

In the matter of: Gabriel Davis
Applicant for Licensure
D.O.B. 07/10/1988

This cause having come to be heard upon the complaint filed herein, the evidence and testimony entered before the presiding hearing officer on July 7, 2016. The nature of the hearing was prosecution of the matter.

No witnesses were called to testify on behalf of the board.

No witnesses were called to testify on behalf of the respondent.

The respondent was **NOT** present to give sworn testimony.

During the formal hearing process, the following findings of fact and conclusions were confirmed based on the entire record:

FINDINGS OF FACT

On the respondent's Evaluation for Admission to a Practical Nursing Program, she 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 **expunged/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**?"

She reported the following charge:

- March 1, 2013 – Child Desertion

The respondent indicated that she left her 4 month old in her parked car while she went into a store to pick up items. She claimed to leave the car running and in the emergency zone. However, according to the police report, the 4 month old child was left unattended in the vehicle that was observed to be parked approximately 75 yards away from the front of the store and out of the line of sight from the store for over 15 minutes.

The hearing officer finds that the respondent was negligent regarding the care of her own child and has reservations regarding the respondent being licensed as a practical nurse in lieu of that. She failed to show for her hearing, to explain to the board why this occurred.

She turns to the argument that she was suffering from postpartum depression following the birth of her child. She was placed on medication in December of 2012, but took herself off without the advice of her doctor.

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;**
 - (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.
 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;**
 - 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.**

ORDER

The matter of **Gabrial Davis, applicant for licensure, S.S. number ending with 8383**, on **November 4, 2016** came on for final action by the Louisiana State Board of Practical Nurse Examiners.

NOW THEREFORE, IT IS ORDERED that the respondent, **Gabrial Davis, applicant for licensure**, not be made eligible to take the NCLEX-PN until and unless she complies with the following stipulations:

1. **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).

2. **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.

3. **Obtain the following evaluation(s):**

psychological

- 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.

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- 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. past and present treatment and/or recovery activities
 - ii. results of any testing conducted
 - iii. a summary of the findings
 - iv. treatment plan, if applicable
 - v. list of medications prescribed, if applicable
 - vi. 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.

4. **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.

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- 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.
5. **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.
6. **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.
- C. 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.

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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.

- D. 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.

7. **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 the board 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 the board order.
- C. The respondent must pay any/all fines/fees owed to the board. Fines/fees are **payable by cashier's check or money order only**.

8. **Eligibility to take NCLEX-PN requirements:**

- A. After successfully completing all stipulations listed above and submitting all evidence of compliance with the above stipulations, the respondent may then submit a written request to the board office requesting to be made eligible to take the NCLEX-PN.
- B. If a chemical and/or psychological assessment was stipulated prior to being made eligible to take the NCLEX-PN, the provider who conducted the original assessment must submit a letter to the board office indicating that he/she feels the respondent can safely enter into 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.

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Upon favorable review of compliance with the above stipulations, the respondent may then be made eligible to take the NCLEX-PN and upon successfully passing the exam, receive a practical nursing license which will be placed on probation for a minimum period of **one (1) year**. During this probationary period the respondent shall continue to follow **stipulations #1, 2, 4, 5, and 6 as stipulated above and the following stipulations:**

1. **License:**

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

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 at the time of application to any/all prospective employer(s).
- i. 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 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.

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- 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).

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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) denial of licensure b) immediate suspension of license, c) indefinite suspension of license, d) ineligibility for annual renewal of license, e) additional fines/penalties up to \$500.00 per occurrence, f) increased probationary period, g) summary suspension and h) revocation.

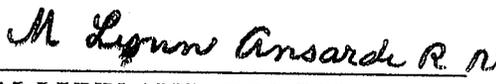
FAILURE TO COMPLY WITH ANY SECTION OF THIS ORDER RELATED TO TREATMENT PLANS, MAY RESULT IN SUSPENSION OF UP TO A FOUR (4) YEAR PERIOD WITHOUT A HEARING BEFORE THE BOARD. During the period of suspension, appropriate consistent treatment must be obtained prior to the respondent's initiation of a reinstatement request.

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 4th day of November, 2016 and signed this 4th day of November, 2016 at Metairie, Louisiana.


MYRON COLLINS, LPN
CHAIRMAN OF THE BOARD


M. LYNN ANSARDI, RN
EXECUTIVE DIRECTOR

Mailed this 4th day of November, 2016, by U.S. postal service certified mail return receipt #7016 0600 0000 6616 3279 and regular mail to the following address:

Gabrial Davis
969 Monet Dr., Apt. 201
Baton Rouge, LA 70806