



# The Commonwealth of Massachusetts

Executive Office of Health and Human Services  
Department of Public Health  
Division of Health Professions Licensure  
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**MONICA BHAREL, MD, MPH**  
Commissioner

November 23, 2015

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED NO. 7012 3460 0001 7330 8227

Jean Andre Clemat

redact

RE: In the Matter of Jean Andre Clemat, Docket Nos. NUR-2015-0153 and NUR-2015-0157  
License Nos. LN61194 and RN2300490

Dear Mr. Clemat:

Please find enclosed the Final Decision and Order on Summary Suspension issued by the Board of Registration in Nursing on November 23, 2015 and effective November 23, 2015. Please note that your license status will remain "suspension" status until Board adjudicates complaint NUR-2015-0157 or entered into a consent agreement with you that constitutes final disposition of this complaint.

You may contact Vita Berg, Board Counsel at (617) 973 – 0950 with any questions that you may have concerning this matter.

Sincerely

Amy Fein, RN, BSN, JD  
Co-Interim Executive Director  
Board of Registration in Nursing

Encl.

cc: Michelle Fentress, Esq., Prosecuting Counsel  
Beverly Kogut, Administrative Hearings Counsel

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

BOARD OF REGISTRATION IN NURSING

In the Matter of )  
JEAN ANDRE CLEMAT )  
License No. RN2300490 )  
License expires 5/12/16 )  
License No. LN61194 )  
License expires: 5/12/17 )

Docket No. NUR-2015-0153<sup>1</sup> &  
NUR-2015-0157

**FINAL DECISION AND ORDER ON SUMMARY SUSPENSION**

FINAL DECISION

On September 10, 2015, the Board of Registration in Nursing (“Board”) issued an Order of Summary Suspension against the license of Jean Andre Clemat (“Respondent”) to practice as a licensed practical nurse on the basis of allegations in a Request for Summary Suspension presented to the Board on September 9, 2015. The September 10 Order of Summary Suspension included notice that the Board would conduct a hearing on September 15, 2015 on the issue of the necessity of continuing the summary suspension of the Respondent’s license.

On September 15, 2015, the Board held a formal hearing on the necessity of continuing the summary suspension before Administrative Hearings Counsel (“AHC”) Beverly Kogut. The Respondent and prosecuting counsel appeared and presented testimony and evidence. On October 9, 2015, the AHC issued a Tentative Decision contains the AHC’s findings based on the evidence presented by the parties at the September 15, 2015. Neither the Respondent nor Prosecuting Counsel have filed Objections to the Tentative Decision.

The Board hereby adopts the Tentative Decision, including all findings of fact and discussion contained therein, as the Board’s Final Decision.

<sup>1</sup> Docket No. NUR-2015-0153, concerning Respondent’s Registered Nurse license No. RN2300490, was resolved by Consent Agreement between Respondent and the Board, effective September 9, 2015. Docket No. NUR-2015-0157, which remains pending, concerns Respondent’s Licensed Practical Nurse license No. LN61194.

ORDER

The Board hereby orders that Respondent Jean Andre Clemat's license to practice as a Licensed Practical Nurse LN61194, and his right to renew such license shall CONTINUE TO BE SUMMARILY SUSPENDED. The September 10, 2015 Order of Summary Suspension shall remain in effect until the adjudication of the merits of the complaint, including any judicial review thereof, or until other final disposition of the complaint by the Board. Respondent shall not engage in the practice of nursing while the Order of Summary Suspension is in effect.

The Board voted to adopt the within Final Decision on Summary Suspension at its meeting held on November 18, 2015, by the following vote:

*In favor:* S. Abbott; A. Alley, BSN, RN; M. Beal, RN/NM; P. Gales, RN;  
K. Gehly, RN; J. Killion, LPN; C. LaBelle, RN, BSN,  
E. Richard Rothmund; C. Simonian, Pharm.D., R.Ph.;  
S. Taylor, MSN, RN; C. Urena, LPN  
*Opposed:* None  
*Abstained:* None  
*Recused:* None  
*Absent:* A. Peckham, RN, MSN; C. Tebaldi, RN, MS

The Board voted to adopt the within Final Order of Summary Suspension at its meeting held on November 18, 2015, by the following vote:

*In favor:* S. Abbott; A. Alley, BSN, RN; M. Beal, RN/NM; P. Gales, RN;  
K. Gehly, RN; J. Killion, LPN; C. LaBelle, RN, BSN,  
E. Richard Rothmund; C. Simonian, Pharm.D., R.Ph.;  
S. Taylor, MSN, RN; C. Urena, LPN  
*Opposed:* None  
*Abstained:* None  
*Recused:* None  
*Absent:* A. Peckham, RN, MSN; C. Tebaldi, RN, MS

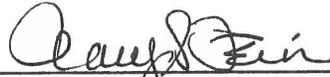
EFFECTIVE DATE OF ORDER

This Final Decision and Order by Default becomes effective upon the tenth (10<sup>th</sup>) day from the date it is issued (see "Date Issued" below).

Board of Registration in Nursing,

Date Issued:

November 23, 2015



Amy Fein, RN BSN, JD  
Co-interim Executive Director  
Board of Registration in Nursing

Notified: \_\_\_\_\_

VIA FIRST CLASS AND CERTIFIED MAIL RETURN  
RECEIPT REQUESTED NO. 7012 3460 0001 7330 8227

Jean Andre Clemat

redact

BY HAND DELIVERY

Beth Oldmixon, Esq.  
Prosecuting Counsel  
Department of Public Health  
Division of Health Professions Licensure  
239 Causeway Street  
Boston, MA 02114

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION IN  
NURSING

IN THE MATTER OF )  
JEAN ANDRE CLEMAT )  
RN LICENSE NO. 2300490 )  
RN LICENSE EXP. DATE 5/12/2016 )  
LN LICENSE NO. 61194 )  
LN LICENSE EXP. DATE 5/12/2017 )

DOCKET NO. NUR-2015-0153<sup>1</sup> &  
NUR-2015-0157

**TENTATIVE DECISION ON SUMMARY SUSPENSION**

1. Summary of Proceedings

On September 10, 2015, in accordance with Massachusetts General Laws (G.L.) Chapter 13, §14, G.L. c. 112, §61, and 244 CMR 7.05, the Massachusetts Board of Registration in Nursing (Board) temporarily suspended Jean Andre Clemat's (Respondent) license to practice as a licensed practical nurse in the Commonwealth of Massachusetts (LN License No. 61194) based on a request for order of summary suspension supported by affidavits and documents. The Board determined that reliable information supported the allegations of the request for order of summary suspension and Respondent's continued practice as a licensed practical nurse presented an immediate and serious threat to the public health, safety, or welfare. On September 10, 2015, the Board issued an order of summary suspension and noticed a hearing to be held at 9:30 a.m. on September 15, 2015, within 7 days of the issuance of the order.

On September 15, 2015, a hearing on the necessity of continuing the summary suspension pending final disposition of the complaint was held at the offices of the Division of Health Professions Licensure (DHPL). The hearing was conducted pursuant to G.L. c. 30A, §§ 10, 11, and 12, and the Standard Adjudicatory Rules of Practice and Procedure at 801 CMR 1.01 *et seq.* Respondent appeared *pro se* and testified on his own behalf. Prosecuting Counsel appeared on behalf of the Board and called two witnesses, Respondent and a DHPL investigator. Exhibits 1-8 were entered into the record without objection.

The Order of Summary Suspension and Notice of Hearing (Exhibit A) delineated the scope of the summary suspension hearing. It cited a section of the Board's summary suspension regulation, 244 CMR 7.05 (5) entitled *Hearing on Necessity of Summary Suspension*, as follows: "At the adjudicatory hearing on the necessity for summary suspension, the Board shall receive

<sup>1</sup> Docket No. NUR-2015-0153, concerning Respondent's Massachusetts RN license No. RN2300490, was closed on September 9, 2015. It was resolved by a Consent Agreement between Respondent and the Massachusetts Board of Registration in Nursing for permanent revocation of the RN license (Exhibit 8). This instant matter, Docket No. NUR-2015-0157, is the summary suspension proceeding and disciplinary complaint against Respondent's LN license.

oral and documentary evidence limited to its determining whether the summary suspension order shall continue in effect pending the final disposition of the complaint against your license.”

**2. Summary of Parties' Presentations**

The oral and documentary evidence and the parties' arguments presented at the hearing indicate the following:

1. On or about September 13, 2000, the Board issued to Respondent a license to practice as a Licensed Practical Nurse (LN License No. 61194). The Board has determined that Respondent's LN license is a valid license and that he passed the NCLEX-PN, a nationwide examination for the licensing of practical nurses. Nothing in the record indicates that that the LN license was obtained based on fraudulent documents.
2. On or about April 7, 2015, Respondent submitted to the Board an Application for Licensure as a Registered Nurse by Reciprocity ("Application") and two Verifications of Nurse Licensure by Reciprocity, one from Alabama ("Alabama Verification") and one from Georgia ("Georgia Verification"). Respondent attested under the pains and penalties of perjury that the documents he submitted were truthful and accurate. The documents indicate that the Georgia Board of Nursing ("Georgia Board") and Alabama Board of Nursing ("Alabama Board") each issued an RN license to Respondent on August 20, 2005 and that Respondent graduated with a Bachelor of Science Nursing Degree from the State University of New York (SUNY) at Binghamton, New York and passed the NCLEX, a nationwide examination for the licensing of nurses.
3. On or about May 29, 2015, the Massachusetts Board issued an RN license to practice nursing as a registered nurse to Respondent.
4. On or about September 1, 2015, the Georgia Board informed the Massachusetts Board that the Georgia Verification, which purports to be completed and submitted by the Georgia Board, was fraudulent. On or about that same date, the Alabama Board informed the Massachusetts Board that the Alabama Verification contains fraudulent information and signatures.
5. On or about September 9, 2015, Respondent (also referred to as "Licensee") and the Board entered into Consent Agreement for Permanent Revocation of Respondent's Massachusetts RN license ("Agreement"), in the above-referenced Docket No. NUR-2015-0153. (Exhibit 8)
6. The Agreement, in which Respondent admits, among other things, that he obtained his Massachusetts RN license based on fraudulent documents and used the fraudulent license to practice as an RN in Massachusetts, provides in pertinent part:

The Board and Licensee stipulate and agree that the following information shall be entered into and become a permanent part of the Licensee's record maintained by the Board.

*Paragraph 1:* Licensee acknowledges that a complaint has been filed with the Board against his [RN license] related to the conduct set forth in

paragraph 2 below, identified as Docket No. NUR-2015-0153 (the Complaint).

*Paragraph 2:* Licensee admits that on or about February 10, 2015, he submitted or directed another person to submit, on his behalf, an application for licensure as Registered Nurse by reciprocity. On his application, he indicated that the Alabama Board of Nursing issued a Registered Nurse (RN) license (#13215) to him on August 20, 2005. The Licensee admits that the information was not truthful or accurate because he never possessed an RN license from Alabama. He admits that he submitted or directed another person to submit, on his behalf, fraudulent documents to obtain a Massachusetts RN license. He further admits that he has presented himself as a duly licensed RN in Massachusetts and that he has engaged in the practice of nursing in Massachusetts.

The Licensee acknowledges that his conduct constitutes a lack of Good Moral Character as it relates to the Board's Licensure Policy 00-01 and that said conduct fails to comply with the Board's Standards of Conduct at 244 Code of Massachusetts Regulations (CMR) 9.03 (1), (34) and (47). He further acknowledges that his conduct warrants disciplinary action by the Board under Massachusetts General Laws (G.L.) Chapter 112, sections 61, 74 and Board regulations 244 CMR 7.04, Disciplinary Actions.

*Paragraph 3:* Licensee agrees to a permanent revocation of his nursing license commencing with the date on which the Board signs this Agreement (Effective Date).

*Paragraph 4:* The Licensee agrees that he will not practice as a Registered Nurse in Massachusetts from the Effective Date.

*Paragraph 5:* The Board agrees that in return for the Licensee's execution of this Agreement it will not prosecute the complaint.

*Paragraphs 6-7:* The Licensee acknowledges that he is waiving, among other rights, his right to a formal adjudication of the complaint and he has been at all times free to seek and use legal counsel in connection with the complaint and this Agreement.

*Paragraph 8:* The Licensee acknowledges that after the Effective Date, the Agreement constitutes a public record of disciplinary action by the Board.

The Effective Date of the Agreement, signed by Respondent and the Board, is September 9, 2015.

(Exhibit 8)

7. Respondent testified at the hearing to the same facts as stated in both paragraphs of Paragraph 2 of the Agreement, acknowledging that he fraudulently obtained his RN nursing license, has held himself out as an RN, been paid as an RN and practiced as a RN in Massachusetts, and that his conduct constitutes a lack of Good Moral Character as it relates to the Board's Licensure Policy 00-01 and, further that his conduct violates additional nursing regulations and laws. He further testified that he never attended SUNY at Binghamton, NY, never received a Bachelor of Science in Nursing Degree, was never licensed as a nurse of any type in Alabama, and was never licensed as a nurse of any type in Georgia.
8. Respondent testified that he earned his LN license and for the past 15 years that he has practiced as an LN, has always been a good LN. He asks that he be given the benefit of the doubt and the Board lift the suspension of his LN license and allow him to continue practicing as an LN until the Board makes a final decision in this matter.
9. Prosecuting Counsel argued that Respondent's conduct violates the trust required between nurses and their patients and between nurses and the Board and reflects a lack of good moral character. The Board can have no confidence that Respondent can practice in a truthful manner and only within the scope of his LN license. The Board is seeking to continue the summary suspension pending a hearing on the merits, as his continued practice constitutes an immediate and serious threat to the public health, safety and welfare.

### 3. Exhibits

The exhibits which were entered into the record are listed below and summarily described as (1) Board documents issued in this summary suspension matter (Exhibits A-B, 1-5); and (2) additional documents submitted at the hearing (Exhibits 6-8).

Exhibit A: September 10, 2015 Board-issued cover letter, Order of Summary Suspension and Notice of Hearing with Certificate of Service; and

Exhibit B: September 8, 2015 Request for Order of Summary Suspension, with Exhibits 1-5 attached thereto:

Ex. 1: Record of Standing with the Board

Ex. 2: Application as a Registered Nurse Licensure by Reciprocity

Ex. 3: Verification of Nurse Licensure by Reciprocity (Alabama)

Ex. 4: Affidavit of Maryanne Sheckman

Ex. 4A: E-Mail communication between Sheckman and Howard Kenney, Chief Special Investigator at the Alabama Board

Ex. 4B: E-Mail communication between Sheckman and Jim Cleghorn, Executive Director Georgia Board

Ex. 5: Verification of Nurse Licensure by Reciprocity (Georgia)

Ex. 6: Copy of Massachusetts Driver's License for Respondent

Ex. 7: NCLEX-LN Candidate Report and Application for Licensure as a Licensed Practical Nurse by Examination

Ex. 8: Consent Agreement for Permanent Revocation *In the Matter of Jean Andre Clemat*, Massachusetts Board of Registration in Nursing Docket No. NUR-2015-0153

#### 4. Conclusion

The issue before this hearing officer is whether Respondent's continued practice as an LN presents an immediate and serious threat to the public health, safety or welfare and whether the summary suspension shall continue in effect until the adjudication of the merits of the complaint, including judicial review thereof, or until other final disposition of the complaint by the Board. 244 CMR 7.05 (6).

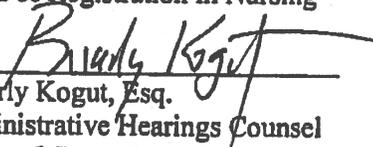
"The historical aim of licensure generally is preservation of public health, safety, and welfare by extending the public trust to those with proven qualifications." *Leduc v. Commonwealth*, 421 Mass. 433, 435 (1995), citing *Levy v. Board of Registration and Discipline in Medicine*, 378 Mass. 519, 527-528 (1979). Good Moral Character is a statutory requirement and qualification for all licensed nurses in Massachusetts. G.L. c. §§ 74, 74A, 76, and 80B. To qualify to practice as a nurse in Massachusetts, applicants and nurses must comply with the Board's Good Moral Character Policy 00-01(GMC Policy) which requires nurses to demonstrate integrity, honesty, trustworthiness, and the ability to distinguish right from wrong. These important traits reflect on a nurse's fitness to practice and are essential to the delivery of safe and competent nursing care. The Board's GMC Policy notes that the absence of the attributes of good moral character is most often demonstrated by conduct showing a disregard for honesty, integrity, and trustworthiness. Respondent admits, among other things, that his conduct constitutes a lack of good moral character as it relates to the Board's GMC Policy. The trust that a patient has in a nurse is a critical component of a nurse's delivery of care in a safe and therapeutic environment. Patients have the right to expect, for their health, safety and welfare, that nurses will act with integrity in interacting with them and will honestly and accurately report and record the patient's conditions and the care provided by the nurse. Nurses often provide care to populations rendered vulnerable by illness, injury or age, such as the elderly and young children. Respondent's conduct, of securing a license through deception and practicing as an RN based on a fraudulently obtained license, violates the trust that the public and Board expect and require of a nurse.

Respondent's falsification of critical and important documents as to licensure, which documents he submitted under the pains and penalties of perjury, and admitted deception and conduct of practicing nursing as an RN when he did not have the required education, qualifications and training is of particular importance to the Board. His deceptive and fraudulent conduct as to such serious matters raises legitimate and grave concerns as to whether he will continue to act in a deceptive manner in the delivery of nursing care, including the falsification

of documents. Respondent's conduct indicates a lack of the integrity, honesty and trustworthiness required of those who are licensed to engage in the practice of nursing. The oral and documentary evidence presented at the hearing establishes that Respondent's continued practice as an LN presents an immediate and serious threat to the public health, safety or welfare warranting the continuation of the summary suspension of his LN license.

I recommend that the Board continue the summary suspension of the LN license pending a hearing on the merits of the complaint or other final disposition of the complaint and the Board take other action it deems consistent with this decision. The summary suspension order remains in effect. Respondent shall not engage in the practice of nursing as ordered by the Board while the summary suspension is in effect. Any questions by Respondent should be directed to Counsel for the Board of Registration in Nursing, Olajumoke Atueyi, Esq., in writing at Department of Public Health, Division of Health Professions Licensure, 239 Causeway Street, 5<sup>th</sup> Floor, Boston, MA 02114 or at 617-973-0824.

Board of Registration in Nursing

By:   
Beverly Kogut, Esq.

Administrative Hearings Counsel  
Office of General Counsel  
Department of Public Health  
Division of Health Professions Licensure  
239 Causeway Street, Suite 500, 5<sup>th</sup> Floor  
Boston, MA 02114

Date: October 9, 2015

Notified: JAC; BAO; OA

Via First Class & Certified Mail Return Receipt Requested No. 7015 1520 0002 8254 7771

Jean Andre Clemat

redact

**Via Interoffice Mail**

Beth A. Oldmixon, Esq.  
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**Via Interoffice Mail**

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