

**STATE OF VERMONT
BOARD OF NURSING**

In re: Diedre Arguin
License No. 025-8615

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Docket No. 2012-388(LPN)

Sanctions Order

Participating Board Members:

Jeanine Carr, RN, Chair
Ellen Watson, APRN
John Todd, APRN,
Alan Weiss, Public Member
William G. White, Jr., Public Member
Deborah Swartz, RN
Sheila Davis, LPN
Stephen Morse, LNA

Appearances:

Prosecuting the case: Gabriel Gilman
for Respondent: John Pacht

Presiding Officer: Larry S. Novins

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

The Vermont Board of Nursing held hearings in the above matter on June 10, 2013 at the Office of Professional Regulation conference room at Schulmaier Hall at the Vermont College of Fine Arts and on November 18, 2013 at the Office of Professional Regulation conference room at the City Center, both in Montpelier. The Board's decision finding unprofessional conduct following the initial hearing was entered on June 10, 2013.

At the June hearing the Board granted the parties additional time to prepare either a Stipulation of Sanctions or to present evidence to the Board from which we would determine the appropriate sanctions. Our previous decision is incorporated by reference and provides the basis for the sanctions imposed below.

Order

For the violations found in our June Decision, to protect the public, health, safety and welfare, the following sanction is necessary.

Respondent's license is currently **indefinitely suspended**. Ms. Arguin may petition the Board for reinstatement as set forth in the incorporated Reinstatement Prerequisites and

Conditions Imposed attached hereto.

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Nursing. A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, Office of Professional Regulation, 89 Main Street, Fl. 3, Montpelier, Vermont 05620-3402 within 30 days of the entry of this Order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.

To request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Nursing

By:

Jeanine Carr
Jeanine Carr, RN, Chair

Date November 18, 2013

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY:

11/20/13

**Vermont Board of Nursing
Sanctions Decision
Reinstatement Prerequisites and Conditions Imposed**

In re: Diedre Arguin
License No. 025-8615

Order

As set forth in the Order this date, Ms. Arguin's license shall continue to be **indefinitely suspended**. Ms. Arguin may apply for reinstatement at any time.

Before applying for reinstatement, Ms. Arguin must meet the following conditions:

- 1) Ms. Arguin shall obtain an independent evaluation report by a licensed professional specializing in drug and alcohol abuse, pre-approved by the Board or its designee;
- 2) The results of the report with the drug and alcohol independent evaluator must indicate that Ms. Arguin does not present a risk to the safety, health, or welfare of her potential patients; and
- 3) Ms. Arguin must submit to the Board or its designee the results of a minimum of one (1) random urine analysis administered by a person who has been pre-approved by the Board or its designee, and analyzed by a lab pre-approved by the Board or its designee which is qualified to analyze samples for forensic purposes. The reinstatement applicant shall authorize the Board or its designee to share urinalyses results with the independent evaluator (paragraph 1, above) and the applicant's treatment provider(s).
- 4) The results of the random urinalysis shall be negative. Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine analysis shall cause that screen to be presumed to be positive.

Ms. Arguin's license shall not be reinstated until these prerequisites are met.

License Conditions

(1) Re-issuance of License

When Ms. Arguin has shown successful completion of the reinstatement conditions above, her license shall be reinstated as "conditioned." The conditions set forth below shall remain with Ms. Arguin's license until further Order of the Board.

(2) Length of time of Conditions Imposed

These conditions shall remain in place until Ms. Arguin has completed all conditions ordered. Ms. Arguin shall be subject to the conditions until Ms. Arguin completes a

minimum of three (3) years of supervised practice in which she works at least forty (40) hours every two (2) weeks as a licensed practical nurse. Part time employment of less than forty (40) hours every two (2) weeks shall be credited on a pro-rated basis. Ms. Arguin shall be prohibited from working more than forty (40) hours per week.

(3) Completion of Substance Abuse Counseling and Treatment Plan

Ms. Arguin shall enter into and continue substance abuse counseling with a treating professional pre-approved by the Board until the treating professional shall certify in writing to the Board that such counseling is no longer necessary. Ms. Arguin shall enter into and comply with the substance abuse treatment plan approved by the Board and the treating professional.

(4) Notification to Treating Professional

Ms. Arguin shall provide a copy of this Order to the treating professional and cause the treating professional to inform the Board, in writing on professional letterhead, of receipt of the Order and the treating professional's ability to comply with the conditions related to treatment and with all other terms of this Order.

(5) Reports from Treating Professional

(a) Ms. Arguin shall authorize and cause the treating professional to submit to the Board evidence of satisfactory progress with the treatment plan during the effective period of this Order. The first report is due commencing one month after the date of the commencement of the conditions. Subsequent reports are due **monthly** thereafter.

(b) Ms. Arguin shall authorize the treating professional to provide all information requested by the Board of Nursing, or its designee, either orally or in writing, at any time during the period this Order is in effect.

(6) Participation in Recovery Group(s)

Ms. Arguin shall participate in substance abuse recovery group(s) as recommended by the treating professional, and shall submit **quarterly** reports to the Board documenting such attendance on forms issued by the Board.

(7) Random Drug and Alcohol Testing

(a) Ms. Arguin shall submit to random substance abuse screenings at the request of the Board or its designee. Ms. Arguin shall designate a person, who has been pre-approved by the Board or its designee, to administer random substance abuse screens. All testing shall be done on a random, unannounced basis and be analyzed by a laboratory which is qualified to analyze samples for forensic purposes and which is approved by the Board. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative.

(b) Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering

with a sample for any urine screen shall cause that screen to be presumed positive. Any positive screen shall constitute a violation of this Order.

(8) Abstain from Drug and Alcohol Use

Ms. Arguin shall abstain completely from the consumption or possession of alcohol and drugs with the exception of drugs as outlined in Paragraph 9 for the duration of this Order.

(9) Drug Use Exception

(a) Ms. Arguin shall not take controlled substances unless necessary. Ms. Arguin may take scheduled/controlled medications lawfully prescribed for a bona fide illness or condition by a physician, dentist, or nurse practitioner whose identity shall be made known to the Board in writing by Ms. Arguin within forty-eight (48) hours of the establishment of the practitioner/patient relationship. Ms. Arguin shall ensure that the physician, dentist or nurse practitioner informs the board, in writing and on appropriate letter head, of knowledge of Ms. Arguin's substance abuse issue(s) within one (1) week of entering into the practitioner / patient relationship. Ms. Arguin shall inform the Board in writing of all scheduled/controlled medications prescribed, including the name of the prescribing practitioner, within forty-eight (48) hours of receiving the prescription.

(b) The Board or its designee may request at any time that the practitioner document the continued necessity for the prescribed scheduled/controlled medication during the term of this Order for a period greater than fourteen (14) days, but if so, then the conditions herein may be revoked by the Board.

(c) Ms. Arguin shall keep a written record of all medications taken, including over the counter drugs, and produce such record upon the request of the Board or its designee.

(10) Notification to Employers/Nursing School

(a) **Employer** Ms. Arguin shall provide a copy of this Order to all employers in any current or future setting in which Ms. Arguin practices as a licensed practical nurse and inform them of the conditional license status.

Within ten (10) days of the date of entry of this Order or of any subsequent employment, Ms. Arguin shall cause Ms. Arguin's immediate supervisor to write on the employer's letterhead to the Vermont Board of Nursing acknowledging receipt of this Order and acknowledging the employer's ability to comply with the conditions required by this Order.

(b) **Nursing School** Should Ms. Arguin attend a nursing program which has a clinical portion that involves actual patient care, Ms. Arguin shall provide a copy of this Order to the Program Director. Ms. Arguin shall cause the Program Director to write to the Board on school letterhead acknowledging receipt of the Order and the ability of the program to

comply with the terms of this Order during Ms. Arguin's clinical experience.

(11) Reports from Employers/Program Director

Within one (1) month of the date of entry of this Order and monthly thereafter, Ms. Arguin shall cause every employer Ms. Arguin has worked for during the relevant period as a licensed practical nurse to submit to the Board an evaluation of Ms. Arguin's performance during that period. This report shall be on forms issued by the Board.

(12) Practice Under Supervision:

Ms. Arguin shall practice only in a setting where Ms. Arguin has "direct supervision" for the entire shift by a licensed registered nurse in good standing.

(13) Administration of Medications

(a) Ms. Arguin is prohibited from administering any controlled substances. This condition may be removed only by Ms. Arguin filing a petition with the Board after she has worked as a registered nurse for twelve (12) weeks of at least forty (40) hours every two weeks (or the part time equivalent) after the date of [reinstatement] this Order.

(b) In any such petition, Ms. Arguin must demonstrate to the satisfaction of the Board, that she can safely and competently administer such medications. In any such petition, Ms. Arguin must include appropriate support from the treating professional and employer or nursing school administrator and a description of the documentation and inventory control procedures in place.

(c) The removal of this prohibition shall not automatically result in reinstatement of all medication privileges. The Board may gradually restore those privileges through intermediary steps it deems appropriate.

(14) Types of Employment Prohibited

Ms. Arguin shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency or as a personal care provider during the effective period of this Order.

(15) Interview with Board or its Designee.

Ms. Arguin shall appear in person for interviews with the Board or its designee upon request.

(16) Out-of-State Practice

Out-of-state practice can be credited toward fulfillment of this Order only if Ms. Arguin shall first obtain prior approval from this Board for out-of-state practice. If Ms. Arguin fails to obtain prior approval before practicing out-of-state, none of the out of state practice time will be credited toward fulfillment of this terms of this Order. The Board will approve out-of-state practice so long as Ms. Arguin can still comply with the

provisions of this Order.

(17) Notification of Place of Employment, Personal Address, Telephone Number

Within 5 days of the entry of this Order, Ms. Arguin shall notify the Board in writing, of her current place of employment, personal address, and telephone number. Ms. Arguin shall further notify the Board, in writing, within forty-eight (48) hours of any change of employment, personal address, or telephone number.

(18) Notification to Other States

In the event that Ms. Arguin is licensed in any other state(s), Ms. Arguin must, within thirty (30) days, inform the nursing licensing board there of the conditioned status of Ms. Arguin's license in Vermont. Failure to provide such notification will constitute a violation of this Order.

(19) License Renewal

If Ms. Arguin's license expires while this Order remains in effect, this Order does not automatically extend the license. To continue to practice Ms. Arguin must timely apply for renewal, pay the applicable fee, and demonstrate that all renewal requirements have been satisfied.

(20) Release of Information Forms

This Order requires Ms. Arguin to authorize substance abuse treating providers to report to the Board or its designee and provide information verbally or in written form and to discuss Ms. Arguin and all treatment rendered. This Order requires that any and all information from Ms. Arguin's treatment providers be provided to Office of Professional Regulation investigators. Information acquired by the Board, its designees, or the Office of Professional Regulation investigators may be used for further prosecution, if it is determined that the terms of this Order, or any rules or laws governing the practice of nursing have been violated.

(21) Costs

Ms. Arguin shall bear all costs of complying with this Order.

(22) Violation of this Order

If Ms. Arguin violates the terms of this Order in any respect, the Board, after giving Ms. Arguin notice and an opportunity to be heard, may rescind or modify this Order and impose additional appropriate disciplinary sanctions. If a complaint of unprofessional conduct is made against Ms. Arguin during the term of this Order, the Order shall be automatically extended until the unprofessional conduct matter is concluded.

(23) Completion of Conditional License Period

(a) After the conditional license period, Ms. Arguin may petition the Board on a form available from the Board to remove any and all license conditions. Ms. Arguin must

present proof that all terms of this Order have been met. Ms. Arguin must also present proof of successful substance abuse rehabilitation. Ms. Arguin must demonstrate to the satisfaction of the Board that she poses no danger to the public or the practice of nursing and that Ms. Arguin can safely and competently perform her licensed duties.

(b) Notwithstanding any provision above, Ms. Arguin must continue to meet all Board of Nursing requirements for maintaining a license, license renewal, and license reinstatement.

Vermont Board of Nursing, by

By: Jeanine Carr
Jeanine Carr, RN, Chair

Dated: November 18, 2013

**STATE OF VERMONT
BOARD OF NURSING**

In re: Diedre Arguin
License No. 025-8615

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} Docket No. 2012-388(LPN)

**Interim Order
on
UNPROFESSIONAL CONDUCT CHARGE**

Participating Board Members:

Jeanine Carr, RN, Chair
John Todd, APRN, Vice Chair
Alan Weiss, Public Member
William G. White, Jr., Public Member
Deborah Swartz, RN
Ellen Watson, APRN
Sheila Davis, LPN
Virginia Hudson, RN
Luana Tredwell, LPN
Stephen Morse, LNA

Appearances:

Prosecuting the case: Gabriel Gilman
for Respondent: John Pacht

Presiding Officer: Larry S. Novins

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

The Vermont Board of Nursing held a hearing in the above matter on June 10, 2013 at the Office of Professional Regulation conference room at Schulmaier Hall at the Vermont College of Fine Arts in Montpelier, Vermont. The hearing was originally scheduled to be held at the Board's May meeting. It was continued on request of the parties so that Ms. Arguin would be able to present to the Board evidence which would be relevant to any sanction that would be imposed. The parties need more time to address sanctions. In order to expedite matters Respondent put on the record that she did not contest the charges against her and that the prosecution had sufficient factual evidence from which the Board could find that she engaged in unprofessional conduct.

Findings of Fact

Based on the Respondent representation that the Board could find unprofessional conduct based on the allegations set forth in the Specification of Charges, the Board finds as follows:

1. Ms. Arguin is a licensed practical nurse and is therefore subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 26 V.S.A. § 1582(a), the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.
2. In 2012 Ms. Arguin was employed as a practical nurse at the Converse Home in Burlington, Vermont.
3. Between January and June 21, 2012 Ms. Arguin made sixteen entries in patient records indicating that she had wasted Clonazepam. Those entries were false. She diverted the drugs to her own use. At the same time Ms. Arguin forged the signature of co-workers as persons who witnessed the wastings.
4. Ms. Arguin admitted to investigators that she diverted the drugs and forged the signatures. She claimed she took the drugs to give to her husband because she was pressured to do so.

Conclusions of Law

Based on the evidence and Facts found above we conclude as follows:

1. **Re: Alleged Violation of 26 V.S.A. § 1582(a)(3):** Ms. Arguin is unable to practice nursing competently by reason of any cause. This is unprofessional conduct. 3 V.S.A. § 129a(a)(3).
2. **Re: Alleged Violation of 26 V.S.A. § 1582(a)(7):** Ms. Arguin has engaged in conduct of a character likely to deceive, defraud, or harm the public. This is unprofessional conduct. 3 V.S.A. § 129a(a)(3).
3. **Re: Alleged Violation of 3 V.S.A. § 129a(b)(1) and (2):** Ms. Arguin failed to practice competently. Ms. Arguin's conduct as found above constituted (1) performance of unsafe or unacceptable patient or client care, 3 V.S.A. § 129a(b)(1) and (2) failure to conform to the essential standards of acceptable and prevailing practice. This is unprofessional conduct.

Interim Order

To permit the parties to fully address what sanctions may be appropriate in this case, another hearing on sanctions will be set in the near future. Between now and that time, and with the consent of Respondent, the Board issues the following Order.

Ms. Arguin's license is **suspended** effective the date of this Order pending further proceedings in this matter. At the next hearing, the Board will determine, either based on a Stipulation of the parties, or based on an evidentiary hearing what sanctions are appropriate.

Vermont Board of Nursing

By:

Jeanine Carr
Jeanine Carr, RN, Chair

Date June 10, 2013

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 6/10/13