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

IN RE:	)	
JASON T. BARNHART	)	**Docket No. 2019-** 144
License No. 025.0134196	)	

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont, and makes the following charges against respondent Jason T. Barnhart.

Authority

1. The Vermont Board of Nursing ("Board") is authorized to issue warnings or reprimands, suspend, revoke, limit, condition, deny, or prevent the renewal of licenses if, after disciplinary hearings, it finds that a respondent has engaged in unprofessional conduct. 3 V.S.A. §§ 127, 129, 129a, 814(d); 26 V.S.A. Chapter 28; the Administrative Rules of the Board of Nursing; and the Administrative Rules of Practice of the Office of Professional Regulation.

Statement of Facts

2. Jason T. Barnhart ("Respondent") of Baldwinsville, New York is licensed by the State of Vermont as a Licensed Practical Nurse ("LPN") under license number 025.0134196. The license was first issued on April 4, 2018, is active, and expires on January 31, 2020.

3. Respondent was employed as an LPN at The Meadows at East Mountain Assisted Living Community ("Facility") in Rutland, Vermont via MAS Medical Staffing starting on or about March 4, 2019.

4. Respondent repeatedly made comments to at least three co-workers ("Employee 1," "Employee 2," and "Employee 3;" together, "Employees") about their bodies in sexually-suggestive manner while working on shift at the Facility with Employees.

5. Respondent made unwanted physical contact with at least three Employees while working on shift at the Facility.

6. Respondent touched and/or rubbed his body against Employee 1's buttocks while working on shift at the Facility.

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7. Respondent placed his hands down the back of Employee 1's shirt while Employee 1 was seated at a Facility nursing station.

8. Employee 1 told Respondent that his physical contact was unwanted and inappropriate.

9. Respondent placed his hands down the back of Employee 2's shirt while Employee 2 was seated at a Facility nursing station.

10. Employee 2 told Respondent that his physical contact was unwanted and inappropriate.

11. Respondent unnecessarily held Employee 3's hip and stood unnecessarily close to Employee 3 while assisting with patient transfers.

12. On or about March 10, 2019, the Facility Director of Resident Care received at least two reports from a supervising nurse that at least two Employees had voiced concerns about inappropriate comments Respondent had made to them.

13. The Director of Resident Care interviewed at least two Employees about their concerns.

14. On or about March 11, 2019, Respondent was terminated from the Facility.

Violation One: 3 V.S.A §129a(b) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (2) failure to conform to the essential standards of acceptable and prevailing practice.

15. The State re-alleges and incorporates Paragraphs 2 through 14 above.

16. The essential standards of acceptable and prevailing practice prohibit Respondent from engaging in sexually demeaning behavior, which may be reasonably interpreted as humiliating, embarrassing, threatening, or harmful to current or former patients or key parties. *See* National Council of State Boards of Nursing ("NCSBN") Model Rules § 7.3(d)(3)(m).

17. Paragraphs 2 through 14 demonstrate that Respondent engaged in sexually demeaning behavior that may be reasonably interpreted as humiliating, embarrassing, threatening, or harmful to co-workers.

18. The essential standards of acceptable and prevailing practice prohibit Respondent from making inappropriate statements to current or former patients or key parties regarding their body parts, appearance, sexual history, or sexual orientation. *See* NCSBN Model Rules § 7.3(d)(3)(l).

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19. Paragraphs 2 through 14 demonstrate that Respondent made inappropriate statements to co-workers regarding their body parts, appearance, sexual history, or sexual orientation.

20. The essential standards of acceptable and prevailing practice prohibit Respondent from engaging in behavior, gestures, statements or expressions that may reasonably be interpreted as romantic or sexual. *See* NCSBN Model Rules § 7.3(d)(3)(k).

21. Paragraphs 2 through 14 demonstrate that Respondent engaged in behavior, gestures, statements or expressions that may reasonably be interpreted as romantic or sexual.

22. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(1).

Violation Two: 3 V.S.A. §129a(a)(15) Failing to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.

23. The State re-alleges and incorporates Paragraphs 2 through 14 above.

24. Paragraphs 2 through 14 above demonstrate Respondent's failure to exercise professional judgment in the performance of licensed activities when that judgment was necessary to avoid action repugnant to the obligations of the profession.

25. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(15).

Violation Three: 26 V.S.A. § 1582(a)(3) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

26. The State re-alleges and incorporates Paragraphs 2 through 14 above.

27. Paragraphs 2 through 14 above demonstrate Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public.

28. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of 26 V.S.A. §1582(a)(3).

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Relief Requested

WHEREFORE, Jason T. Barnhart's license should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 23rd day of September, 2019.

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SECRETARY OF STATE

By: _____

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