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:

**Brandi Waner - respondent**
**License # 20120907**

This cause having come to be heard at a formal hearing conducted at the board office on **May 1, 2015 at 2:30 p.m.** upon the complaint filed in this matter.

1. The respondent was present and did give sworn testimony. The hearing officer found the respondent not credible in her testimony.

2. The respondent called Schott E. Garrett, RN as her witness. The hearing officer found the witness credible regarding the respondent's character, but the witness gave no testimony disproving the allegations against the respondent.

3. The following witnesses were called to testify by the board:

   - Amelia Ann Blevins, RN
   - Kerry Alaina Givens, RN
   - Chelsea Bass, LPN
   - Betty L. Kelley
   - Edward Grisham, M.D. (Via Telephone)

   The hearing officer found the board witnesses to be credible.

4. Exhibits A-Q were admitted into evidence at the hearing, as well as Respondent's Exhibits 1-100. The hearing officer fully reviewed and considered all exhibits.

5. 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:

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## FINDINGS OF FACT

During the formal hearing process, the following facts were confirmed:

1. The respondent was issued a license to practice practical nursing in the state of Louisiana on 07/20/2012.

2. The respondent was acting erratically, so a drug screen was performed for cause. The respondent tested positive for opiates. (Refer to Exhibit E-41)

3. On 11/17/2014, the respondent's practical nursing license was summarily suspended. (Refer to Exhibit F1-2)

4. While employed at Lagniappe Health Care the respondent received a written warning on 02/05/13 for failing to check the fax machine during her shift and missing orders for labs and medications. She was written up for 8 unexcused absences and was terminated for no call/no show. (Refer to Exhibits D-4, 5, 11 & 12)

5. The respondent was reprimanded at West Carroll Memorial Hospital for hanging IV Rocephin on the wrong patient. She was terminated as a result of her practical nursing license being suspended. (Refer to Exhibit I-2&3)

## JURISDICTION

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

## 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);

**(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 and B.**

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

**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;**

- **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;**
- **g. improper use of drugs, medical supplies, or patients' records;**
- **j. intentionally committing any act that adversely affects the physical or psychosocial welfare of the patient;**
- **l. leaving a nursing assignment without properly notifying appropriate personnel;**
- **q. using or being under the influence of alcohol, while on duty, and/or while making application for employment, or using or being under the influence of drugs which impair judgment while on duty, or using or being under the influence of illegal drugs whether on or off duty;**
- **r. possess a physical or psychological impairment which interferes with the judgment, skills or abilities required for the practice of practical nursing;**
- **t. violating any provisions of R.S. 37:961 et seq. (the practical nursing practice act), as amended or aiding or abetting therein.**

## ORDER

The matter of **Brandi Waner, license #20120907** on **July 31, 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, **Brandi Waner, license #20120907**, remain **SUSPENDED** until the following stipulations are met:

1. 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 the following evaluation(s):**

   **Chemical Dependency**

   A. Within **thirty (30) days** of the date of this order, the respondent shall undergo the above ordered evaluation(s). The evaluation(s) shall be conducted by a licensed certified psychologist/psychiatrist/addictionologist of the respondent's choice. The evaluation(s) shall be conducted using both objective and subjective assessment tools.

   B. Prior to the evaluation(s), the respondent shall furnish the evaluator with a copy of the board order/consent order to include the findings of fact, conclusions of law, and the **Board Order Acknowledgement Form**. The evaluator shall verify receipt and review of these documents in the evaluation(s) of the respondent.

   C. The respondent shall execute the **Release of Information Form** to allow the evaluator to communicate with and supply information to the board.

D. The respondent shall direct the evaluator to submit directly to the office of the board the **Release of Information Form, the Board Order Acknowledgement Form** and the evaluative report(s).

E. The report of the evaluation(s) shall include, but not be limited to, the following:

i. history of chemical use
ii. past and present treatment and/or recovery activities
iii. results of any testing conducted
iv. a summary of the findings
v. treatment plan, if applicable
vi. list of medications prescribed, if applicable
vii. an assessment as to respondent's ability to practice safely as a practical nurse

F. The respondent shall satisfactorily complete any and all recommendations made by the evaluator. If treatment or therapy is recommended, the respondent shall, within **thirty (30) days** of the evaluator's report, initiate all treatment and/or therapeutic activities. If treatment or therapy is recommended, the respondent shall submit to the board the name and credentials of the therapists and/or the name and address of the treatment facilities.

G. The respondent shall undergo subsequent evaluations by a board approved psychologist/psychiatrist/addictionologist if requested by the board following a relapse or for other related causes.

5. **Participate in any and all treatment/aftercare programs as prescribed:**

A. The respondent shall enroll and participate in board approved treatment/aftercare programs as prescribed or recommended by the chemical addiction/psychological evaluator.

B. The respondent shall have the aftercare counselor submit to the board office proof of the respondent's entry into an appropriate facility, inpatient program, outpatient program, halfway house, residential long-term treatment, and/or a combination thereof.

C. The respondent shall execute the **Release of Information Form** to allow the treatment facility/center/counselor/practitioner of record to communicate with and supply information to the board.

D. The respondent shall submit evidence of **continued compliance with the treatment plan/counseling.** Treatment/aftercare compliance must be maintained throughout the duration of this order or until treatment is deemed complete.

E. The respondent shall cause the aftercare counselor to submit quarterly to the board office progress reports indicating compliance with treatment recommendations. Reports are due on or before the 10th day of January, April, July, and October of each year until treatment is deemed complete.

F. Upon completion of the treatment/aftercare program(s), the respondent shall have the aftercare counselor provide the board with documentation indicating the respondent's successful completion of the program.

6. **Select one primary pharmacy:**

A. The respondent shall notify the board of the name, address, and telephone number of his/her selected pharmacy within **ten (10) days** of the date this order is executed. If the respondent acquires a new pharmacy, written notification must be received within **ten (10) days** of the first use.

7. **Select one primary care physician:**

A. The respondent shall notify the board within **ten (10) days** of the date this order is executed, the name, address and telephone number of his/her selected primary care physician. The physician must hold an unencumbered license. All medical care received by the respondent for the duration of this order shall be furnished by the primary care physician or by the referral of the primary physician with the exception of emergency care. In the event emergency medical care is necessary, the respondent must notify the board within **three (3) days** from the date the emergency care was rendered if the treatment included administration of mood-altering, controlled, or addictive substances.

B. The respondent shall execute the **Release of Information Form** to allow the primary care physician/referred specialist to communicate with and supply information to the board.

8. **Abstain from unauthorized drug use and controlled/abuse potential substances:**

The respondent shall abstain at all times from the use of controlled or abuse potential substances and illegal drugs as defined by law, except as prescribed by the primary care physician/referred specialist from whom he/she seeks medical attention.

The respondent shall not consume hemp, poppy seeds, or any product or by-product containing the same, nor shall the respondent consume any product(s) containing alcohol if it is stipulated that the respondent must abstain from alcohol.

A. The respondent shall present a copy of his/her board order/consent order to include the findings of fact and conclusions of law to their primary care physician/referred specialist at the time of obtaining a prescription for controlled/abuse potential substances.

B. In the event the respondent obtains a prescription from their primary care physician/referred specialist 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 medication that is prescribed for another person.

   No medications from a prescription over **six (6) months old** will be accepted 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.

C. The respondent's primary care physician/referred specialist must complete the board's **Medication Form** for controlled medication(s)/abuse potential substances, and the **Board Order Acknowledgement Form**. He/she must submit the forms within **ten (10) days** of the date of the prescription directly to the board office. The forms must come from the provider to the board office by mail. **They may not pass through the respondent's hands. THEY MAY NOT BE SENT BY FACSIMILE.**

The **Medication Form** must contain the identification of the primary care physician/referred specialist along with the condition(s) being treated and the prescription(s) ordered. The condition that warrants the medication must be identified.

If prescription medications are refilled, the board must also have a letter from the primary care physician/referred specialist attesting to the continued need for the medication(s) and the **Medication Form** must be updated every **six (6) months**. The form is required to be re-submitted to the board at that time directly from the primary care physician/referred specialist.

The primary care physician/referred specialist must acknowledge in writing and by documenting on the **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. **The practitioner must state whether the medication(s) being prescribed will negatively impact the respondent's ability to perform his/her nursing duties.**

D. In the event of an emergency or referral to a specialist by the primary care physician, the respondent must notify the emergency care provider and/or specialist of any/all medication already being prescribed. Should the respondent obtain any prescriptions from the emergency care provider and/or specialist for controlled medication(s)/abuse potential substance(s), the respondent shall inform his/her primary care physician. Each prescriber/physician/specialist must submit a letter to the board office indicating they are aware that the respondent is being prescribed controlled medication(s)/abuse potential substance(s) by the other provider(s) and include the reason(s). These notices must be received at the board office within **ten (10) days** of the date of the prescription(s) and must include a list of medication(s) being prescribed by each physician.

E. The respondent, if enrolled in aftercare, shall 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.

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

9. **Enroll in a drug screening program:**

A. Within **ten (10) days** of the date of this order, the respondent shall register with the drug screening firm selected by the board. The respondent is required to call into the system immediately upon registering 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. All drug screens must be observed. The board may at any time request additional testing, including but not limited to, hair and/or blood samples.

D. Occurrence of any of the following conditions constitutes noncompliance with this board order: 1) failure to register with the selected drug testing firm within **ten (10) days** of the date of this order; 2) a positive drug screen; 3) failure to contact the testing firm daily; 4) failure to submit a specimen on the date selected for screening; 5) refusal to furnish a specimen; 6) failure to be observed when submitting a specimen or reporting that the facility did not observe screening process; 7) 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; 8) 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 non-compliant with this board order. Positive screens are grounds for further disciplinary action as stated in this order.

F. When checking in with the drug testing company daily by telephone, the respondent must listen to the entire message. Failing to complete the call 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.

H. 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.

10. **Courses:**

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

- **Medication Administration/Rights of Medication Administration (minimum 30 credit hours)**

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

11. **Fines/Fees:**

A. The respondent is hereby fined $500.00, **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 is hereby assessed a hearing assessment fee of $500.00, **payable by cashier's check or money order only**, within **90 days** of the date of this order.

C. 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**.

12. **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.

C. If a chemical and/or psychological assessment was stipulated before reinstatement can be considered, the provider who conducted the original assessment must submit a letter to the board office indicating that he/she feels the respondent can safely return to the practice of practical nursing and under what conditions (i.e., recommendations for on-going treatment and a list of medications being prescribed). If the assessment includes a treatment plan, evidence of compliance with this plan must also be submitted to the board.

Upon favorable review of the reinstatement request, the license of the respondent may then be placed on probation for a minimum period of **one (1) year**. During this probationary period the respondent shall follow **stipulations #2, 3, 5, 6, 7, 8 and 9 as stipulated above as well as the following stipulations.**

1. **License:**

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

   B. The respondent shall return his/her current practical nursing license to the board office, so the license can be stamped with the mandatory probation stamp.

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 the board order/consent 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.

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.

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.

**FAILURE TO COMPLY WITH ANY SECTION OF THIS ORDER RELATED TO DRUG SCREENS, TREATMENT PLANS, AND/OR REGARDING PERSONAL SUBSTANCE ABUSE WHETHER PRESCRIPTION DRUGS OR ILLEGAL DRUGS MAY RESULT IN SUSPENSION OF UP TO A FOUR (4) YEAR PERIOD 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 (2) consecutive years** of being drug/alcohol free immediately prior to the respondent's initiation of a reinstatement request. If during the **two (2) consecutive years** of sobriety the respondent relapses, the **two (2) consecutive years** of sobriety will re-start on the date of the relapse occurrence, provided that the respondent is in treatment.

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## 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 **31st** day of **July, 2015** and signed this **31st** day of **July, 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 **31st** day of **July, 2015**, by U.S. postal service certified mail return receipt **#7015 0920 0001 4574 9921** and regular mail to the following address:

Brandi Waner
13922 Hwy 585
Oak Grove, LA 71266