

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

**In re: Chastity L. Bartlett
License No. 025.0009208**

Docket no. 2014-764

DECISION ON UNPROFESSIONAL CONDUCT CHARGE

Participating Board Members:

Jeanine Carr, RN, Chair
Ellen Watson, APRN, Vice Chair
Jennifer Laurent, APRN
Kelly Sinclair, LNA
Douglas Sutton, RN
Deborah Swartz, RN
Luana Tredwell, LPN
John Welch Jr., Esq., Public Member
William G. White Jr., Public Member

Appearances:

Prosecuting the case: S. Lauren Hibbert, Esq.: Virginia Hudson, RN, Investigative Team
for Respondent: Cynthia E. Franz, Esq.¹

Presiding Officer:

Michael S. Kupersmith

Findings of Fact, Conclusions of Law and Order

A hearing in the above-entitled matter was conducted by the Board of Nursing on February 8, 2016. Based upon the credible evidence presented, the Board finds that the following facts have been proven by a preponderance of the evidence.

¹ Attorney Franz entered a Notice of Appearance on behalf of the Respondent on August 6, 2015. A hearing had been scheduled for August 10, but it was twice continued at the request of Ms. Franz.

At approximately 8:47 a.m. on February 8, 2016, Ms. Hibbert received an email from the Respondent which reads in its entirety: "Good morning Lauren. I am unable to attend my hearing today [due to] transportation issues. I have also made the choice to search for a new lawyer. Until that time, please contact me with any decisions made by the board. Thank you for your time." Attorney Hibbert advised the Board that she had also received a phone call that morning from Attorney Franz in which Ms. Franz stated that she was no longer representing the Respondent at the Respondent's request. Ms. Franz did not appear for the hearing.

The Board did not receive a request for a continuance. Neither did Attorney Franz move the Board for permission to withdraw as required by rule 3.1(C) of the Administrative Rules of Practice. The Board voted to conduct the hearing as scheduled.

Findings of Fact

1. Chastity L. Bartlett, (the "Respondent") of Plattsburg, New York is licensed as a Licensed Practical Nurse by the State of Vermont under license no. 025.0009208. The license was originally issued on or about July 13, 2007 and expired on or about January 31, 2016.
2. At all times relevant, Respondent was employed as a Licensed Practical Nurse by Starr Farm Nursing Center (Starr Farm), located in Burlington, Vermont.
3. Respondent was responsible for Starr Farm resident S.B. S.B. has Huntington's disease, Type I diabetes and unspecified dysphagia. She has been a resident of Starr Farm since 2012, and received primary nourishment through a feeding tube. S.B.'s care plan specifies that she is to receive nothing by mouth, except for pleasure foods with family. She also has a "no alcohol" order.
4. On November 7, 2014, Respondent and two other staff members, L.R. and M.P., drove S.B. off campus without the approval of the Starr Farm administration. Respondent knew that it was against Starr Farm's policy to remove a resident from the campus without approval. A surveillance video shows S.B. getting into the front passenger seat of M.P.'s car and receiving a styrofoam cup. The Respondent sat in the rear passenger seat.
5. M.P. drove the vehicle to a dog park. At the park, S.B. drank from the cup.² When first interviewed by OPR investigator John Lewis, she denied that any marijuana had been used by anyone during the excursion to the dog park. During a second interview by Mr. Lewis, Respondent admitted that she had used marijuana herself and that another staff member had inhaled marijuana smoke and had blown the smoke in S.B.'s face so that she could inhale it.
6. The excursion to the dog park lasted about ten minutes. S.B. was driven back to Starr Farm and the Respondent immediately returned to work.

Conclusions

The State has charged that the Respondent committed unprofessional conduct as follows:

1. In violation of 3 V.S.A. 129a(b)(1) and (2): Respondent failed to practice competently by reason of any cause on a single occasion or on multiple occasions, whether actual injury to a client, patient or customer has occurred, by either (1) performance of unsafe or unacceptable patient or client care, or (2) failure to conform to the essential standards of acceptable and prevailing practice.

² It was alleged that the cup contained an alcoholic beverage. When interviewed by OPR investigator John Lewis, Respondent stated that she did not know what the cup contained, but conceded that it might have contained an alcoholic beverage.

2. In violation of 3 V.S.A 129a(a)(3); Respondent failed to comply with provisions of federal or state statutes or rules governing the practice of the profession of nursing.

The Board concludes that the Respondent failed to practice competently on November 7, 2014 by the conduct outlined below and that she thereby participated in unsafe and unacceptable patient care. Through her conduct, she also failed to conform to the essential standards of acceptable and prevailing practice.

- A. Respondent participated in the removal of her patient off the premises of the facility in which she was residing without the approval of the facility administration.
- B. Respondent permitted the patient to receive a beverage by mouth when she knew that the patient was to receive nourishment only by means of a feeding tube unless provided by a family member.
- C. Most egregiously, Respondent permitted the patient to inhale marijuana smoke. The Board takes judicial notice that marijuana is an illegal substance.
- D. Equally egregiously, Respondent immediately returned to work at Starr Farm as a Licensed Practical Nurse after using marijuana herself.

The Board further concludes that the Respondent failed to comply with the provisions of state statutes governing the practice of nursing:

- A. Respondent violated 26 V.S.A. § 1582(a)(3) by engaging in conduct of a character likely to harm the public.
- B. Respondent violated 26 V.S.A. § 1582(a)(12) by abusing or neglecting a patient.
- C. Respondent violated 26 V.S.A. § 1582(a)(14) by failing to take appropriate action to safeguard a patient from incompetent health care.

Order

In consideration of the egregious nature of the Respondent's misconduct, the Board hereby *revokes* her license as a Licensed Practical Nurse effective immediately. 3 V.S.A § 129(a)(3).

Dated at Montpelier, Vt., this 8th day of February, 2016

Jeanine Carr
Board of Nursing
By Jeanine Carr, RN, Chair

Date of Entry: 2/16/16

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.