

DEFAULT ORDER
IN THE MATTER OF

The Louisiana State Board of Practical Nurse Examiners (Board)

v.

Tyler Bruce (respondent), LPN, license #20130283
710 Irving Bluff Road, Shreveport, LA 71107

On **July 26, 2016**, a formal complaint/notice of hearing (Attachment A) was mailed to the last known address of the respondent. The respondent did not reply to the complaint/notice of hearing, as required by the LAC 46:XLVII. 306.I. The respondent indicated that he admitted to the allegations contained in the notice of hearing and **will not** appear at the scheduled formal hearing and; therefore, the respondent waived the right to a hearing. In accordance with the LAC 46:XLVII.306.J, this order is issued by default.

LEGAL AUTHORITY AND JURISDICTION

The board's legal authority and jurisdiction, in adjudication proceedings, are provided for in:

1. The Louisiana Revised Statutes of 1950, Title 37, Chapter 11, Part II, Section 961 et seq., as amended; and
2. The Louisiana Administrative Code, Title 46, Part XLVII, Subpart 1, Section 101 et seq., as amended; and
3. The Louisiana Administrative Procedure Act, Title 49, Chapter 13, Section 950 et seq., as amended.

FINDINGS OF FACT

1. The respondent was issued a license to practice practical nursing in the state of Louisiana on February 15, 2013.
2. The respondent self-reported to the board that he was arrested on 1/7/15, for DWI and Public Intimidation on his 2015 renewal application.

Additionally, at the time of his 2016 renewal application, he reported that he was arrested on 6/13/15, for the following charges:

- 2nd degree battery
- DTP/Drunk
- DTP/Noise
- Reckless Operation of a Vehicle
- Resisting an Officer

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- Simple Criminal Damage to Property

3. The board received a copy of the respondent's Biopsychosocial Assessment performed at the Council of Alcoholism and Drug Abuse on 7/25/15. According to the assessment, he reported having a problem with alcohol and drugs. He reported that he sought outpatient treatment with the VA but was unsuccessful. He also reported that he received behavioral health services at Brentwood for Major Depressive Disorder. The respondent was diagnosed with Opioid Use D/O, Alcohol Use D/O, and Substance Induced Mood D/O.
4. The board received treatment records from the VA indicating that the respondent was admitted into the SUDS IOP on 7/6/15. The respondent's reported drugs of choice consisted of ETOH and Robitussin. He also reported using/abusing opiates, cocaine and Xanax. He reported that he experienced blackouts, paranoia, hallucinations and depression as a result of his substance abuse. He reported that he had been treated for mental illness and that he was diagnosed with ADHD. He indicated that he was being treated by Bruce Mc Cormick, Ph.D. for ADHD. The respondent also stated that he was recently in treatment at Brentwood for 10 days and discharged on 3/3/15. The respondent failed to report his history of mental illness, failed to report his 10 day stay at Brentwood and failed to report his diagnosis of ADHD to the board as required.
5. According to records from the VA, on the date he was admitted to the program, he signed himself out and was expected to return no later than 19:00. He returned intoxicated and after curfew. On 7/15/15, he showed up to a group meeting under the influence of Dextromethrophan and displayed symptoms of impairment such as sleeping, shuffling gait, slow speech, and lethargy. He admitted to taking cough syrup to get high. On 7/16/15, he failed to show for his group session. It was reported that he left against the advice of staff and the attending physician. He failed to complete the recommended 35 day course of treatment.
6. On 7/16/15, the respondent was admitted to Brentwood Behavioral Hospital for detox after he appeared at Dr. Vigen's office intoxicated. He was diagnosed with Polysubstance Abuse (alcohol and cough syrup), Substance Induced Mood Disorder, and history of ADHD. He reported that his longest period of sobriety was three weeks because he was in jail. He reported experiencing suicidal ideation in May of 2015, while taking Zoloft. He reported that he went into the woods with a machete and planned to "knock" himself out. He reported that he became scared and was admitted to LSU Medical Center that evening. He failed to report his admission to LSU to the board as required. On 7/23/15, he was discharged to inpatient rehabilitation.

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7. According to an unsigned letter dated 5/17/16, from Ryan Pommier, RAC with CADA, he was unable to give clearance or determine if the respondent was capable of safely practicing as an LPN since he was discharged on 8/12/15.
8. The board received an evaluation report dated June 24, 2015, from Mark Vigen, Ph.D. indicating that the respondent exhibited a significant history of substance abuse. The respondent failed to report this to the board prior to licensure. According to the evaluation, he reported that he began abusing prescription drugs at 14 years of age, alcohol at 15 years of age and illicit drugs at 16 years of age. It was noted that his drug and alcohol abuse became self-destructive and impeded his ability to fulfill his responsibilities at home and at work. He reported being fired from his first job after he were caught smoking marijuana at age 16 and that he completed one year of drug court. The respondent failed to report this to the board as required prior to licensure. During the evaluation, he also indicated that he was fired from his employment with Pierremont Healthcare for a medication error. He stated that having access to patients' prescription medications had become a strong temptation to abuse drugs. He also admitted to stealing patients' blood pressure medication to self-medicate. At the time of the evaluation, he admitted to consuming cough syrup to get "high" and consumed it prior to psychological testing. Dr. Vigen recommended that he participate in residential treatment for drug and alcohol abuse as well as intensive outpatient treatment thereafter. It was also recommended that he participate in Alcohol Anonymous/Narcotic Anonymous four times per week for five years and participate in weekly counseling for a minimum of three years.
9. On June 3, 2016, the respondent's practical nursing license was summarily suspended.
10. The board received records from Pierremont Healthcare Center that the respondent was employed as an LPN from February, 2015 until April 28, 2015. He was terminated for failing the probationary period and not eligible for rehire. According to records, he received a verbal disciplinary warning on 2/18/15 for failing to sign narcotics out on 2 residents. On 2/17/15, he was late for his scheduled shift and observed by a co-worker to have blood shot eyes. He was reportedly observed to be "acting bizarre" and locked himself in the medication room. Another LPN entered the medication room after the respondent and found a bottle of whiskey next to his backpack. At 8:30 p.m., the respondent handed his keys to an LPN and left in a hurry. When the nurse went to the medication cart to count narcotics, she discovered several pills missing that had not been signed out. According to a disciplinary action record dated 3/19/15, he was written up for poor work performance and medication errors. On 3/18/15, he failed to transcribe

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admission orders properly, he gave a resident the wrong Glucerna, he transcribed insulin orders incorrectly, failed to order admit labs, and failed to complete assessment on new admit. He failed to complete body audits, vital signs and skin assessments. On 4/14/15, he received a final disciplinary action for unprofessionalism, irrational behavior and acting without a physician order on 4/13/15. On 4/25/15, he was suspended pending investigation for his actions on 4/24/15. He was witnessed by a co-worker to go on break around 6 p.m. and not return until 8 p.m. When he returned from break, he was observed to appear sweaty and his eyes appeared glassy. He stated to another LPN that he could not find a morphine pill and that he thought he had lost it. The respondent asked the LPN to witness a waste without the medication, which she refused to do. The LPN advised the respondent to contact the DON for further instructions. The respondent was terminated on 4/28/15.

11. The board received records from Gastrointestinal Specialists. It appears that the respondent falsified his employment application. He indicated on his application for employment that he left Pierremont Healthcare Center due to a medication error. He stated that he had a student pass medications and that a narcotic was given to the wrong person. He stated he was terminated because he was responsible for the student.
12. The board received records from George S. Park, Ph.D., MP regarding the respondent's evaluation on 10/16/15. He reported to Dr. Park that he drank very little or no alcohol and denied recreational drug use. He also reported that he had never been psychiatrically hospitalized. According to Dr. Park, the respondent's diagnosis was major depression disorder and ADHD.

CONCLUSIONS OF LAW

Based on the findings of fact, enumerated above, the respondent is in violation of:

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;**
 - (d) **is habitually intemperate or is addicted to the use of habit forming drugs;**
 - (e) **is mentally incompetent;**
 - (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 Part B. And

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;**
5. **being mentally incompetent;**
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;**
 - e. **performing procedures beyond the authorized scope of practical nursing;**
 - 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;**
 - l. **leaving a nursing assignment without properly notifying appropriate personnel;**
 - 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;**
 - 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. **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.**

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ORDER

In view of the above findings of fact and conclusions of law, the board issues the following order by default:

The license of the respondent, **Tyler Bruce, license #20130283** is hereby **revoked**, effectively immediately upon execution of this order. Revocation is permanent in the state of Louisiana.

Furthermore, the respondent must:

- A. Return his/her current practical nursing license to the board office within **five (5) days** of the date of this order.
- B. Shall not practice as a practical nurse in the state of Louisiana.
- C. Submit a fine of **\$1500.00, 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.

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.

LOUISIANA STATE BOARD OF PRACTICAL NURSE EXAMINERS

M. Lynn Ansardi RN

M. Lynn Ansardi, RN
Executive Director

8/16/16
Date

Rendered this 16th day of August, 2016, and mailed this 16th day of August, 2016, by U.S. postal service certified mail return receipt #7016 0910 0000 8350 4325 and regular mail to the following address:

Tyler Bruce
710 Irving Bluff Road
Shreveport, LA 71107

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July 26, 2016

FILE COPY

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7016 0910 0000 8350 4004**

**Tyler Bruce
710 Irving Bluff Road
Shreveport, LA 71107**

**LICENSE #20130283
D.O.B. 03/18/1991**

FORMAL COMPLAINT

The Louisiana State Board of Practical Nurse Examiners, hereinafter called the board, files this formal complaint against the respondent. This serves as notice required by the Administrative Procedure Act R.S.49:955(B).

A hearing will be conducted at the offices of the board on the date and at the time specified here:

**Date: August 25, 2016
Time: 2:30 p.m.
Place: 131 Airline Dr., Suite 301, Metairie, LA 70001**

The nature of the hearing is prosecution of the matter:

**The Louisiana State Board of Practical Nurse Examiners
v.
Tyler Bruce**

The board's legal authority and jurisdiction, in this process of adjudication, are provided for in:

1. The Louisiana Revised Statutes of 1950, Title 37, Chapter 11, Part II, Section 961 et seq., as amended; and
2. The Louisiana Administrative Code, Title 46, Part XLVII, Subpart 1, Section 101 et seq., as amended; and
3. The Louisiana Administrative Procedure Act, Title 49, Chapter 13, Section 950 et seq., as amended.

ATTACHMENT

A

EXHIBIT

1 A-1

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The hearing concerns alleged violations of the following sections of the statutes/rules:

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;
 - (d) is habitually intemperate or is addicted to the use of habit forming drugs;
 - (e) is mentally incompetent;
 - (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;
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 5. being mentally incompetent;
 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;
 - e. performing procedures beyond the authorized scope of practical nursing;
 - g. improper use of drugs, medical supplies, or patients' records;
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- i. **falsifying 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;**
- 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;**
- 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. **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.**

The major issues involved include, but are not limited to the following:

1. The respondent was issued a license to practice practical nursing in the state of Louisiana on February 15, 2013.
2. The respondent self-reported to the board that he was arrested on 1/7/15, for DWI and Public Intimidation on his 2015 renewal application.

Additionally, at the time of his 2016 renewal application, he reported that he was arrested on 6/13/15, for the following charges:

- 2nd degree battery
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- Simple Criminal Damage to Property

3. The board received a copy of the respondent's Biopsychosocial Assessment performed at the Council of Alcoholism and Drug Abuse on 7/25/15. According to the assessment, he reported having a problem with alcohol and drugs. He reported that he sought outpatient treatment with the VA but was unsuccessful. He also reported that he received behavioral health services at Brentwood for Major Depressive Disorder. The respondent was diagnosed with Opioid Use D/O, Alcohol Use D/O, and Substance Induced Mood D/O.
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5. According to records from the VA, on the date he was admitted to the program, he signed himself out and was expected to return no later than 19:00. He returned intoxicated and after curfew. On 7/15/15, he showed up to a group meeting under the influence of Dextromethrophan and displayed symptoms of impairment such as sleeping, shuffling gait, slow speech, and lethargy. He admitted to taking cough syrup to get high. On 7/16/15, he failed to show for his group session. It was reported that he left against the advice of staff and the attending physician. He failed to complete the recommended 35 day course of treatment.
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7. According to an unsigned letter dated 5/17/16, from Ryan Pommier, RAC with CADA, he was unable to give clearance or determine if the respondent was capable of safely practicing as an LPN since he was discharged on 8/12/15.
8. The board received an evaluation report dated June 24, 2015, from Mark Vigen, Ph.D. indicating that the respondent exhibited a significant history of substance abuse. The respondent failed to report this to the board prior to licensure. According to the evaluation, he reported that he began abusing prescription drugs at 14 years of age, alcohol at 15 years of age and illicit drugs at 16 years of age. It was noted that his drug and alcohol abuse became self-destructive and impeded his ability to fulfill his responsibilities at home and at work. He reported being fired from his first job after he were caught smoking marijuana at age 16 and that he completed one year of drug court. The respondent failed to report this to the board as required prior to licensure. During the evaluation, he also indicated that he was fired from his employment with Pierremont Healthcare for a medication error. He stated that having access to patients' prescription medications had become a strong temptation to abuse drugs. He also admitted to stealing patients' blood pressure medication to self-medicate. At the time of the evaluation, he admitted to consuming cough syrup to get "high" and consumed it prior to psychological testing. Dr. Vigen recommended that he participate in residential treatment for drug and alcohol abuse as well as intensive outpatient treatment thereafter. It was also recommended that he participate in Alcohol Anonymous/Narcotic Anonymous four times per week for five years and participate in weekly counseling for a minimum of three years.
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12. The board received records from George S. Park, Ph.D., MP regarding the respondent's evaluation on 10/16/15. He reported to Dr. Park that he drank very little or no alcohol and denied recreational drug use. He also reported that he had never been psychiatrically hospitalized. According to Dr. Park, the respondent's diagnosis was major depression disorder and ADHD.

You have ten (10) days prior to the date fixed for the hearing to respond (response form enclosed) to this complaint. If you fail to respond, in writing, within this time, you will be deemed to have waived the right to a hearing and action may be taken on this complaint by default, or the hearing may proceed in your absence.

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Please find enclosed, a copy of rules related to the formal hearing process.

RIGHT TO PETITION FOR REHEARING/APPEAL/JUDICIAL REVIEW

A decision issued by the board, after the hearing in this matter, may be appealed. LRS 37:976 provides: "Appeals from decisions of the board shall be to the 24th Judicial District Court of Jefferson Parish..." The petition for appeal must be filed within thirty days of the date of the mailing of the notice of the board's final decision; copies of the petition must be served on the board and all parties of record (LRS 49:964). A request may also be made to the board for rehearing, re-opening or reconsideration of the board's order. This request must be filed within ten days from the date of the board order and set forth legally sufficient reasons for granting the requests. (LRS 49:959 and LAC 46:XLVII.306.S).

M Lynn Ansardi RN

By: _____
M. Lynn Ansardi, RN
Executive Director

EXHIBIT
A-7

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July 26, 2016

Please sign, date and return to the board office at 131 Airline Dr., Ste. 301, Metairie, LA 70001.

_____ I **admit** to the allegations contained in the notice of complaint and **will appear** for the scheduled formal hearing.

_____ I **deny** the allegations contained in the notice of complaint and **will appear** for the scheduled formal hearing.

_____ I **admit** to the allegations and **hereby waive my rights** to a formal hearing in the matter. I **will not appear** for the scheduled formal hearing and understand that in doing so my case may either be heard without my appearance, or the Board may issue an order by default.

_____ I **deny** the allegations and **hereby waive my rights** to a formal hearing in the matter. I **will not appear** for the scheduled formal hearing and understand that in doing so my case may either be heard without my appearance, or the Board may issue an order by default.

_____ I enclose my written response to the allegation(s) contained in the notice of complaint and **will not appear** for the scheduled formal hearing. I understand that in doing so my case will be heard without my appearance.

NAME: _____

ADDRESS: _____

PHONE#: _____

DATE: _____

SIGNATURE: _____

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

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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:

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- 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).

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