

Syllabus

IN THE MATTER OF
NATIONAL INSTITUTE OF PRACTICAL NURSING ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 5700. Complaint, Oct. 3, 1949—Decision, Apr. 30, 1952

The designation of "practical nurse", when applied to one who acquired it by attending a school, means, in its full sense, one who has satisfactorily completed a full-time, nine months' course of instruction which includes a substantial amount of time in a hospital or other institution for the care of the sick, with work under supervision at the bedside of patients therein.

Where a corporation and its two officers, engaged in the operation of a school, purportedly for the training of practical nurses, which included the furnishing of 38 printed lessons, classroom instruction consisting of two two-hour periods weekly extending over six months (a total of some 96 hours), a bath thermometer, clinical thermometer, nurse's uniform and cap, forceps and certain other equipment, class instruction given on the premises by registered nurses and one physician who lectured to each class about twelve times; and the giving of examinations to the students from time to time; but did not include any hospital training, demonstrations in which sick people were involved, or contact by the students with actual living patients, the "practical" training being given on manikins;

In representations which were in large part addressed to residents of Washington, D. C., and its immediate vicinity, who contemplated employment in the same area after taking the course, and which were contained in newspapers published in said District, and in postcards and letters sent to prospective students—

- (a) Represented, directly and by implication, that there was no distinction or difference between "practical nurses", "trained practical nurses" and "graduate practical nurses", and that its graduates forthwith entered all of said categories, and were practical nurses in the full sense of the term;
- (b) Represented that the course of instruction was complete and covered all the necessary subjects in such a manner that one who successfully completed it had become a practical nurse in the full sense of the term;
- (c) Represented that many hospitals desire the services of and employed practical nurses; and
- (d) Represented orally to some prospective students that they would be eligible for employment as practical nurses in Washington, D. C., hospitals; would be recognized as practical nurses; that the school was recognized by hospitals and the Red Cross; and that they would be qualified to practice in any hospital with a graduate practical nurse's qualifications;
- (e) Falsely represented that a certain Washington hospital recognized "the diploma or certificate issued" to their graduates;

The facts being that their course of instruction fell far short of such a curriculum as connoted by the designation "practical nurse"; use of the term "complete" to describe their course and of the designation of their graduates as "practical nurse", "trained practical nurse" and "graduate practical nurse" was misleading; graduates did not meet the requirements for employment as practical nurses of the only hospital in the Washington area which employed such nurses, nor did they meet those of the Civil Service; and the hospital concerned did not employ practical nurses as such, but nurse's aides, whose status was lower, and in connection with which employment completion of their course constituted no additional recommendation;

With tendency and capacity to mislead many herein concerned with respect to the opportunity for employment in hospitals as practical nurses in the area in which they would be most prone to seek and desirous of obtaining such employment; and to mislead and deceive members of the public into the belief that the representations were true, and thereby into the purchase of a substantial number of said combinations of courses and equipment:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

As respects the use of the term "practical nurse" to describe the school's graduates in respondents' advertising of their school, it was the Commission's conclusion that the use of said term constituted a misrepresentation which was not susceptible of cure by the use of explanatory phraseology, and that any such attempt would result not in clarification but in contradiction, or at best confusion.

In the aforesaid proceeding, while it could not be found, on the weight of the evidence, that the representation that many hospitals desired the services of and employed practical nurses was false as a generalization, it was nevertheless misleading as used by respondent in view of the persons to whom such representations were in large part, if not primarily, addressed.

As respects other issues presented by the pleadings, which included the alleged false and misleading representation that respondents had placed hundreds of graduates in positions in hospitals, institutions and private cases; that no high school education was required and no previous experience necessary for a student; that enrollees would be placed in positions as practical nurses upon completion of the course; that doctors connected with the school would certify to the qualifications of the graduates; and with regard to respondents' alleged failure to advise enrollees that purchase of a class pin for \$6.50 was required at the conclusion of the course, in addition to the cash payment, before the diploma was granted; and misuse of the word "institute", especially as used in connection with the trade name, and the word "diploma": The Commission concluded that the allegations of the complaint had not been proved.

Before *Mr. John W. Addison*, hearing examiner.

Mr. William L. Pencke for the Commission.

Mr. Simon E. Sobeloff and *Schonfield & Schonfield*, of Baltimore, Md., for respondents.

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Complaint

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that National Institute of Practical Nursing, a corporation, and Edward Williams and Lillian J. Williams, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. National Institute of Practical Nursing is a corporation organized, existing, and doing business under the laws of Maryland. Edward Williams is President and Lillian J. Williams is Secretary of said corporation, and as such formulate, determine, and control all of the business policies and activities of said corporation. The principal office and place of business of said corporate and individual respondents is located in the Victor Building at 909-911 "G" Place, N. W., in the city of Washington and District of Columbia.

PAR. 2. Said corporate respondent is now, and has been for more than two years last past, engaged in the operation of a school in the District of Columbia for the training of practical nurses and in the sale of books and other supplies used in connection therewith. The volume of business done by respondents in the conduct of said school and the sale of said equipment as aforesaid has been and is substantial.

PAR. 3. In the course and conduct of said business, said corporate respondent makes use of advertisements in newspapers published in the District of Columbia and of circulars, letters, and other advertising material disseminated to prospective students, in and by which many false, misleading, and deceptive statements and representations are made in regard to the pursuit of said studies and to practical nursing and matters and things connected therewith. Typical of such statements and representations are the following:

PRACTICAL NURSES

EARN UP TO \$10 A DAY

Fast, Efficient	The desperate shortage of nurses means opportunity for YOU. Doctors, hospitals, private cases,
ACTUAL	institutions are calling for practical nurses. Train in
CLASSROOM	your spare time regardless of age or education. Morn-
INSTRUCTION	ing, afternoon and evening classes. Convenient pay-
Summer Classes	ment terms. Write, phone or visit.
Forming Now	

Enjoy a professional career in practical nursing; be a part of this respected, well-paid profession. Many positions available now in private homes and institutions. Women 18-25 can easily and quickly prepare for a dignified career

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with our short, complete course. NO high school education required. NO previous experience necessary.

To answer the tremendous demand for practical nurses throughout the country the National Institute of Practical Nursing . . . has been training successfully for the past several years hundreds of women between the ages of 17 and 55 years for a future which offers very excellent working conditions, high wages, job satisfaction and the prestige of a professional career. Hundreds of graduates have been placed by the Institute free of charge on private cases in doctors' offices, convalescent homes, private, Government and municipal hospitals, sanitariums and other institutions where the need for nurses has been and will continue to be a constant threat to the health, well being and recovery of sick patients UNLESS YOU and 40,000 or more women like you come to their aid.

Complete training given in a
short period of time.

Diploma awarded upon graduation.

PAR. 4. By means of the foregoing statements and representations and others similar thereto and not herein specifically set forth, respondents represent and imply that there is a desperate shortage of and tremendous demand for practical nurses; that professional practical nursing is well paid, dignified and highly respectable, and offers a professional career; that physicians, hospital institutions and private cases are calling for practical nurses; and that respondents have placed hundreds of graduates in positions with the aforementioned institutions and individuals without cost to such graduates; that the shortage of nurses is and continues to be a constant threat to the general public health and to the recovery of the sick unless 40,000 or more women undertake to become practical nurses; that respondents offer a fast efficient and complete course of training in a short period of time; and that no high school education is required and no previous experience is necessary.

PAR. 5. In truth and in fact all of said representations and many others similar thereto made by respondents, as aforesaid, are exaggerated, false, deceptive and misleading. While there may be a shortage of duly qualified practical nurses for whom employment in that profession may be available, respondents' graduates cannot so qualify, and respondents have not placed hundreds of graduates in positions of practical nurses, for the reason that said graduates are not licensed in States in which the licensing of practical nurses is required; neither are respondents' graduates placed upon the register of the National Association of Practical Nurses from which vacancies are supplied, nor are they recognized or registered by any other established and accredited practical nursing association. In virtually all cases in which respondents' graduates have found employment in hospitals or other institutions for the treatment of the sick, the employment has been

limited to that of nurses aids. In truth and in fact neither the general public health nor the care of the sick will be adversely affected if no students undertake the study of respondents' course in practical nursing. Because of said limitations respondents' graduates do not earn high salaries, nor do they enjoy the privilege of a professional career. Respondents' course of training is not complete for the reason that said students do not receive any practical training in hospitals with live patients under the supervision of competent nurses or teachers. In order to qualify as a practical nurse, it is highly desirable that students have a high school education. In many instances respondents have accepted as students individuals who had no education whatever and were in fact illiterate; and when upon discovery of such illiteracy in said students respondents terminated their studies, no refund of tuition paid by said students was made to them. In truth and in fact hospitals do not generally employ practical nurses for the reason that hospitals maintain a staff of trained registered nurses who in turn have nurses aids as assistants, said nurses aid being also trained by the hospital.

PAR. 6. In many instances respondents' sales agents in soliciting prospective students to enroll for said course of study have represented and implied that said enrollees would be placed in positions as practical nurses upon completion of said course; that the diploma or certificate issued to respondents' graduates was recognized by Georgetown Hospital in the city of Washington; and that the doctors connected with respondents' school would certify to the qualifications of said graduates. In truth and in fact while respondents have available an employment service, they do not place their graduates in positions as practical nurses upon completion of the course. Neither Georgetown Hospital nor any other reputable hospital or institution for the healing and care of the sick recognizes the certificate or diploma issued by the respondents, nor do any doctors certify to the qualifications of respondents' graduates. There is in fact only one physician connected with said school who occasionally delivers lectures to the students.

PAR. 7. Respondents' price for its course of training in practical nursing is \$169.50 if paid upon the installment plan or \$154.50 if enrollees pay cash therefor. At the time of enrollment enrollees are not advised that respondents require the purchase of a class pin at the conclusion of said course of study the price of which is \$6.50, and that the purchase of said class pin is required before said diploma is granted.

PAR. 8. An "institute," as that term is generally understood in educational circles, is an organization for the promotion of learning, philosophy, art science and similar subjects with a staff of competent,

experienced and qualified educators offering training and instruction in said subjects. The primary object of the work of an institute is that of scientific investigation and instruction, and not that of commercial promotion or financial profit.

The term "institute" is also understood by the general public and in professional circles to be an organization of a special group of individuals having a common interest and being devoted to the promotion and consideration of such interests and the general welfare of the members of such organization.

Respondents, through the use of the designation "Institute" in their trade name, and particularly in connection with the word "National," represent or imply that their said business is a national organization established for the purpose of promoting the interests and welfare of practical nurses.

In truth and in fact, respondents' business is not an "institute" within the generally accepted meanings of said term. Respondents' business is that of teaching fundamental principles of practical nursing, which do not involve the study of subjects in higher education or the arts and sciences; in fact, respondents do not require a high school education for taking said course of study; nor is said National Institute of Practical Nursing a national organization devoted to the interest or welfare of practical nurses generally. Respondents' business is operated for the sole purpose of financial gain for the individual respondents.

PAR. 9. The word "diploma" is understood by the general public to mean written evidence of the successful completion of a prescribed course of study in academic or scientific subjects, and that such diploma is recognized by duly authorized, accredited and recognized educational institutions of higher learning.

Respondents' statement that diplomas are issued to students who have successfully completed said course of study, and the issuance by respondents of such "diplomas," together with the trade name "National Institute of Practical Nursing," all combine to represent and imply that holders of respondents' diplomas are recognized as duly qualified practical nurses and as such are eligible to be employed by hospitals and other institutions for the care of the sick, and are recommended by physicians generally, and that respondents' said diploma is recognized in the medical profession or otherwise as being evidence of respondents' school being an accredited school for practical nurses.

In truth and in fact, the diploma issued by respondents' school is of no validity or effect whatever. Neither said school nor the diploma issued by it are recognized or accredited by any recognized and ac-

credited school or organization of practical nursing, nor by any hospitals or physicians generally.

PAR. 10. The statements and representations made by respondents, as aforesaid, have had and now have the tendency and capacity to mislead and deceive members of the purchasing public into the belief that said statements and representations are true and to induce a substantial number thereof to subscribe to and purchase respondents' said course of study and to pursue the same on account thereof.

PAR. 11. The aforesaid acts and practices of the respondents as herein alleged are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on October 3, 1949, issued and thereafter caused to be served upon the respondents named in the caption hereof its complaint, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said Act. After the issuance of said complaint and the filing by respondents of their answer thereto, testimony and other evidence in support of and in opposition to the complaint were introduced before a hearing examiner of the Commission theretofore duly designated by it, and said testimony and evidence were duly filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission upon said complaint, the respondents' answer thereto, the testimony and other evidence, the hearing examiner's recommended decision and the exceptions of counsel supporting the complaint and counsel for respondents thereto, briefs in support of and in opposition to the complaint, and oral argument of counsel supporting the complaint, counsel for respondents not appearing, although notified; and the Commission, having entered its order disposing of the exceptions to the recommended decision and being now fully advised in the premises, finds this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. National Institute of Practical Nursing is a corporation organized, existing, and doing business under the laws of the

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State of Maryland. It was incorporated in August 1946. Edward Williams is president and Lillian J. Williams is secretary of said corporation, and as such they formulate, determine, and control all of the business policies and activities of said corporation. The principal office and place of business of said corporate and individual respondents is located in the Victor Building at 909-911 "G" Place, N. W., in the city of Washington and District of Columbia.

PAR. 2. Said corporate respondent is now, and has been for more than two years last past, engaged in the operation of a school purportedly for the training of practical nurses. For the sum of \$169.50 the corporate respondent furnished students with thirty-eight printed lessons, classroom instruction consisting of two two-hour periods weekly extending over six months (a total of some ninety-six hours), a bath thermometer, forceps, graduated glass, gauze face mask, clinical thermometer, nurse's uniform and cap, medical dictionary, rubber gloves, and charts. The value of the bath thermometer and other items of equipment was represented by one of the corporation's agents as \$50.00. Examinations on their lessons were given to the students from time to time. The volume of business done by the corporation in the conduct of its school and the sale of its combination of instruction and equipment, as aforesaid, was substantial. In 1947-1948 there were as many as five or six hundred students enrolled at one time, and in February 1950 there were some one hundred and twenty. In 1948 the school's gross annual income was approximately \$139,000.00, and in February 1950 was some \$40,000.00.

The school occupied 1,500 feet of floor space, in which were included two classrooms. All of the class instruction was given on the premises. The instructors were registered nurses and one physician who lectured to each class about twelve times. The instruction did not include any hospital training, demonstrations in which sick people were involved, or contact by the students with actual living patients. The "practical" training was given on manikins.

PAR. 3. In the course and conduct of the said business, the corporate respondent has made use of advertisements in various newspapers published in the District of Columbia and post cards and letters sent to prospective students; among and typical of the statements and claims made therein are the following:

YOU too can become a Graduate Practical Nurse.

Be a trained practical nurse; be a part of this respected, well-paid profession.
Become a Practical Nurse.

Graduate Practical Nurses are needed in great numbers * * *. Diplomas given upon graduation.

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PRACTICAL NURSES

EARN UP TO \$10 A DAY

<p>Fast, Efficient ACTUAL CLASSROOM INSTRUCTION Summer Classes Forming Now</p>	<p>The desperate shortage of nurses means opportunity for YOU. Doctors, hospitals, private cases, institutions are calling for practical nurses. Train in your spare time regardless of age or education. Morning, afternoon and evening classes. Convenient payment terms. Write, phone or visit.</p>
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Enjoy a PROFESSIONAL CAREER in PRACTICAL NURSING * * * be a part of this respected, well-paid profession. Many positions available now in private homes and institutions. Women 18-55 can easily and quickly prepare for a dignified career with our short complete course. NO High School Education Required NO Previous Experience Necessary.

To answer the tremendous demand for Practical Nurses throughout the country, the National Institute of Practical Nursing, * * * has been training successfully for the past several years hundreds of women between the ages of 17 and 55 years, for a future which offers very excellent working conditions, high wages, job satisfaction and the prestige of a professional career. Hundreds of graduates have been placed by the Institute free of charge on private cases, in doctors' offices, convalescent homes, private, government and municipal hospitals, sanatoriums and other institutions where the need for nurses has been and *will continue* to be a constant threat to the health, well-being and recovery of sick patients UNLESS YOU and 40,000 or more women like you *come to their aid*.

Complete training given in a short period of time! Diploma awarded upon graduation!

PAR. 4. Through the use of the statements hereinabove set forth and others similar thereto not specifically set out herein, respondents have represented, directly and by implication, that there is no distinction or difference between "practical nurses", "trained practical nurses," and "graduate practical nurses," that graduates of the said school forthwith enter all of these categories, and are practical nurses in the full sense of the term; that the course of instruction is complete and covers all the necessary subjects in such a manner that one who successfully completes it has become a practical nurse in the full sense of the term, and that many hospitals desire the services of and employ practical nurses.

PAR. 5. The designation of "practical nurse" when applied to one who acquired it by attending a school means, in its full sense, one who has satisfactorily completed a full time, nine months' course of instruction which includes a substantial amount of time in a hospital or other institution for the care of the sick, with work under supervision at the bedside of patients therein. This course of instruction falls far short of such a curriculum. The use by respondents of the term "complete" to describe their course in practical nursing is misleading, as is their designation of graduates of the school as "practical nurses," "trained practical nurses," and "graduate practical nurses."

The Commission has duly considered the matter and has concluded that the use by respondents, in advertising their school, of the term "practical nurse" to describe or designate its graduates constitutes a misrepresentation which is not susceptible of cure by the use of explanatory phraseology. It is of the opinion that any such attempt would result not in clarification but in contradiction, or at best confusion.

PAR. 6. It cannot be found on the weight of the evidence that the representation that many hospitals desire the services of and employ practical nurses is false as a generalization, but it can be and is found to be misleading, as used by respondents.

The record shows respondents to have made these representations by means of advertisements in newspapers published in Washington, D. C. The witnesses who had attended respondents' school were almost without exception residents of Washington, D. C., or its immediate environs, at the time of their testimony, and the employment of respondents' graduates, so far as the record shows, was almost entirely in the same area. At least ninety percent of the school's graduates are residents of the District of Columbia.

These representations were in large part, if not primarily, addressed to the attention of persons who were residents of Washington, D. C., and its immediate vicinity, and who contemplated employment, after completion of the course, in the same area.

From the testimony of witnesses connected with seven Washington area hospitals it appears that only one, Gallinger Hospital, employs practical nurses as such. It is noted that respondents' graduates do not meet Gallinger's requirements for employment in this capacity, nor those of the United States Civil Service.

Respondents' said representation had the tendency and capacity to mislead many of those to whom it was addressed with respect to the opportunity for employment in hospitals as practical nurses in the area in which they would be most prone to seek, and desirous of obtaining, such employment. A number of graduates testified to their fruitless search for employment as practical nurses in hospitals in this area.

PAR. 7. Oral representations were made to some prospective students that they would be eligible for employment as practical nurses in Washington, D. C. hospitals; that they would be recognized as practical nurses; that the school was recognized by hospitals and the Red Cross; and that they would be qualified to practice in any hospital with a graduate practical nurse's qualifications.

The evidence is sufficient to sustain the finding, and the Commission does find that, as the complaint alleges, respondents represented that "the diploma or certificate issued to respondents' graduates was recog-

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nized by Georgetown Hospital in the city of Washington," and that the representation was false.

Georgetown Hospital does not employ practical nurses as such, and in the employment of nurses' aides, who are lower in status than "practical nurses," the completion of respondents' course is no additional recommendation for a person who meets the hospital's requirements.

PAR. 8. The foregoing statements and representations used by respondents in connection with the offering for sale, sale, and distribution of their combination of courses of instruction and equipment had the capacity and tendency to mislead and deceive members of the public into the erroneous and mistaken belief that the said statements and representations were true, and into the purchase of a substantial number of said combinations by reason of such erroneous and mistaken belief.

CONCLUSION

The acts and practices of respondents, as hereinabove found, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

The Commission has considered the record in connection with the other issues presented by the pleadings and has concluded that the allegations of the complaint with respect thereto have not been proved.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the respondents' answer thereto, testimony and other evidence in support of and in opposition to the complaint introduced before a hearing examiner of the Commission theretofore duly designated by it, the hearing examiner's recommended decision and exceptions thereto of counsel supporting the complaint and counsel for respondents, briefs in support of and in opposition to the allegations of the complaint, and oral argument by counsel supporting the complaint (counsel for respondents not appearing, although notified), and the Commission having issued its order disposing of the exceptions to the recommended decision and having made its findings as to the facts and its conclusion that National Institute of Practical Nursing, a corporation, and Edward Williams and Lillian J. Williams, individually and as officers of said corporation, have violated the provisions of the Federal Trade Commission Act:

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It is ordered, That the respondent National Institute of Practical Nursing, a corporation, and its officers, and the respondents Edward Williams and Lillian J. Williams, individually and as officers of said corporation, and said respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of courses of instruction and study, whether separately or in combination with equipment for use in connection therewith, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting in any manner the opportunities for employment in any field of endeavor in which a course of instruction is offered.

2. Using the word "complete," or any word of similar import or meaning, to designate, describe, or refer to any course or curriculum of instruction in practical nursing which requires less than nine months of forty-hour weeks of supervised instruction, of which a substantial amount is in an institution for the care of the sick.

3. Using the words "practical nurse" to describe, designate or otherwise refer to any person who has not satisfactorily completed a course or curriculum of instruction in practical nursing of not less than nine months of forty-hour weeks of supervised instruction, of which a substantial amount is in an institution for the care of the sick.

4. Representing, contrary to the fact, that any diploma or certificate issued by them is regarded by any hospital or other institution as evidence of proficiency of the holder thereof in the field of endeavor to which such diploma or certificate relates.

It is further ordered, That said respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.