

**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING**

IN RE:)
Monique Warner) **Docket No. 2024- 37**
Application Tracking No. LI-711070)

STIPULATION AND CONSENT ORDER

NOW COME the State of Vermont, by and through Prosecuting Attorney Rachel Heath, and Applicant Monique Warner who stipulate and agree as follows:

Authority

1. The Office of Professional Regulation has authority to deny an applicant's license if it finds that the applicant has engaged in unprofessional conduct in any jurisdiction. 3 V.S.A. § 129(a); 3 V.S.A. §129a; 26 V.S.A. Chapter 28; the Vermont Board of Nursing Administrative Rules, and the Rules of the Office of Professional Regulation.

Stipulated Facts and Bases for Denial

Basis for Denial One: 3 V.S.A. § 129a(a)(10) Conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession.

2. On February 14, 2022, Applicant pled guilty to Theft by Unauthorized Taking \$0-\$100, a misdemeanor, in the criminal court of Lebanon New Hampshire, docket number 452-2018-CR-00515.
3. The basis of this conviction was that Applicant stole approximately \$80 from a customer's purse that had been left behind at a coffee shop.
4. Paragraphs 2 and 3 above demonstrates that Applicant has a misdemeanor conviction related to the practice of the profession, a basis for denial under 3 V.S.A. § 129a(a)(10), as LNAs are often entrusted with personal property in their care of patients.

Basis for Denial Two: 3 V.S.A. § 129a(a)(1) Fraudulent or deceptive procurement or use of a license.

5. On November 28, 2023, Applicant submitted an application for licensure as a Licensed Nursing Assistant (LNA) to the Vermont State Office of Professional Regulation.

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Prosecuting Attorney
Office of
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89 Main Street
3rd Floor
Montpelier, VT
05620-3402

6. Within the Application, under the pains and penalties of perjury, applicant answered "No" to the question:

Have you EVER been convicted of a criminal misdemeanor or felony in Vermont or ANY other state, federal authority, or other jurisdiction?

If "Yes," you must provide a detailed written explanation and attach the official court documents (i.e., affidavit of probable cause, information, sentencing documents, docket report) or as requested by the Office.

7. Applicant failed to disclose her prior criminal conviction as listed in paragraph 2 above.
8. Applicant signed this application with the following attestation:

Caution to Applicant

A false statement on this application may constitute unprofessional conduct and may be a basis for denial of a license application or discipline of a license, to include revocation. 3 V.S.A. § 129a. A person who declares, certifies, or verifies in a signed writing that a statement is true and is made under the pains and penalties of perjury, and who willfully makes a false statement in the declaration, certification, or verification, shall be guilty of perjury, a crime punishable by imprisonment not more than 15 years or a fine of not more than \$10,000.00, or both. 13 V.S.A. § 2901 & 2904(b).

Certification of Identity

In the case of an application for individual licensure, I am the person in whose name this application is completed; or

In the case of a corporate applicant, I am an authorized officer of the applicant corporation, having executive authority to complete this application and personal knowledge of and accountability for the representations herein.

Certification of Accuracy

I understand that submission of this application represents that I have understood each question, that I have been candid and disclosed all relevant information, and that I have answered each question from sound personal knowledge, not a hunch, guess, or supposition. I understand that any failure to provide accurate information could result in a preliminary denial of my application or as a basis for unprofessional conduct charges against my license.

Certification of Truthfulness

I hereby certify, under the pains and penalties of perjury, that the answers, entries, and representations herein are true and accurate.

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9. Based on the representations Applicant made in her Application, OPR issued Applicant a provisional license on December 20, 2023, pending receipt of her federal criminal background check.
10. On January 22, 2024, OPR received Applicant's criminal background check, which showed the 2022 misdemeanor conviction referenced in paragraph 2 above.
11. That same day, as a result of the criminal background check showing a conviction not disclosed in the Application, OPR rescinded Applicant's provisional license.
12. Paragraphs 2 through 11 demonstrate that Applicant engaged in fraudulent or deceptive procurement of a license by answering in her Application that she did not have any prior criminal convictions.

Understandings

13. Applicant admits the facts as outlined above are true and the Board may find that the Applicant engaged in unprofessional conduct.
14. Applicant admits that the order below is necessary to protect the public.
15. Applicant understands that the Board must review and accept the terms of the Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.
16. Applicant specifically waives any claims that any disclosures made to the Board during its review of this agreement have prejudiced Applicant's rights to a fair and impartial hearing in future hearings if the Board does not accept this agreement.
17. Applicant has read and reviewed this entire document and agrees that this document contains the entire agreement between the parties.
18. Applicant is not under the influence of any drugs or alcohol at the time of signature of this Stipulation and Consent Order.
19. Applicant voluntarily enters into this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.
20. Applicant voluntarily waives the right to a contested hearing before the Board and waives any right to appeal from this Stipulation and Consent Order.
21. Applicant agrees that the Board may enter the Order set forth below.

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ORDER

Based on the Stipulation above, it is **ORDERED AND ADJUDGED** as follows:

- A. The Board hereby grants Applicant licensure as an LNA.
- B. The Board hereby **WARNS** Applicant licensure as an LNA when it is issued.
- C. The Board of Nursing hereby **CONDITIONS** Respondent's license commencing with the date of entry of this Stipulation and Consent Order. The conditions will be as follows:
 1. Length of Time of Conditions Imposed. Respondent shall be subject to the conditions for a **minimum period of one year** in which Respondent works at least 80 hours every calendar month as a LNA and until Respondent has fully completed all conditions as ordered. Part time hours of fewer than 80 hours every calendar month shall be credited on a prorated basis. Respondent shall not work more than 40 hours per week.
 2. Monitoring. The Office of Professional Regulation, through the Enforcement Case Manager, shall be responsible for monitoring Respondent's compliance with these Conditions. All reports or correspondence regarding compliance with these conditions shall be submitted to the Case Manager in accordance with the Conditions listed below.
 3. Types of Employment Prohibited. Respondent shall not work in a supervisory role. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency, or as a private duty nurse or personal care provider requiring a nursing or nursing assistant license during the effective period of this Consent Order.
 4. Notification of Place of Employment/Personal Address/Telephone Number. Within ten (10) days of the date of entry of this Consent Order, Respondent shall notify the Case Manager, in writing, of Respondent's current place of employment, personal address, and telephone number. Respondent shall further notify the Case Manager, in writing, within forty-eight (48) hours of any change in employment (including resignation or termination), personal address, or telephone number.
 5. Out-of-State Practice. Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board or its designee. The Board will approve out-of-state nursing practice so long as Respondent can still comply with the provisions of this Consent Order. If Respondent receives discipline on a nursing license held in another state during the conditioned period, Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.
 6. Violation of this Order. If Respondent violates this Order the Board, after

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giving Respondent notice and an opportunity to be heard, may rescind or modify this Order and impose additional appropriate disciplinary actions. If a complaint of unprofessional conduct is made against Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

7. Completion of Conditional License Period. Respondent shall submit a petition to the Docket Clerk to remove any and all conditions on Respondent's license. The State will assent to or oppose Respondent's petition. The Board will conduct a hearing if necessary. Respondent bears the burden and must present proof that Respondent has fully complied with the terms of this Order and these conditions are no longer necessary to protect the public.

- D. Notwithstanding any provision above, Applicant must continue to meet all requirements for maintaining a license, license renewal, and license reinstatement.
- E. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- F. This Stipulation and Consent Order will remain part of Applicant's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 2/23/2024

By: DocuSigned by:
Rachel Heath
FCA249D7D29242B
Rachel Heath
Prosecuting Attorney

APPLICANT

Dated: 2/23/2024

By: DocuSigned by:
Monique Warner
1A7AB250AF05409...
Monique Warner

APPROVED AND SO ORDERED:

Dated: 3/11/24

By: DocuSigned by:
Jennifer Laurent
EB1741915719477...
Jennifer Laurent
Board Chairperson

Date of Entry: 3/12/24

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IN RE:)
Monique Warner) Docket No. 2024-37
Application Tracking No. LI-711070)

NOTICE OF PRELIMINARY DENIAL

Monique Warner (the “Applicant”) submitted an application for licensure as a Licensed Nursing Assistant (LNA) (the “Application”) to the Office of Professional Regulation on November 28, 2023. The Application was complete on January 31, 2024. The State of Vermont has **preliminarily denied** the Application for the following reasons:

Authority

1. The Office of Professional Regulation has authority to deny an applicant’s license if it finds that the applicant has engaged in unprofessional conduct in any jurisdiction. 3 V.S.A. § 129(a); 3 V.S.A. §129a; 26 V.S.A. Ch.28; the Vermont Board of Nursing Administrative Rules, and the Rules of the Office of Professional Regulation.

Basis for Denial

Basis for Denial One: 3 V.S.A. § 129a(a)(10) Conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession.

2. On February 14, 2022, Applicant pled guilty to Theft by Unauthorized Taking \$0-\$100, a misdemeanor, in the criminal court of Lebanon New Hampshire, docket number 452-2018-CR-00515.
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Have you EVER been convicted of a criminal misdemeanor or felony in Vermont or ANY other state, federal authority, or other jurisdiction?

If “Yes,” you must provide a detailed written explanation and attach the official court documents (i.e., affidavit of probable cause, information, sentencing documents, docket report) or as requested by the Office.

7. Applicant failed to disclose her prior criminal conviction as listed in paragraph 2 above.
8. Applicant signed this application with the following attestation:

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In the case of an application for individual licensure, I am the person in whose name this application is completed; or

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9. Based on the representations Applicant made in her Application, OPR issued Applicant a provisional license on December 20, 2023, pending receipt of her federal criminal background check.
10. On January 22, 2024, OPR received Applicant's criminal background check, which showed the 2022 misdemeanor conviction referenced in paragraph 2 above.
11. That same day, as a result of the criminal background check showing a conviction not disclosed in the Application, OPR rescinded Applicant's provisional license.
12. Paragraphs 2 through 11 demonstrate that Applicant engaged in fraudulent or deceptive procurement of a license by answering in her Application that she did not have any prior criminal convictions.

As a result of the foregoing, the Application for licensure is **PRELIMINARILY DENIED**. If you would like this decision to be reviewed, please refer to the petition for review instructions at the bottom of this notice.

DATED this 15th day of February 2024.

STATE OF VERMONT
SECRETARY OF STATE

By: */s/ Rachel Heath*

Rachel Heath
State Prosecuting Attorney
Enforcement Unit
(802)828-0041
Rachel.Heath@vermont.gov

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To seek review of this preliminary decision to deny your license application, you must file with the Docket Clerk a written petition requesting review within 30 days of the date of this notification. In order to expedite the review process, your petition shall include a statement of issues, that is, why the preliminary denial should be reversed and that the license should be granted.

Please send the petition via first-class mail, postage prepaid to the address below:

Julie Bowen, Docket Clerk
Office of Professional Regulation
89 Main Street, 3rd Floor
Montpelier, VT 05602-3402

Upon receipt of a timely petition for review, a hearing will be scheduled. The State will be represented by the state prosecutor. At the hearing, you will have the burden of proving that the preliminary decision to deny the license should be reversed and that your license should be granted. 3 V.S.A. § 129(e). You may have an attorney represent you, and you may bring witnesses and documents to the hearing. After the hearing, the tribunal may uphold the denial, in whole, or in part, may reverse the decision and issue an unrestricted license, or may issue a license with disciplinary sanctions attached. 3 V.S.A. § 129(a)(3).

If you do not petition for review, the preliminary denial of the license will become final in 30 days. As a final disciplinary decision, the denial will be reported to all required national data banks and shall be public pursuant to 3 V.S.A. §131.

Once the decision is final, it may be appealed pursuant to 3 V.S.A. § 130a.

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