

In the matter of: Dionne Austin
LICENSE #990455
D.O.B. 11/13/1972

This cause having come to be heard upon the complaint filed herein, the evidence and testimony entered before the undersigned hearing officer on **February 3, 2016**. The nature of the hearing was prosecution of the matter.

No witnesses were present for the board
No witnesses were present for the respondent
The respondent was present at the formal hearing

1. Exhibits A through P and Respondent's #1 and #2 were admitted into the record.
2. 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.

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 July 9, 1999.
2. The respondent entered into a consent agreement with the board on 10/7/2004, placing her practical nursing license on probation for 12 months. The respondent self-reported that she tested positive for cocaine while on duty as a licensed practical nurse. The respondent completed her probation and received an unencumbered practical nursing license on 8/7/2006.
3. On 11/22/13, the board received what appeared to be a self-report from the respondent indicating that she had pending drug charges and had been selling drugs. At the hearing, the respondent denied that she submitted this report to the board, (Exhibit C1). She testified that the handwriting on the report appeared to be that of her boyfriend, Mr. Altery Henry. (Page 11 line 11 through page 12 line 7 of sworn testimony)
4. The respondent was charged with felony possession of CDS III with the intent to distribute Hydrocodone and felony identity theft over \$500 (8 counts) on 2/28/12. The charges were dismissed on 10/7/13, after her boyfriend recanted his story.

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

Although, the respondent was found in possession of marijuana, she provided a letter from the DA indicating that a possession of marijuana charge was rejected on 3/27/12. (Exhibits H2, J)

According to information received from Calcasieu Parish Sheriff's Office, the respondent was charged with simple criminal damage to property less than \$500 on or about 11/2/2013. (Exhibit J53-J57) However, the respondent failed to report her arrest dated 2/28/12 on her 2013 renewal application, as required. (Exhibits K1 and K2) She also failed to report her 11/2/2013 arrest on her 2014 renewal application, as required. (Exhibit K8)

5. On 5/14/15, the respondent's practical nursing license was suspended for failing to respond to the board's request for information. To date, the respondent's practical nursing license remains suspended.
6. The hearing officer requested that the record be held open for 45 days, so the respondent could submit to an agreed drug screen which would be arraigned by board staff through Affinity, the board's drug screen agency. The respondent was also requested to provide the board with her counseling and worker's compensation records.
7. The board received information from Affinity indicating that on February 4, 2016, several attempts were made to contact the respondent to inform her of her drug screen. Several voicemail messages were left on her recorder, informing her to report for her drug screen on February 5, 2016. She was given the name and address, along with the hours of operation of the drug screen facility.

On February 5, 2016, Affinity made five attempts to contact the respondent, to no avail. (Exhibit P)

8. On April 6, 2016, the respondent contacted Affinity, stating that someone from the board contacted her to report for her drug screen. However, she could not remember who contacted her. This hearing officer was informed that no staff member from the board office contacted the respondent. Her case was already closed as it was past the 45 day time frame.
9. On February 19, 2016, the board received the requested medical records from Lake Charles Behavioral Health Center. According to these records, the respondent enrolled in treatment in October, 2015. The respondent entered into treatment after she started using cocaine following a tragic loss. According to these records, the respondent has been in treatment several times. She was diagnosed with depression, drug abuse, and anxiety. It was reported that she was using cocaine up to a month prior to treatment (Exhibit O12).

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

Follow-up treatment was recommended. The last record was dated January 27, 2016, which indicated that she reported having the urge to use drugs to escape, but denied use. She was to return to after care. She also reported that she is in a relationship with a married man for over thirteen (13) years, the same man who had her arrested for Identity Theft, but later recanted his story.

10. To date, she has failed to submit the requested worker's compensation records to the board as agreed.

The hearing officer did not find the respondent credible. She has been in and out of treatment for drug abuse since being issued a practical nursing license. She has been abusing cocaine and other drugs throughout her career as a licensed practical nurse. Although the court did not convict her of possession of marijuana, she was in possession of marijuana, among other narcotics upon her arrest. She provided the board with prescriptions for some but, not all narcotics found in her possession. It was also reported that she has stolen medicine from medicine carts where she was employed as an LPN, which would explain the pills in blister packs found in her possession at the time of her arrest. (Exhibit J20 and J45)

Although she was not convicted of Identity Theft because the reporter, her boyfriend, recanted his story, the hearing officer believes she was taking documents without his knowledge. According to the reporter's statement, no employee is ever allowed to take client files home due to DOT Rules. The Search Warrant Affidavit (Exhibit J59) indicates copies of two additional employee's driver's license and social security cards, along with approximately \$550.00 cash were found in the respondent's vehicle. However, she testified that she never took any files outside the office. According to the police report, (Exhibit J45), the respondent was selling the identities of individuals since August of 2011, to a rapper known as Whoo-Chee for \$50.00 each.

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);

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

- (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;
- (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.

- 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;
- 8. being guilty of unprofessional conduct;
 - g. improper use of drugs, medical supplies, or patients' records;
 - h. misappropriating personal items of an individual or the agency;
 - i. falsifying 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;
 - 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;
 - t. violating any provisions of R.S. 37:961 et seq. (the practical nursing practice act), as amended or aiding or abetting therein.

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

ORDER

The matter of **Dionne Austin, license #990455**, on **July 29, 2016**, 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, **Dionne Austin** be **REVOKED** and

- A. The respondent is to be fined \$1,500.00, **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 the board order.
- B. The respondent is to be assessed a hearing assessment fee of \$1,000.00, **payable by cashier's check or money order only**, within **90 days** of the date of the board 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 **29th** day of **July, 2016** and signed this **29th** day of **July, 2016** at Metairie, Louisiana.



MYRON COLLINS, LPN
CHAIRMAN OF THE BOARD



M. LYNN ANSARDI, RN
EXECUTIVE DIRECTOR

Mailed this **29th** day of **July, 2016**, by U.S. postal service certified mail return receipt **#7014 0150 0001 8287 7571** and regular mail to the following address:

Dionne Austin
P O Box 61421
Lafayette, LA 70596