  
The Executive Director's Signature  
Appears on the Original Document

Executive Director  
Maryland Board of Nursing

**NOTICE OF APPEAL RIGHTS**

Any person aggrieved by a final decision of the Board under Md. Code Ann., Health Occ. § 8-316(a) and § 8-6A-10(a) may take a direct judicial appeal within thirty (30) days of the date this Order is mailed as provided by Md. Code Ann., Health Occ. § 8-318 and § 8-6A-11, Md. Code Ann., State Gov't § 10-222, and Maryland Rule 7-203(a)(2) ("Time for Filing Action").