LOUISIANA STATE BOARD OF PRACTICAL NURSE EXAMINERS
3421 NORTH CAUSEWAY BOULEVARD, SUITE 505
METAIRIE, LOUISIANA 70002-3715
(504) 838-5791
FAX (504) 838-5279
www.lsbpne.com

HAND DELIVERED

SEP 18 2013

TO L.S.B.P.N.E

In the matter of: **Nina Burkey**
3007 Lawrence St.
New Orleans, LA 70114

Applicant for licensure, S.S. # ending with 0866

Date offered: **September 17, 2013**

Date offer expires: **October 7, 2013**

CONSENT ORDER

The Louisiana State Board of Practical Nurse Examiners does hereby offer this consent order to **Nina Burkey, social security # ending with 0866**, based on the following:

1. Upon first enrollment into the practical nursing program at Nunez Community College, the applicant completed an Evaluation Form for Admission into the Practical Nursing Program, on which she responded "Yes" to the question:

   32. "Have you ever been indicted, charged with, summoned into court as a defendant in a criminal proceeding, arrested (even if you were not taken away in handcuffs or incarcerated), fined, imprisoned, placed on probation or ordered to deposit bail for the violation of any law, police regulation or ordinance, misdemeanor and/or felony offense (except for minor traffic violations) whether or not charges were dismissed and/or refused; or have you ever been convicted (including a nolo contendere plea or guilty plea) of any criminal misdemeanor and/or felony?"

2. Upon second enrollment into the practical nursing program at Nunez Community College, the applicant completed an Evaluation Form for Admission into the Practical Nursing Program, on which she responded "Yes" to the question:

   19. "Have you ever been indicted, charged with, summoned into court as a defendant in a criminal proceeding, arrested (even if you were not taken away in handcuffs or incarcerated), fined, imprisoned, placed on probation or ordered to deposit bail for the violation of any law, police regulation or ordinance, misdemeanor and/or felony offense (except for minor traffic violations) whether or not charges were expunged/dismissed and/or refused; or have you ever been convicted (including a nolo contendere plea or guilty plea) of any criminal misdemeanor and/or felony?"

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According to the respondent's narrative statements submitted to the board, she was arrested or charged on or about the following dates:

- May 13, 1996 for Return of Rental Property;
- October 27, 1996 for No Operator's License;
- November 16, 1996 for Possession of Drug Paraphernalia, Possession of Marijuana up to ½ oz., Fictitious Information to an Officer, No Operator's License;
- June 6, 1997 for two (2) counts of Felony Aiding & Abetting and Obstruction of Justice;
- March 15, 1998 for Fishing without a License;
- May 23, 1999 for No Operator's License, Unsafe Movement;
- May 16, 2000 for No Operator's License;
- May 23, 2001 for Misd. Simple Worthless Checks;
- July 1, 2001 for Misd. Simple Worthless Checks;
- July 25, 2002 for Misd. Possession of Marijuana up to ½ oz., Expired Registration Card/Tag, Expired/No Inspection;
- December 18, 2003 for Operating a Vehicle with No Insurance;
- June 16, 2004 for three (3) counts of Misd. Simple Worthless Checks;
- April 11, 2005 for Driving While License is Revoked, Failure to Wear Seatbelt;
- May 8, 2005 for Misd. Worthless Checks;
- November 13, 2006 for Conspire Deliver Marijuana, Conspire to Sell Marijuana, Felony Conspiracy Common Law, Conspire to Traffic in Marijuana; pled down to Possession of Marijuana > ½ to 1 ½ oz. and Possession of Drug Paraphernalia;

According to court documents received regarding these arrests, respondent has completed all required probation, said programs, special conditions of her probation, and paid all fees and fines. All matters regarding these charges have been settled.

Based on the information submitted, the board has concluded that **Ms. Nina Burkey** (respondent) is in violation of the following provisions of Louisiana Revised Statutes, Title 37, Chapter 11. Nurses, Part II. Practical Nurses, Section 969.A.(4). **(b) Is guilty of a crime; (c) is unfit, or incompetent by reason of negligence, habit, or other causes; (d) Is habitually intemperate or is addicted to the use of habit forming drugs; (f) Is guilty of unprofessional conduct; (g) Has violated any provisions of this Part;**

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

As further defined in the Louisiana Administrative Code, Title 46, Part XLVII. Nurses, Subpart 1, Practical Nurses, Section 306, T.

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2. **being guilty of a crime;**
3. **being unfit, or incompetent by reason of negligence, habit or other causes;**
4. **being habitually intemperate or addicted to the use of habit forming drugs;**
8. **being guilty of unprofessional conduct;**

   g. **improper use of drugs, medical supplies, or patient's 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;**
   t. **violating any provisions of R.S. 37:961 et seq. (the practical nursing practice act), as amended or aiding or abetting therein.**

In lieu of a formal hearing on the matter, the respondent consents to accept and abide by the following orders of the board:

That the respondent may be made eligible to take the NCLEX-PN. Upon successfully writing the NCLEX-PN the respondent may then be issued a practical nursing license on probation for a minimum period of **one (1) year** with the following stipulations:

1. **License:**

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

2. **Fines/Fees:**

   A. The respondent is to submit a $250.00 annual probation monitoring fee, **payable by cashier's check or money order only.**

      i. Due within three (3) months of receiving a probated license. If the respondent's probation progresses beyond one year, she will be required to pay a $500.00 probation fee, which will be due one year from the date she pays the original program fee, and annually thereafter until the probation is satisfactorily completed

      ii. Failure to pay this fee in the time allotted will result in the immediate suspension of the respondent's practical nursing license.

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3. **Employment:**

A. The respondent must provide a copy of the entire board order/consent order to include the Findings of Facts and Conclusions of Law immediately to any/all current employer(s) and at the time of application to any/all prospective employer(s).

i. Upon obtaining new employment as an LPN, the respondent must have the prospective employer submit the Letter of Hire to the board office within ten (10) days of the date of hire.

B. All current and prospective employers must agree to monitor the respondent while on probation.

C. Probation will run concurrent with employment as an LPN.

D. The respondent must be employed a minimum of 80 hours a month.

E. The respondent shall notify the board, in writing, within ten (10) days of any change in personal address, telephone number, or employment. Changes in employment include accepting a new job, as well as resignation, or termination.

F. 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.

G. Failure to maintain stable employment may be grounds for termination of probation.

H. The respondent must practice under the supervision of a nurse (RN or LPN whose license is unencumbered) or physician 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.

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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 by the board)

b. Only the respondent's supervisor may complete the evaluations according to the observations made during the supervision.

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.

4. **Notify Board of Change of Address/Telephone Number/Employment:**

A. Respondent shall notify the board, in writing, within ten (10) days of any change in personal address, telephone number, or employment. Changes in employment include accepting a new job, as well as resignation, or termination.

5. **Select One Primary Pharmacy:**

A. The respondent must notify the board of the name, address, and telephone number of his/her selected pharmacy within ten (10) days of the date of the board order. If the respondent acquires a new pharmacy, written notification must be received within ten (10) days of the first use. This is required regardless of whether the respondent is employed in nursing.

6. **Abstain from Unauthorized Drug Use and Controlled/Abuse Potential Substances:**

A. The respondent must abstain at all times from the use of controlled or abuse potential substances, and illegal drugs as defined by law, except as prescribed by a licensed practitioner from whom he/she seeks medical attention.

B. In the event the respondent obtains a prescription from a licensed practitioner for any controlled/abuse potential substance, the **respondent shall submit a copy of the prescription to the board within 48 hours.** The prescription must be for a current condition. The respondent must not arbitrarily take medications prescribed for a past illness or take a prescription that is prescribed for another person. The respondent shall also have his/her prescribing provider notify the board in writing within ten days of the provider's issuance of the prescription. The board at any time may request the practitioner to document the continued need for the prescribed medication(s).

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C. If the respondent obtains prescription(s) from more than one prescriber, he/she must inform each physician of any/all medication being prescribed. The prescriber(s) must submit a letter to the board indicating that they are aware that the respondent is being medicated by other providers.

D. The respondent, if enrolled in aftercare, must inform the aftercare counselor of any/all prescriptions, and the aftercare counselor must submit a letter to the board within ten (10) days of the prescription date indicating that they are aware of any/all prescriptions.

The respondent shall NOT consume hemp, poppy seeds, or any product or by-product containing the same.

E. The respondent's licensed practitioner(s) must complete the board's **Controlled Medication/Abuse Potential Substance(s)** form for controlled medication(s)/abuse potential substances, and submit it within **ten (10) days** of the date of the prescription **directly** to the board office. The form must come from the provider to the board office by mail. **It may not pass through the respondent's hands: it may not be sent by facsimile.**

F. The controlled medication/abuse potential substance form must contain a record of all health care providers treating the respondent along with the condition(s) being treated and prescription(s) ordered for listed condition(s).

G. The prescribing provider must acknowledge in writing and by documenting on the controlled medication form that said provider has knowledge of the respondent's dependency and/or use of controlled or abuse potential substances. The provider must identify the medication, dosage, and the date the medication was prescribed.

H. No medications from a prescription over six (6) months old should be taken without an updated prescription verification. Using prescribed medication(s) over six (6) months old without an updated verification is grounds for further disciplinary action as stated in this order.

I. If prescription drugs are refilled, the board must also have a letter from the prescribing practitioner attesting to the continued need for the medication(s) and the controlled medication/abuse potential substance form must be updated every six (6) months. The form is required to be re-submitted to the board at that time.

Failure to follow these procedures when obtaining a prescription may be grounds for further disciplinary action as stated in this order.

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7. **Enroll in a Drug Screening Program:**

A. The respondent shall within ten (10) days of receiving a probated license, register with a drug screening firm selected by the board. Drug screens will begin immediately upon registration with the drug screening firm.

B. It is the responsibility of the respondent to ensure that he/she has properly registered with the drug screening firm selected by the board.

C. The respondent shall submit to and pay for random drug and/or alcohol screens. The random testing shall be done at a minimum of once per month but may be required more frequently as requested by the board. The board may at any time request additional testing, including but not limited to, hair and/or blood samples.

D. Any occurrence of the following conditions constitutes noncompliance with the board order: failure to register with the selected firm within ten (10) days of the date of this order; a positive drug screen; failure to call the testing firm daily; failure to submit a specimen on date selected for screening; refusal to furnish a specimen; submission of a specimen where the integrity has been compromised, as indicated by the presence of adulterants or submission of a sample that is below acceptable volume or temperature to be tested; failure to follow requested procedure in obtaining a specimen.

E. Drug screen results indicating an abnormal/dilute specimen, or a result indicating a low specific gravity with low creatinine levels will be considered positive and non-compliant with board order and grounds for further disciplinary action as stated in this order.

F. Calling the drug screening firm from a cell phone is prohibited. A landline telephone must be used and the respondent must listen to the entire message. Using a telephone other than a landline or failing to listen to the entire message will be considered non-compliant with this order and grounds for further disciplinary action as stated in this order.

G. Failure to properly fill out or maintain a proper chain of custody form in any way that is not accepted by the drug testing facility will be considered positive and non-compliant with the board order and grounds for further disciplinary action as stated in this order.

The respondent shall adhere to all guidelines set forth by the board and the drug screening firm. The drug screening firm will report any/all violations of their guidelines, policies and procedures to the board.

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Furthermore, I, Nina Burkey (signature of respondent), acknowledge that I have been notified and agree that failure to comply with the orders of the board may result in any or all of the following:

VIOLATIONS

Failure to comply with any and/or all sections of this order may result in any and/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/or g) revocation.

FAILURE TO COMPLY WITH ANY SECTION OF THIS ORDER RELATED TO DRUG SCREENS, TREATMENT PLANS, AND/OR REGARDING ABUSE POTENTIAL PRESCRIPTION DRUGS MAY RESULT IN A FOUR YEAR PERIOD OF SUSPENSION WITHOUT A HEARING BEFORE THE BOARD.
During the period of suspension, if related to substance abuse, appropriate consistent treatment must be obtained, and the respondent must show evidence of two consecutive years of being drug/alcohol free immediately prior to the respondent's initiation of a reinstatement request. If during your 2 consecutive years of sobriety you relapse, your 2 consecutive years of sobriety will re-start on date of relapse occurrence provided that the respondent is in treatment.

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.

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CONSENT ORDER ACCEPTANCE

I, Nina Burkey, the undersigned respondent, agree that the board has jurisdiction over the matter and specifically waive my right to contest these findings in any subsequent proceedings before the board. I understand that the consent order shall constitute as public record and is disciplinary action by the board.

I further acknowledge and attest that I have fully cooperated with the Louisiana State Board of Practical Nurse Examiners in resolving this matter, and intend to comply with all stipulations of the order.

I voluntarily agree to sign and have witnessed the terms of the order for the purpose of avoiding a formal hearing with the Louisiana State Board of Practical Nurse Examiners.

I do say that I freely, knowingly and voluntarily enter into the order. I understand that I have a right to a hearing in the matter and I freely waive such right. I understand that I have a right to legal counsel prior to entering into the order.

I understand that the order is effective immediately upon signature of the Executive Director and will become an order of the board. It is understood that the order does not preclude the Board of Practical Nurse Examiners from requiring a formal hearing of my case. I further understand that should the consent order not be accepted by the board, I agree that presentation to and consideration of the consent order, the documenting evidence and information by the board shall not unfairly or illegally prejudice the board or any of its members from participation in hearings or other proceedings pertaining to these or other matters regarding the respondent.

I further agree that if at any point in the execution of this order, my license is under suspension and I request reinstatement of said license, I must demonstrate, to the satisfaction of the board, that I pose no danger to the practice of nursing or to the public and that I can safely and competently perform the duties of a practical nurse. The board, in reinstating my license will require a period of probation, along with supportive conditions or stipulations as outlined in the board order, to ensure that patients and the public are protected.

Nina Burkey 9/18/13
Signature of applicant **Date**

Demetrius Smith 9/18/13
Signature of witness # 1 **Date**

Antoine Tucker 9/18/13
Signature of witness # 2 **Date**

Louisiana State Board of Practical Nurse Examiners

M Lynn Ansardi R N 9-19-13
M. LYNN ANSARDI **Date**
EXECUTIVE DIRECTOR

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Nina Burkey