

LOUISIANA STATE BOARD OF PRACTICAL NURSE EXAMINERS
131 AIRLINE DRIVE, SUITE 301
METAIRIE, LOUISIANA 70001-6266
(504) 838-5791
FAX (504) 838-5279
www.lsbpne.com

FILE COPY

**DEFAULT ORDER
IN THE MATTER OF**

The Louisiana State Board of Practical Nurse Examiners (Board)

v.

**Imeh Ebere (respondent), LPN, license #20100278
13954 Chalmette Avenue, Baton Rouge, LA 70810**

On April 20, 2015, a formal complaint/notice of hearing (Attachment A) was mailed to the last known address of the respondent. The respondent did reply to the complaint/notice of hearing, as required by the LAC 46:XLVII. 306.I and the respondent waived the right to a formal hearing. In accordance with the LAC 46:XLVII.306.J, this order is issued by default.

LEGAL AUTHORITY AND JURISDICTION

The board's legal authority and jurisdiction, in adjudication proceedings, are provided for in:

1. The Louisiana Revised Statutes of 1950, Title 37, Chapter 11, Part II, Section 961 et seq., as amended; and
2. The Louisiana Administrative Code, Title 46, Part XLVII, Subpart 1, Section 101 et seq., as amended; and
3. The Louisiana Administrative Procedure Act, Title 49, Chapter 13, Section 950 et seq., as amended.

FINDINGS OF FACT

1. The respondent was issued a license to practice practical nursing in the state of Louisiana on February 18, 2010.
2. On or about October 4, 2012, the respondent was indicted on one count of conspiracy to commit health care fraud and 9 counts of health care fraud. The respondent owned and operated Golden Medical, a business that provided durable medical equipment to Medicare beneficiaries and provided nutritional supplements (Glucerna, Boost, Ensure) to individuals. According to the indictment, beginning at least in or about September of 2003 through November of 2011, the respondent conspired and agreed with others and billed Medicare for medically unnecessary enteral nutrition services that were purportedly provided to patients who did not qualify for such services; billed Medicare for enteral nutrition and related services that were never provided; created false documentation for the medically unnecessary services and for services that were never provided, in order to support the false and fraudulent claims billed to Medicare; and

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caused the diversion of the proceeds of the fraud for the personal use and benefit of the defendants and their co-conspirators.

3. On October 10, 2012, the respondent falsified her 2013 practical nursing renewal application by answering "NO" to the question that asked "SINCE YOUR LAST RENEWAL, HAVE YOU: Been arrested, charged, convicted of, plead guilty or no contest and/or nolo contendere, or been sentenced for any criminal offense in any state? (NOTE: even though an arrest or conviction has been pardoned, EXPUNGED, dismissed or deferred, and your civil rights have been restored, you must answer "YES" and attach detailed written statement and a certified copy of the criminal records.)"
4. On February 19, 2015, the respondent pled guilty to one count of conspiracy to commit health care fraud. She was sentenced to imprisonment of 22 months and ordered to pay restitution in the amount of \$444, 000. All other counts against the respondent was nolle prossed.
5. On March 20, 2015, the respondent's license was suspended for failure to respond to the board's request for information.

CONCLUSIONS OF LAW

Based on the findings of fact, enumerated above, the respondent is in violation of:

1. The Louisiana Revised Statutes of 1950, Title 37, Chapter 11, Part II, Section 969 A. (4)
 - (a) is guilty of fraud or deceit in procuring or attempting to procure a license to practice practical nursing;
 - (b) is guilty of a crime;
 - (c) is unfit, or incompetent by reason of negligence habit, or other causes;
 - (f) is guilty of unprofessional conduct;
 - (g) has violated any provisions of this Part;

And 978 A. (8) Violate any provisions of this Part and Part B. And

2. The Louisiana Administrative Code, Title 46, Part XLVII, Subpart 1, Sections 306 T.
 1. being guilty of fraud or deceit in procuring or attempting to procure a license to practice practical nursing;
 2. being guilty of a crime;
 3. being unfit, or incompetent by reason of negligence, habit or other causes;
 8. being guilty of unprofessional conduct;

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- a. failure to practice practical nursing in accordance with the standards normally expected;
- g. improper use of drugs, medical supplies, or patients' records;
- i. falsifying records;
- n. being convicted of a crime or offense which reflects the inability of the nurse to practice practical nursing with due regard for the health and safety of clients or patients or enters a plea of guilty or nolo contendere to a criminal charge regardless of final disposition of the criminal proceeding including, but not limited to, expungement or nonadjudication or pardon;
- o. being guilty of moral turpitude;
- t. violating any provisions of R.S. 37:961 et seq. (the practical nursing practice act), as amended or aiding or abetting therein.

ORDER

In view of the above findings of fact and conclusions of law, the board issues the following order by default.

That the license of the respondent, **Imeh Ebere, license #20100278** be suspended for a minimum period of **four (4) years** from the date of this order.

During this suspension time, the respondent must abide by the following stipulations:

1. **Return license to the board office:**

- A. The respondent shall return his/her current practical nursing license to the board office within **ten (10) days** of the date of this order.
- B. The respondent shall not practice nursing during the period that his/her license is suspended.

2. **Obey all laws:**

- A. The respondent shall obey all laws/rules governing the practice of practical nursing in this state and obey all federal, state, and local laws.
- B. The respondent shall report to the board within **ten (10) days** any misdemeanor and/or felony arrest(s) or conviction(s).

3. **Notify board of change of address/telephone number:**

A. The respondent shall notify the board in writing within **ten (10) days** of any change in personal address or telephone number.

4. **Obtain a State and F.B.I. Criminal Background Check:**

A. Prior to any reinstatement request, the respondent must submit to state and F.B.I. criminal background record checks.

B. Once the respondent receives the results from the F.B.I., the respondent is to forward the information to the board office. The board will receive the state background results directly from the state police.

5. **Courses:**

The respondent must take and satisfactorily complete board approved courses in the following areas:

- **Documentation for Nurses**
- **Nurse's Legal Advisor**
- **Ethics**

Evidence of completion of the course(s) is due in the board office prior to any reinstatement request.

6. **Fines/Fees:**

A. The respondent is hereby fined **\$1000.00, payable by cashier's check or money order only**, for the violations detailed in the conclusions of law, payable within **90 days** of the date of this order.

B. The respondent must pay any/all fines/fees owed to the board, including a reinstatement fee, if/when applicable. Fines/fees are **payable by cashier's check or money order only**.

7. **Reinstatement requirements:**

A. All stipulations of the suspension must be successfully fulfilled prior to a request for reinstatement.

B. The respondent is to submit a written request for reinstatement to the board office.

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Upon favorable review of the reinstatement request, the license of the respondent may then be placed on probation for a minimum period of **two (2) years**. During this probationary period the respondent shall follow **stipulations #2 and 3 as stipulated above and the following stipulations as stipulated below:**

1. **License:**

A. The license of the respondent will be stamped "**PROBATION**".

2. **Fines/Fees:**

- A. The respondent is to submit a \$500.00 annual probation monitoring fee, **payable by cashier's check or money order only.**
- B. The probation monitoring fee is due within **three (3) months** of receiving a probated license, and annually thereafter until the probation is satisfactorily completed.
- C. Failure to pay this fee in the time allotted will result in the immediate suspension of the respondent's practical nursing license.

3. **Employment:**

- A. The respondent shall provide a copy of the entire board order/consent order including the findings of fact and conclusions of law immediately to any/all current employer(s) and at the time of application to any/all prospective employer(s).
- i. If the respondent is already employed as an lpn, the respondent and the current employer shall enter into the board's **Employer's Agreement** (form(s) issued by board). The signed form(s) shall be submitted to the board office within **ten (10) days** of the date of this order.
 - ii. Upon obtaining new employment as an lpn, the respondent shall enter into the board's **Employer's Agreement** (form(s) issued by board) with the prospective employer. The signed form(s) shall be submitted to the board office within **ten (10) days** of the date of hire.
- B. All current and prospective employers must agree to allow the respondent's direct supervisor to monitor the respondent while on probation as well as timely submission of evaluations.

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- C. Probation will run concurrent with employment as an lpn.
- D. The respondent must be employed a minimum of 80 hours per month.
- E. The probationary period will not commence or progress until and unless the respondent is employed and delivering direct patient care as a licensed practical nurse.
- F. Failure to maintain stable employment may be grounds for termination of probation.
- G. The respondent must practice under the supervision of a nurse (rn or lpn) or physician whose license is unencumbered and must provide direct patient care as follows:
 - i. The respondent must be supervised on a regular and consistent basis by his/her assigned supervisor. The supervisor must observe and work closely enough with the respondent to be able to give an informed evaluation of the respondent. The employer must be willing to allow this supervision and provide opportunities for the same supervisor to evaluate the performance of the respondent.
 - ii. It is the respondent's responsibility to ensure that his/her supervisor submits the evaluation reports quarterly.
 - a. Reports are due on or before the 10th day of January, April, July, and October of each year. (Note: these forms will be provided to the employer)
 - b. Only the respondent's direct supervisor may complete the evaluations according to the observations made during the supervision.
- H. The respondent is prohibited from working in temporary staffing, as an agency nurse, for a nursing pool and/or in the home health setting, or in any other similar setting including but not limited to working in a teaching capacity, as a travel nurse and/or on an "as needed" basis - prn.
- I. The respondent shall notify the board in writing within **ten (10) days** of any change in employment. Changes in employment include accepting a new job, as well as resignation, or termination.

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- J. Upon obtaining a prescription for controlled/abuse potential substance(s) while holding a probated license, the respondent is responsible for informing his/her employer within **three (3) days** from the date of the prescription(s).

Violations

The respondent is hereby notified that failure to comply with any stipulations of this order of the board may result in any or all of the following:

- a) immediate suspension of license, b) indefinite suspension of license, c) ineligibility for annual renewal of license, d) additional fines/penalties up to \$500.00 per occurrence, e) increased probationary period, f) summary suspension and g) revocation.

Public Records

This order is public record. All disciplinary actions of the board will be reported to all required data banks and agencies as required by law.

LOUISIANA STATE BOARD OF PRACTICAL NURSE EXAMINERS

M. Lynn Ansardi, RN

M. Lynn Ansardi, RN
Executive Director

5.27.2015
Date

Rendered this 27th day of May, 2015, and mailed this 27th day of May, 2015, by U.S. Postal Service, Regular and Certified Mail No. 7015 0920 0001 4574 5053 to:

Imeh Ebere
13954 Chalmette Ave.
Baton Rouge, LA 70810

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MAY 18 2015

L.S.B.P.N.E

April 20, 2015

Imeh Ebere
13954 Chalmette Ave.
Baton Rouge, LA 70810

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7014 2120 0003 8719 4698

LICENSE #20100278
D.O.B. 5/28/1959

FORMAL COMPLAINT

The Louisiana State Board of Practical Nurse Examiners, hereinafter called the board, files this formal complaint against the respondent. This serves as notice required by the Administrative Procedure Act R.S. 49:955(B).

A hearing will be conducted at the offices of the board on the date and at the time specified here:

Date: May 28, 2015

Time: 9:00 a.m.

Place: 131 Airline Dr., Suite 301, Metairie, LA 70001

The nature of the hearing is prosecution of the matter:

The Louisiana State Board of Practical Nurse Examiners
v.

Imeh Ebere

The board's legal authority and jurisdiction, in this process of adjudication, are provided for in:

1. The Louisiana Revised Statutes of 1950, Title 37, Chapter 11, Part II, Section 961 et seq., as amended; and
2. The Louisiana Administrative Code, Title 46, Part XLVII, Subpart 1, Section 101 et seq., as amended; and
3. The Louisiana Administrative Procedure Act, Title 49, Chapter 13, Section 950 et seq., as amended.

1
ATTACHMENT

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The hearing concerns alleged violations of the following sections of the statutes/rules:

1. The Louisiana Revised Statutes of 1950, Title 37, Chapter 11, Part II, Section 969 A. (4);
 - (a) is guilty of fraud or deceit in procuring or attempting to procure a license to practice practical nursing;
 - (b) is guilty of a crime;
 - (c) is unfit, or incompetent by reason of negligence habit, or other causes;
 - (f) is guilty of unprofessional conduct;
 - (g) has violated any provisions of this Part;

And 978 A (8) Violate any provisions of this Part and B.

2. The Louisiana Administrative Code, Title 46, Part XLVII, Subpart 1, Sections § 306 T.

1. being guilty of fraud or deceit in procuring or attempting to procure a license to practice practical nursing;
2. being guilty of a crime;
3. being unfit, or incompetent by reason of negligence, habit or other causes;
8. being guilty of unprofessional conduct;
 - a. failure to practice practical nursing in accordance with the standards normally expected;
 - g. improper use of drugs, medical supplies, or patients' records;
 - i. falsifying records;
 - n. being convicted of a crime or offense which reflects the inability of the nurse to practice practical nursing with due regard for the health and safety of clients or patients or enters a plea of guilty or nolo contendere to a criminal charge regardless of final disposition of the criminal proceeding including, but not limited to, expungement or nonadjudication or pardon;
 - o. being guilty of moral turpitude;
 - t. violating any provisions of R.S. 37:961 et seq. (the practical nursing practice act), as amended or aiding or abetting therein.

The major issues involved include, but are not limited to the following:

1. The respondent was issued a license to practice practical nursing in the state of Louisiana on February 18, 2010.

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ATTACHMENT

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2. On or about October 4, 2012, the respondent was indicted on one count of conspiracy to commit health care fraud and 9 counts of health care fraud. The respondent owned and operated Golden Medical, a business that provided durable medical equipment to Medicare beneficiaries and provided nutritional supplements (Glucerna, Boost, Ensure) to individuals. According to the indictment, beginning at least in or about September of 2003 through November of 2011, the respondent conspired and agreed with others and billed Medicare for medically unnecessary enteral nutrition services that were purportedly provided to patients who did not qualify for such services; billed Medicare for enteral nutrition and related services that were never provided; created false documentation for the medically unnecessary services and for services that were never provided, in order to support the false and fraudulent claims billed to Medicare; and caused the diversion of the proceeds of the fraud for the personal use and benefit of the defendants and their co-conspirators.
3. On October 10, 2012, the respondent falsified her 2013 practical nursing renewal application by answering "NO" to the question that asked "SINCE YOUR LAST RENEWAL, HAVE YOU: Been arrested, charged, convicted of, plead guilty or no contest and/or nolo contendere, or been sentenced for any criminal offense in any state? (NOTE: even though an arrest or conviction has been pardoned, EXPUNGED, dismissed or deferred, and your civil rights have been restored, you must answer "YES" and attach a detailed written statement and a certified copy of the criminal records.)"
4. On February 19, 2015, the respondent pled guilty to one count of conspiracy to commit health care fraud. She was sentenced to imprisonment of 22 months and ordered to pay restitution in the amount of \$444, 000. All other counts against the respondent was nolle prossed.
5. On March 20, 2015, the respondent's license was suspended for failure to respond to the board's request for information.

You have ten (10) days prior to the date fixed for the hearing to respond (response form enclosed) to this complaint. If you fail to respond, in writing, within this time, you will be deemed to have waived the right to a hearing and action may be taken on this complaint by default, or the hearing may proceed in your absence.

Please find enclosed, a copy of rules related to the formal hearing process.

3
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RIGHT TO PETITION FOR REHEARING/APPEAL/JUDICIAL REVIEW

A decision issued by the board, after the hearing in this matter, may be appealed. LRS 37:976 provides: "Appeals from decisions of the board shall be to the Civil District Court of Jefferson Parish..." The petition for appeal must be filed within thirty days of the date of the mailing of the notice of the board's final decision; copies of the petition must be served on the board and all parties of record (LRS 49:964). A request may also be made to the board for rehearing, re-opening or reconsideration of the board's order. This request must be filed within ten days from the date of the board order and set forth legally sufficient reasons for granting the requests. (LRS 49:959 and LAC 46:XLVII.306.S).

By: M. Lynn Ansardi RN
M. Lynn Ansardi, RN
Executive Director

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April 20, 2015

Please sign, date and return to the board office at 131 Airline Dr., Ste. 301, Metairie, LA 70001.

I admit to the allegations contained in the notice of complaint and will appear for the scheduled formal hearing.

I deny the allegations contained in the notice of complaint and will appear for the scheduled formal hearing.

I admit to the allegations and hereby waive my rights to a formal hearing in the matter. I will not appear for the scheduled formal hearing and understand that in doing so my case may either be heard without my appearance, or the Board may issue an order by default.

I deny the allegations and hereby waive my rights to a formal hearing in the matter. I will not appear for the scheduled formal hearing and understand that in doing so my case may either be heard without my appearance, or the Board may issue an order by default.

I enclose my written response to the allegation(s) contained in the notice of complaint and will not appear for the scheduled formal hearing. I understand that in doing so my case will be heard without my appearance.

NAME: Imeh Ebere
ADDRESS: 13954 Chalmette Ave BR-2A708C
PHONE#: 225-751-8946
DATE: 05-11-15
SIGNATURE: Imeh Ebere