

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

In the matter of:

Joseph Smith
License # 20101086

This cause having come to be heard at a formal hearing conducted at the board office on **July 24, 2014 at 1:00 p.m.** upon the complaint filed in this matter.

The respondent did not attend the hearing.

The following witnesses testified:

- Tyra Ross
- Katrina L. Moore, RN
- Katherine Arnold, LPN
- Cheenwah Honora, LPN
- Charlene Boudreaux, RN, DON
- Natasha Gordon
- Alicia Smith RN, DON
- Christine Hymel
- Samantha R. Battley
- Charita Jackson
- Mintoya Rodney Brown

The hearing officer found all of the witness testimonies to be credible, except the testimony of Ms. Brown.

Exhibits A-1 through O-1 were admitted into the record.

The hearing officer fully reviewed and considered the transcript of the hearing as prepared and certified by the court reporter, Dawn H. Hymel, CCR, who was present and recorded the hearing.

The hearing officer, having reviewed all evidence and testimony, and being fully advised in the premises, makes the following findings of fact and conclusions of law based on the entire record:

FINDINGS OF FACT

1. The respondent was issued a Louisiana practical nursing license on 9/16/10.
2. The board received a client incident report from the Louisiana Department of Health and Hospitals regarding an incident of alleged emotional abuse of a

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- resident in the respondent's care. While the respondent worked as a licensed practical nurse at Baton Rouge Health Care Center, a resident alleged that the respondent poured water on him. The respondent later admitted to pouring water on the resident, saying the resident had punched him in the stomach. (Refer to Exhibit D1)
3. The board received additional information from Baton Rouge Health Care Center that the respondent received a warning report on 8/12/13 for insubordination and unsatisfactory behavior towards employees or residents. The respondent made an inappropriate sexual gesture to a female supervisor after being asked to complete his documentation. Other female staff had also reported that the respondent had made inappropriate comments.
(Refer to Exhibits F1-F8)
 4. The board received information from Oceans Behavioral Hospital that the respondent was employed from 7/28/11 to 9/16/11. The respondent was terminated for failing to satisfy performance of job duties. Following his termination meeting, he became verbally and physically aggressive towards the administrator. (Refer to Exhibit G3)
 5. According to records from The Guest House, the respondent was rehired 10/8/11 and terminated 8/15/12 for excessive tardiness. On numerous occasions he was counseled for failing to report to duty and failing to call in and inform staff that he was unable to work. The respondent was counseled for improper conduct. He was witnessed having an altercation with a CNA at the nurse's station. He was observed by several staff members yelling. He was suspended for this incident.
(Refer to Exhibits H13-H26)
 6. The board received a report from a coworker at The Guest House indicating that the respondent was counseled by administration regarding sexual harassment in the workplace. On several occasions, the coworker reported that the respondent made gestures and statements of a sexual nature. In at least one instance, this involved physical contact. (Refer to Exhibits K4-K5)
 7. The board received information from St. Luke's Medical Center that the respondent was terminated on 4/29/13, for unsatisfactory work performance and excessive tardiness.
(Refer to Exhibit J13)
 8. The board also received additional information from The Guest House.

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According to a basic compliance and criminal history check that was performed on 8/5/11 as part of the application process, it was determined that the respondent had an arrest record in Cumberland County, North Carolina. Results of the background check indicated the following:

- 8/8/2005 Resisting Public Officer (Misdemeanor)
- 4/25/2006 Larceny (Misdemeanor)
- 10/25/2006 Possession of Open Container
- 6/7/2007 Resisting Public Officer (Misdemeanor)

Review of the respondent's records with the board indicates that he falsified his Evaluation Form for Admission to an Approved Practical Nursing Program by checking "NO" to question #9a, which asked: "Have you ever been arrested, indicted or summoned into court as a defendant in a criminal proceeding, or convicted, fined, imprisoned or placed on probation or ordered to deposit bail for the violation of any law, police regulation or ordinance, except for minor traffic violations? If yes, attach a detailed narrative statement showing (a) date, (b) alleged offense or violation, (c) disposition of case."

The respondent signed and dated his evaluation form on 1/25/2010; therefore, he falsified his evaluation form. (Refer to Exhibit L1)

9. The respondent's practical nursing license was suspended on July 22, 2014 for failing to respond to the board's request for information. (Refer to Exhibit N1)

The hearing officer finds that the respondent has been consistent with being insubordinate and having unsatisfactory behavior towards residents, patients and fellow coworkers.

There is nothing in the record or in any testimony to indicate that the respondent will conduct himself differently in future clinical settings, which the hearing officer finds will pose a serious risk to patient care.

The hearing officer finds that the safety and wellbeing of patients in the care of the respondent would be jeopardized if the respondent were permitted to continue being licensed in Louisiana as a practical nurse.

The board has jurisdiction over the parties hereto and the subject matter hereof.

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CONCLUSIONS OF LAW

Based on the facts set forth in the entire record and outlined herein above, the respondent is in violation of the following:

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;
 - b. failure to utilize appropriate judgment in administering nursing practice;
 - c. failure to exercise technical competence in carrying out nursing care;
 - i. falsifying records;
 - j. intentionally committing any act that adversely affects the physical or psychosocial welfare of the patient;
 - 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.

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ORDER

The matter of **Joseph Smith, license #20101086**, on **March 13, 2015**, came on for final action by the Louisiana State Board of Practical Nurse Examiners.

NOW THEREFORE, IT IS ORDERED, that the license of the respondent, **Joseph Smith, license #20101086**, be **REVOKED** and

1. The respondent is hereby fined \$500.00, **payable by money order or cashier's check only**, for the violations detailed in the conclusions of law, and due within **90 days** of the date of this order.
2. A hearing assessment fee of \$500.00, **payable by money order or cashier's check only**, is to be submitted to the board within **90 days** of the date of this order.
3. The respondent shall return his/her current practical nursing license to the board office within **three (3) days** of the date of this order.

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.

Rendered this **13th** day of **March, 2015** and signed this **13th** day of **March, 2015** at Metairie, Louisiana.

Myron L. Collins LPN

MYRON COLLINS, LPN
CHAIRMAN OF THE BOARD

M Lynn Ansardi RN

M. LYNN ANSARDI, RN
EXECUTIVE DIRECTOR

Mailed this **13th** day of **March, 2015**, by U.S. postal service certified mail return receipt **#7014 2120 0003 8719 2922** and regular mail to the following address:

Joseph Smith
1114 N. Ardenwood Dr., Apt. C
Baton Rouge, LA 70806