

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: Demetrius Lamark
Applicant for Licensure - S.S. # ending in 7121
D.O.B. 6/19/1977

This cause having come to be heard upon the complaint filed herein, the evidence and testimony entered before the undersigned hearing officer on **February 10, 2016**. The nature of the hearing was to determine if the respondent is eligible for licensure in the state of Louisiana.

No witnesses were present for the board
No witnesses were present for the respondent
The respondent was present and did give sworn testimony

1. Exhibits A-1 through H-1 and Respondent's #1, #2 and #3 were admitted in to the record.
2. The hearing officer fully reviewed and considered the transcript of the hearing as prepared and certified by the court reporter, Joseph A Fairbanks, Jr., CCR, RPR who was present and recorded the hearing.

FINDINGS OF FACT

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

On September 14, 2013, the board received the respondent's student evaluation form (Exhibits B1-B3) for admission into the practical nursing program at Baton Rouge Community College – Westside Campus. On this form, the respondent answered "yes" to question #19 which asks:

"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?"

According to the respondent's criminal background records, the respondent was arrested on or about February 18, 2010, for the charge of issuing worthless checks. According to the police report, the respondent was stopped by a police officer for a traffic violation. After a name search, the officer found that the respondent had a warrant out for her arrest for issuing worthless checks. She paid restitution and a fine for a total amount of \$178.00 and was then released. (Exhibits C1-C2 and C4, refer to testimony pg. 9 – pg. 11 line 25)

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According to the respondent's criminal background records, the respondent was arrested on or about July 1, 2014, while enrolled in the practical nursing program for the charges of theft and exploitation of the infirmed.

In her statement to the board, the respondent indicated she had been working as a CNA for a patient for some time (Exhibit C3). She stated that she was allowed to use the patient's money on other occasions, but it was never a set amount as long it was to benefit the patient. A hidden camera was placed by the family in the patient's bedroom which showed the respondent taking \$60.00 out of the patient's purse instead of \$10.00 she said she was given permission to take. (Exhibits C6-C7)

The arrest warrant indicates that on or about June 23, 2014, the patient's son reported a theft to the East Baton Rouge Police Department (Exhibit C8, C9, C10 and C11). The complainant advised that he was notified by his mother's daytime caregiver of possible theft of cash occurring inside of the victim's residence. The caregiver advised the complainant that beginning in October 2013, she began noticing that cash that was inside of the victim's purse when she ended her shift would be missing by the next morning when she returned to the victim's residence. A camera was set up inside of his mother's bedroom. The camera was concealed and pointed towards his mother's purse. On June 17, 2014, the concealed camera captured the respondent (who is a night time caregiver for the victim) going through the victim's purse. The complainant stated that at no time had the respondent been given permission to go through the victim's purse. The respondent was observed taking the victim's wallet out of her purse, going through the wallet, and removing cash. The respondent was observed taking \$60.00 from the victim's purse. The respondent was terminated from the agency.

According to court documents, the respondent pled guilty to the State amended charge of Misdemeanor Theft (testimony pg. 18 line 25). She was placed on supervised probation for a year, and ordered to pay fines/fees in the amount of \$210.75. She was also ordered to pay restitution to the victim, and complete 10 hours of community service. (Exhibit C12)

According to the respondent's sworn testimony, she failed to log the money taken in the required log book (testimony pg. 15 lines 12-21). She could not recall what she may have purchased for the patient with the money she had taken, (testimony pg. 17 - pg. 18 line 21) and she failed to turn in receipts as required for the purchases made with the money she had taken (testimony pg. 18 lines 8-13).

On May 14, 2013, the board received the respondent's First Time Writers Application requesting to take the NCLEX-PN to receive a practical nursing license in the state of Louisiana. (Exhibit F1)

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On January 22, 2016, the board received the respondent's response form. On this form, the respondent admitted to the allegations contained in the Formal Hearing Notice. (Exhibit G1).

The hearing officer did not find this respondent to be credible and does not believe this is the only instance that the respondent took money from the patient without consent. According to the other caregiver, she noticed money missing from the patient's purse starting in October, 2013. (Exhibit C9)

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);

(b) is guilty of a crime; (c) is unfit, or incompetent by reason of negligence habit, or other causes;) 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.

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;**
 - h. **misappropriating personal items of an individual or the agency;**
 - 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;**
 - 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 **Demetrius Lamark, applicant for licensure** on **July 29, 2016**, came on for final action by the Louisiana State Board of Practical Nurse Examiners.

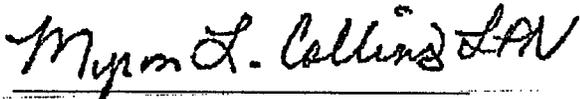
NOW THEREFORE, IT IS ORDERED, that the respondent, **Demetrius Lamark**, is hereby **DENIED LICENSURE** as a practical nurse in the state of Louisiana and

- A. The respondent is to be 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 board order.

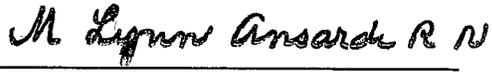
Public Records

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 7625** and regular mail to the following address:

Demetrius Lamark
4769 Manda Rd.
Oscar, LA 70762