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

May 16, 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7015 3430 0000 2102 9188

Gregory McBride
1589 Atteberry Road
Eunice, LA 70535

License # 941268

Dear Mr. McBride:

On November 6, 2015, the Louisiana State Board of Practical Nurse Examiners issued an order of suspension against your practical nursing license for violations of the Nurse Practice Act. Your license was reinstated to probationary status on December 3, 2015. The board has received a report regarding your practice as a licensed practical nurse, while holding a probated license. The report is concerning an incident that occurred at River Oaks Retirement Center. The board received your work performance evaluation for the timeframe of January 1, 2016, to March 31, 2016. On this evaluation it was documented that you received a verbal counseling for poor attendance.

On the form it was also documented that, on March 20, 2016, you were assigned to care for a patient that had a history of ileus. You were informed at the start of your shift that if the patient exhibited any symptoms of ileus that you should send him to the hospital. The certified nursing assistant reported that you were notified at 8:00 a.m., 10:00 a.m., and 12:30 p.m. that the patient was experiencing loose stools that were leaking from his peg tube and was vomiting brown liquid. You informed the certified nursing assistant that there was nothing you could do because the patient was a DNR (do not resuscitate). You failed to notify the physician and failed to follow standing orders of checking for fecal impaction and taking vital signs. You informed the oncoming nurse, during report, that the patient had shallow respirations, vomited and you turned off the feeding. The oncoming nurse discovered the patient with loud grunting and the use of his accessory muscles to breathe. The physician was notified and the patient was sent to the emergency room where he expired an hour later.

Louisiana Revised Statutes, 49:961 (C), in pertinent part, provides: "If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to the effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action." LSA-R.S. 49:961(C).

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The Board has determined that the allegations against you are sufficiently serious to **summarily suspend your LPN license**, in accordance with the above cited authority, and hereby, issues the following Order:

ORDER

IT IS HEREBY ORDERED, that based on the information and/or record(s) obtained by the Louisiana State Board of Practical Nurse Examiners, and a finding "that public health, safety, or welfare imperatively requires emergency action", in accordance with LSA-R.S. 49:961(C), the LPN license of the above named respondent, **Gregory McBride**, is hereby summarily suspended, pending proceedings for revocation or other action, in accordance with Louisiana law.

M Lynn Ansardi R N

Louisiana State Board of Practical Nurse Examiners
M. Lynn Ansardi, RN, Executive Director

You must *immediately* cease and desist the practice of practical nursing and return your current practical nursing license to the Board office.

The Board will schedule your case for the next available formal hearing and will notify you by mail of the date and time. Moreover, the Board will continue its investigation of the allegations against you, about which you will be notified by Formal Complaint, to determine if you are in violation of the following:

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;**
- **j. intentionally committing any act that adversely affects the physical or psychosocial welfare of the patient;**
- **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.**

Louisiana Revised Statute, Title 37, Chapter 11. Nurses, Part II. Practical Nurses, Section 969, et. seq.

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Furthermore, you should immediately submit to our office a detailed narrative response to the allegation.

Sincerely,

LOUISIANA STATE BOARD OF PRACTICAL NURSE EXAMINERS

M Lynn Ansardi RN

M. Lynn Ansardi, RN
Executive Director

MLA/kg

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 1. Practical Nurses

§306. Adjudication Proceedings

A. All adjudication proceedings (as defined in R.S. 49:951) conducted by the board shall be in accordance with the Administrative Procedure Act, R.S. 49:955 et seq.

B. All proceedings calling for disciplinary action, as set forth in R.S. 37:969(4) or as set forth in this Section 306(R), regarding a license, shall begin with the receipt by the board of allegation(s) pertaining to the violation(s) of any provisions of R.S. 37:961 et seq., as stated in that statute, or any provision of these rules and regulations of the Louisiana State Board of Practical Nurse Examiners.

C. Communications received by the board expressing such allegation(s) shall be privileged, confidential, and shall not be revealed to any person except when such document(s) are offered for evidence in a formal hearing.

D. The allegation(s) shall be investigated by the executive director, his/her designee, and/or staff. Any information and/or documents generated pursuant to such investigation of the allegation(s) shall be considered the work product of the board and shall be privileged, confidential, and shall not be revealed to any person except when such investigative information and/or documents are offered for evidence in a formal hearing.

E. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default. A consent order or agreed settlement shall be presented to the board for approval before it becomes binding on the board.

F. If formal proceedings are deemed necessary by the executive director, a formal hearing shall be conducted before a hearing officer designated by the board. A decision to initiate formal proceedings may be made if one or more of the following conditions exist.

1. The allegation(s) are sufficiently serious.

2. The respondent fails to reply to the board's correspondence concerning the allegation(s).

3. The response to the board's correspondence is deemed insufficient or unsatisfactory.

a. In furtherance of the objective(s) set forth in R.S. 37:961 et seq., and these rules and regulations of the Louisiana State Board of Practical Nurse Examiners, a respondent shall, upon written request, provide the board with any and all information, document(s) and/or thing(s) requested, within 10 days, including weekends and holidays, from the date of the board's request.

b. Failure to respond to a request by the board, or failure to provide a response that the board deems satisfactory or sufficient, may result in the immediate suspension of the respondent's license or may result in the board taking any other action the board deems necessary commensurate with its philosophy of commitment to the health, safety and welfare of the public.

4. An informal proceeding has failed to resolve all of the issues or allegation(s).

G. Proceedings that require an opportunity for hearing shall commence with the filing of a formal complaint by the board. The complaint shall serve as the notice required by the Administrative Procedure Act 49:955(B) and shall include the following:

1. a statement of the time, place and nature of the hearing;

2. a statement of the legal authority and jurisdiction under which the hearing is to be held;

3. a reference to the particular sections of R.S. 37:961 et seq., and a reference to the particular section of the rules and regulations of the Louisiana State Board of Practical Nurse Examiners;

4. a short and plain statement of the matters asserted. If the board is unable to state the matters in detail at the time the complaint is served, the initial complaint may be limited to a statement of the issues involved. Thereafter, upon request, a more definite and detailed statement shall be furnished.

H. The formal complaint shall be sent by mail, at least 20 days, including weekends and holidays, prior to the hearing date, to the last known address of the respondent. It is the licensee's obligation and duty to keep the board informed of his/her whereabouts.

I. The respondent shall return his/her reply to the complaint to the board at least 10 days, including weekends and holidays, prior to the date fixed for the hearing or shall be deemed to have waived his/her right to a hearing. In reply, the respondent shall either deny or admit the allegations of the complaint and may either:

1. appear for the scheduled hearing;

2. submit a written response to the hearing officer to be presented at the hearing in lieu of the respondent's live testimony; or

3. waive his/her right to a hearing.

J. If the respondent waives his/her right to a hearing, the board may take any appropriate disciplinary action by default. If the respondent does not reply in writing within the time allotted, the hearing may proceed as scheduled in the respondent's absence or the board may take any appropriate disciplinary action by default.

K. Opportunity shall be afforded to all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

L. Except for conditions of extreme emergency, motions requesting the continuance of a formal hearing must be received by the board at least seven days, including weekends and holidays, prior to the date fixed for a formal hearing. Such motion must express the specific reason(s) and show good cause why a continuance is warranted and necessary in promoting due process.

M. Discovery

1. Prior to a formal hearing, a respondent shall have the right to retain an attorney to represent his/her interest before, during, and after the proceedings. All costs and/or expenses incurred by a respondent as a result of his/her exercise of said right shall be the sole responsibility and obligation of the respondent.

2. Prior to a formal hearing, the executive director or his/her designee will, upon written request received by the board at least 10 days, including weekends and holidays, prior to the formal hearing, issue subpoenas on behalf of the board and/or the accused. Such subpoenas include or are for the purpose of:

a. requiring that a person appear and give testimony in the formal hearing; and/or

b. requiring that a person produce books, records, correspondence, or other materials over which he/she has control providing:

i. the information requested is reasonable in terms of amount; and

ii. the scope of the information requested is limited to documentary material that is relevant to the proceeding;

iii. the information requested does not include those documents referred to in §306.C-D; and

iv. the requesting party deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in the proceedings is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.

3. Prior to a formal hearing, the respondent shall, upon written notice received by the board at least seven days, including weekends and holidays, prior to said hearing, be given a list of all witnesses the board will or may call to give testimony during a formal hearing.

4. Prior to a formal hearing the respondent, his/her attorney, or any party representing his/her interest is prohibited from having any contact whatsoever with any witness who will or may be called to give testimony in a formal hearing.

5. Depositions for the purposed of discovery are permitted and may also be allowed for the perpetuation of a witness' testimony upon good showing to the board that a witness will be unavailable to appear in person at a formal hearing. All costs of a deposition are borne by the requesting party.

6. Motions may be made before, during, and/or after a formal hearing. All motions made before or after a formal hearing shall be made in writing and in a timely manner in accordance with the nature of the request.

N. During a formal hearing, all parties shall be afforded the opportunity to present documentary, visual, physical or illustrative evidence and to cross-examine witnesses as well as call witnesses to give oral testimony. All testimony given during a formal hearing shall be under oath and may be before a certified stenographer.

O. The record of the proceeding shall be retained until such time for any appeal has expired or until an appeal has been concluded. The record of the proceeding need not be transcribed until such time as a party to the proceeding so requests and the requesting party pays for the cost of the transcript.

P. After the hearing is concluded, the hearing officer shall issue a report containing his/her findings of fact, conclusions of law and recommendations. This report shall be presented to the board in executive session and shall be considered privileged and confidential until and unless it is adopted in final form by the board.

Q. The board shall make a decision based on the entire record, including the hearing officer's report and determine what sanctions, if any, should be imposed and issue an appropriate order with respect thereto. This order of the board shall be sent to the respondent by mail.

R. Disciplinary action(s) imposed by the board may include reprimand, probation, suspension, revocation, denial, as well as penalties provided under R.S. 37:961 et seq., as amended and/or these rules and regulations of the Louisiana State Board of Practical Nurse Examiners and/or any combination thereof.

1. Reprimand. May include a personal conference between the licensee and the executive director and/or a letter to the licensee regarding the incident or incidents which have been brought to the board's attention and which may or may not be determined to warrant a hearing.

2. Probation. Will include stipulations which may be imposed by the board as a result of the findings of facts of a hearing and the order shall clarify the obligations of the licensee through a specified period of time. A licensee who is placed on probation by the board may practice practical nursing in the state of Louisiana provided the probation terms are met.

3. Suspension. A license to practice practical nursing in the state of Louisiana may be withheld by the board. A licensee whose license is suspended may not practice practical nursing in the state of Louisiana during the suspension period so designated. The time of suspension may be a definite stated period or an indefinite term.

a. Definite time of suspension shall be stipulated by the board in the order to the licensee. Upon termination of the time period, the licensee shall be entitled to receive his/her license upon payment of the required fee and upon documented compliance with the conditions that may have been imposed by the board at the time of the original order.

b. If a license is suspended for an indefinite term, the licensee may petition for reinstatement of his/her license only after one calendar year has lapsed from the date of the original order. The board may terminate the suspension and reinstate such license after the board determines, with or without hearing, that the cause/causes for the suspension no longer exist or that intervening circumstances have altered the condition leading to the suspension. If reinstatement is granted, the licensee shall pay the required reinstatement fee.

4. Revocation. A license to practice practical nursing in the state of Louisiana may be withdrawn by the board. A person whose license is so revoked shall never again be allowed to practice practical nursing in the state.

5. Denial. An applicant may be denied licensure in the state of Louisiana. An applicant who has been denied licensure shall never be allowed to practice practical nursing in the state of Louisiana.

S. A petition by a party for reconsideration or rehearing must be filed in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

T. The grounds for disciplinary proceedings include, but are not limited to:

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;

4. being habitually intemperate or addicted to the use of habit-forming drugs;

5. being mentally incompetent;

6. practicing practical nursing without being duly licensed to do so by the board;

7. using in connection with his/her name any designation tending to imply that he/she is a practical nurse without being duly licensed to practice by the board; or

8. being guilty of unprofessional conduct; unprofessional conduct includes, but is not limited to the following:

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;

d. violating the confidentiality of information or knowledge concerning a patient;

e. performing procedures beyond the authorized scope of practical nursing;

f. performing duties and assuming responsibilities within the scope of the definition of practical nursing when competency has not been achieved or maintained, or where competency has not been achieved or maintained in a particular specialty;

g. improper use of drugs, medical supplies, or patients' records;

h. misappropriating personal items of an individual or the agency;

i. falsifying records;

j. intentionally committing any act that adversely affects the physical or psychosocial welfare of the patient;

k. delegating nursing care, functions, tasks, or responsibilities to others contrary to regulation;

l. leaving a nursing assignment without properly notifying appropriate personnel;

m. failing to report, through the proper channels, facts known regarding the incompetent, unethical, or illegal practice of any health care provider;

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 entering 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;

p. inappropriate, incomplete or improper documentation;

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. possessing a physical or psychological impairment that interferes with the judgment, skills or abilities required for the practice of practical nursing;

s. refusing to cooperate with employer's request to submit to a drug screen;

t. violating any provisions of R.S. 37:961 et seq. (the practical nursing practice act), as amended or aiding or abetting therein.

U. The board may, at its discretion, impose a reasonable monetary assessment against the respondent for the purpose of defraying expenses of a hearing and/or expenses of the board in monitoring any disciplinary stipulations imposed by order of the board.

V. If the board finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered by the executive director pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:978 and Acts 675 and 827, 1993.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 2:275 (September 1976), amended LR 3:193 (April 1977), LR 10:336 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1126 (October 1992), repromulgated LR 18:1259 (November 1992), amended LR 20:663 (June 1994), LR 26:2614 (November 2000), LR 28:2353 (November 2002), LR 30:1478 (July 2004), LR 34:1912 (September 2008), LR 35:1247 (July 2009), LR 35:2757 (December 2009), LR 36:2559 (November 2010).