

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION**

BOARD OF NURSING

**In Re: Ryan Metz, LPN
LPN Lic. # 0002084042**

**ORDER ON EMERGENCY LICENSE
SUSPENSION HEARING**

Docket No.: 2023-NUR-012

I. ATTENDEES

Samantha O'Neill, Board Chair
Maureen Murtaugh, Board Member
Dwayne Thibeault, Board Member
Wendy Stanley Jones, Board Member
Michele Melanson-Schmitt, Board Member
Matthew Kitsis, Board Member
Jeanette Webber, OPLC Board Administrator
Christine Senko, OPLC Board Administrator
Attorney Lauren Warner, Board Counsel
Attorney Collin Phillips, OPLC Hearing Counsel
Attorney Shane D. Goulet, OPLC Hearings Examiner and Presiding Officer
Ryan Metz, LPN Licensee
Dr. Genifer Johnson, DNA MSN RN, Witness

II. CASE SUMMARY/PROCEDURAL HISTORY

On or about 01/13/23, the Office of Professional Licensure and Certification, Division of Enforcement (“OPLC Enforcement”), acting on behalf of the Board of Nursing (“Board”), received a complaint alleging that Ryan Metz, LPN (“Licensee”) had given excessive amount of morphine to a patient outside the scope of the prescribing physician’s orders and had otherwise been careless in working with controlled substances and patients at Derry Center for Rehabilitation in December of 2021. Upon receipt of the allegations, OPLC Enforcement conducted an expedited investigation and further learned that on 10/25/22 the Licensee was arrested for and charged with a felony count of possession of a controlled drug in New Hampshire. On 01/26/23, the Board voted

to suspend the Licensee's privilege to practice as an LPN in New Hampshire on an emergency basis pursuant RSA 541-A:30(III), RSA 310-A:1-m, RSA 326-B:37(IV), N.H. Code Admin. R., Title Nur 402.03(a) ("Rules"), and/or N.H. Code Admin. R., Title Plc 206.07 ("Plc"). The Board held an emergency adjudicatory hearing on 02/06/23 to determine whether the Licensee presented an imminent threat to public health, safety, or welfare such that his license should remain emergently suspended pending a full investigation and possible final disciplinary action. This Final Decision and Order follows.

III. SUMMARY OF THE EVIDENCE

The Board received the following evidence pursuant to RSA 541-A:33 and Rule 207.09:

a. Exhibits were filed by Hearing Counsel, numbered as follows:

1. Complaint filed by Dr. Johnson
2. Email – Michael Porter
3. Nursys License Information – Metz
4. Case Summary filed on 10/31/2022 Case No. 210-2022-CR-00936 (Offense 2. Cntrl Drug: Sched 1-4 Possession)
5. Excluded (see prehearing conference order dated 02/03/2023)
6. Case Summary filed on 11/06/2022 Case No. 435-2022-CR-104100 (Party Information and Complaint Narrative at Filing)
7. Case Summary filed on 11/29/2022 Case No. 448-2022-CR-01066 (Party Information and Complaint Narrative at Filing)
8. Verification of New Hampshire Identification

b. Exhibits were filed by Licensee, numbered as follows:

- A. Email – correspondence between the Licensee and his former employer from 12/17/2021

c. Sworn testimony was received from:

1. Dr. Genifer Johnson, DNA MSN RN (called by Hearing Counsel)
2. Michael Porter, Investigations Bureau Chief Division of Enforcement OPLC (called by Hearing Counsel)
3. Ryan Metz, Licensee

Exhibits 1, 2, 3, 4, 6, 7, 8, and A were admitted into evidence as full exhibits after the Presiding Officer determined they were material and relevant. Exhibit 5 was excluded over the objection of Hearing Counsel. *See* Prehearing Conference Order dated 02/03/2023. Hearing Counsel elected to present his case by “offer of proof” without objection from the Licensee, subject to the Licensee’s ability to cross-examine the witnesses.

IV. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED

The Board proceeded to adjudicate the matter. Hearing Counsel held the burden of proof by a preponderance of the evidence. Rule 207.10. The sole issue before the Board was whether or not the Licensee's license should be suspended pending a full adjudicatory hearing in this matter because he presents an imminent threat to the public health, safety or welfare, where, he is actively licensed in New Hampshire and [allegedly] has a pattern of working with and using controlled substances in a dangerous and unlawful manner in the State of New Hampshire, including an arrest for a felony possession of a controlled substance on 10/25/2022. Based upon the evidence presented at the hearing, the Board finds the following facts.

Dr. Genifer Johnson, DHA MSN RN, Executive Director of Clinical Operations - Career Staff Unlimited

Dr. Johnson was sworn in and Attorney Phillips presented an offer of proof on her behalf based upon the information contained within the complaint that she filed on 01/13/2023. *See* Exhibit 1. A summation of the offer includes the following facts: the Licensee was working at Derry Center for Rehabilitation in Derry N.H. on December 20th of 2021; the Licensee was working with a resident in hospice care who was deaf and blind; the patient had a morphine order to only be used if the resident was actively dying; the Licensee administered the resident, who was not actively dying, (8) 5mg doses of morphine during a 12 hour shift; the Licensee did not

document the assessment of the morphine before or after the administration; and the Director of Nursing for Derry Center, Susan Perino, observed that the resident did not eat, drink, or wake up for 16 hours. Dr. Johnson acknowledged that Attorney Phillips' offer was a fair and accurate representation but noted one singular amendment. Dr. Johnson stated that the date of incident was on 12/16/2021 not 12/20/2021.

Dr. Johnson was cross-examined by the Licensee as to whether she had seen the medication administration record, (hereinafter the M.A.R.), regarding the alleged incident. Dr. Johnson testified that she did have a copy of what she believed was the M.A.R. in front of her.¹ Dr. Johnson further testified that her Agency discovered, during the course of an audit, that there was no information on file which evidenced that the complaint she submitted on 01/13/2023 was ever previously submitted to the Board of Nursing.

Michael Porter, OPLC Chief Investigator

Michael Porter was sworn in as the Investigations Bureau Chief for OPLC. Attorney Phillips presented an offer of proof on his behalf that further authenticated Exhibit 2, and 4. The offer represented Exhibits 2, and 4 were the products of his initial investigation into the complaint OPLC received on 01/13/2023. During Investigator Porter's investigation he discovered that the Licensee was arrested and charged with a felony possession of a controlled substance on October 25, 2022 and subsequently failed to appear for his arraignment on 12/1/2022 which resulted in a warrant being issued for his arrest.

¹ After learning from both Hearing Counsel and the Licensee that neither party had been provided the M.A.R. or had any information regarding its contents, the Presiding Officer instructed the witness and the parties to proceed with caution as to not disclose or elicit any information contained in the M.A.R.

Ryan Metz, LPN (Licensee)

The Licensee was sworn and testified that he has been a nurse since approximately 2010/2011 and has never had any issues regarding his license. He represented that he has done well since becoming a nurse and that the allegations from December of 2021 coming to fruition now feels like revenge. He stated, “this is new to me” in reference to the allegations and the emergent suspension of his privileges. The Licensee testified that he has only ever given medication as authorized and prescribed. He further stated that he needs to see the M.A.R. The Licensee stated that he did his job and was never questioned by the facility.

Upon cross examination the Licensee stated that whatever was found in the car was not his but from a girl he was with. He also denied that they were narcotics. When questioned by the Board the Licensee testified as to his general process for the administration of morphine and what information he utilizes when making that determination.

V. DISCUSSION AND FINDINGS OF FACTS / CONCLUSIONS OF LAW:

After reviewing all the evidence, and accounting for the presentation and demeanor of all the witnesses, the Board finds that Hearing Counsel has not met their burden of proof that the Licensee poses an imminent danger to the life or health of the public as an LPN in the State of New Hampshire. The Exhibits and witness testimony adequately support the conclusion that allowing the Licensee to remain in practice pending a full adjudication of the matter does not pose a threat to public health, safety, or welfare, based on the nature and severity of the alleged violations from which the matter arose.

VI. CONCLUSION AND DECISION:

Pursuant to RSA 326-B:37(IV), RSA 541-A:30, III, Rule 402.03, and Plc 206.07 the Board hereby lifts its emergency suspension of Ryan Metz's privileges to practice as an LPN in the State of N.H.

DATED: 2/25/2023

____/s/ Shane D. Goulet, Esq._____

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