STATE OF VERMONT
BOARD OF NURSING

In re: Cathie Beam	}
License No. 026-0025777	}
	} Docket No. NU 82-0504
	}

Decision on
UNPROFESSIONAL CONDUCT CHARGE

Participating Board Members:
Susan Farrell, RN, Chair
Linda Rice, APRN, Vice Chair
Alan Weiss
Sandra Norton, LNA
Donarae Metcalf, LPN
Ellen W. Leff, RN
Deann Welch, LPN

Appearances:
for Petitioner, State of Vermont: Edward G. Adrian
for Respondent: Did not appear

Presiding Officer: Larry S. Novins

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The Board of Nursing held a hearing in the above matter on March 14, 2005 at the Central Vermont Hospital in Berlin, Vermont.

The prosecution has the burden of proof in this matter. To prevail on any unprofessional conduct charge, it must prove the charge by a preponderance of the evidence.

Background

The State alleges in its Specification of Charges that Ms. Beam, who on June 16, 2004 was summarily suspended as a result of allegations that she: diverted medications using them for her use, received controlled substances from different doctors, abused substances while on duty, forged a signature or signatures to obtain controlled substances, all in violation of 3 V.S.A. § 129a(a)(3), failing to comply with provisions of federal or state statutes or rules governing the practice of the profession, 3 V.S.A. § 129a(b)(1), failure to practice competently and performance of unsafe or unacceptable patient care, 26 V.S.A. § 1582(a)(5), addiction to habit forming drug, 26 V.S.A. § 1582(a)(7), engaging in conduct of a character likely to deceive,

defraud or harm the public, ARBN Chapter 4, Rule IV, II, B, 1, performance of unsafe or unacceptable patient care, and ARBN Rule Chapter 4, Rule IV, II, D, 4, diverting supplies, equipment, or drugs for personal or other unauthorized use.

Findings of Fact

Based on substantial credible evidence presented, the Board finds as follows:

1. This respondent is licensed by and subject to the disciplinary authority of this Board. 26 V.S.A. §1582(a), 3 V.S.A. § 129(a).
2. Ms. Beam received a certified letter notifying her of the hearing to be held on March 14, 2005. She did not participate in the preliminary scheduling hearing in this case.
3. Ms. Beam did not appear for the hearing.
4. Respondent practiced as a registered nurse at the Brattleboro Memorial Hospital.
5. Between December, 2003 and February, 2004 hospital records showed seven instances where the medication Oxycontin was charted as administered to patients J.S., B.N., C.B., D.A., and F.C. at various points in time. The signatures used were forged by the Respondent.
6. On May 20, 2004 Respondent admitted to investigator Steve Kennedy that she accepted responsibility for the diversion of the drug Oxycontin, and that she utilized it for her personal use.
7. Respondent admitted that she had a history of substance abuse and admitted to using drugs she diverted while on duty at the hospital.
8. Between June, 2003 and February, 2004 hospital records showed seven instances where morphine or Demerol were charted as administered to patients. The records indicated, and the Board finds, that Respondent "wasted" morphine without a witness, had given a patient morphine without a standing order, wasted fictitious amounts of morphine, and recorded incorrect times for the administration and sign out of the morphine.
9. Respondent forged a signature of "R. Gaines" for morphine on January 23, 2004. Respondent admitted this to Ms. Gaines.
10. Respondent forged a signature of "Larry LaBarge" for Demerol, witnessed as wasted by Ms. Beam on or about February 14, 2004. Respondent asked Mr. LaBarge to sign for the wasting. Mr. LaBarge did not sign the sheet. Ms. Beam forged his signature.

Conclusions of Law

The prosecution has proved by a preponderance of the evidence that Respondent violated 3 V.S.A. § 129a(b)(1), failure to practice competently and performance of unsafe or unacceptable patient care.

The prosecution has proved by a preponderance of the evidence that the Respondent has violated 26 V.S.A. § 1582(a)(5), addiction to habit forming drug.

The prosecution has proved by a preponderance of the evidence that the Respondent has violated 26 V.S.A. § 1582(a)(7), engaging in conduct of a character likely to deceive, defraud or harm the public.

The prosecution has proved by a preponderance of the evidence that the Respondent has violated ARBN Chapter 4, Rule IV, II, B, 1, performance of unsafe or unacceptable patient care.

The prosecution has proved by a preponderance of the evidence that the Respondent has violated ARBN Rule Chapter 4, Rule IV, II, D, 4, diverting supplies, equipment, or drugs for personal or other unauthorized use.

The prosecution has proved by preponderance of the evidence as stated above, that the Respondent has violated 3 V.S.A. § 129a(a)(3), failing to comply with provisions of federal or state statutes or rules governing the practice of the profession.

Order

Ms. Beam's license is hereby SUSPENDED INDEFINITELY. Should Ms. Beam apply for reinstatement, appropriate conditions will be determined at that time.

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, 26 Terrace Street, Drawer 09, Montpelier, Vermont 05609-1106 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.

BOARD OF NURSING

By: Susan Farrell
Susan Farrell, Chair

Dated: March 16, 2005

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 3/31/05

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

IN RE: CATHIE A. BEAM	)	**DOCKET No. NU82-0504**
License No. 026-0025777	)	

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Cathie A. Beam, R.N.:

Board Authority

1. The Vermont Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28 and; the rules of the Board and the Vermont Office of Professional Regulation.

Statement of Facts

2. Cathie A. Beam (the "Respondent") of Keene, New Hampshie is a registered nurse holding license number 026-0025777 issued by the State of Vermont. This license was originally issued on or about August 2, 2000 and is set to expire on March 31, 2005.

3. The Respondent's license was summarily suspended by the Board of Nursing on June 14, 2004 based upon the facts below.

4. At all relevant times, the Respondent was practicing as a registered nurse and worked at the Brattleboro Memorial Hospital (the "Hospital") located in Brattleboro, Vermont. The Respondent was employed on the "Med/Surg unit 2". The Respondent was placed on administrative leave from the Hospital on or about April 27, 2004 on suspicion of diverting narcotic medication.

5. Between December, 2003 and February 2004, the Hospital records show at least seven separate instances whereby the medication Oxycontin was charted as administered to patients J.S., B.N. C.B., D.A. and F.C. at various points in time. Upon review of the medication record sheets, it is apparent that entries have been made for the same medications on different sheets; the signatures of the nurses appear to be forged; many of the forged nurses' signatures were of nurses not working that shift; and the Respondent was working on all of the shifts where the forgeries occurred. The Hospital schedule and records indicate that the Respondent was the only nurse working on all the relevant dates.

6. On or about May 20, 2004, the Respondent admitted to Investigator Steven Kennedy that she accepted full responsibility for the diversion of the Oxycontin and that she

STATE OF VERMONT

Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

utilized the Oxycontin for her personal use. The Respondent had previously denied taking the Oxycontin to Kathy Anderson, Hospital Vice President for Patient Services and Mary Urquhart, Director of Woman's Health and Surgical Services.

7. At all times relevant, the Respondent was receiving prescribed controlled medications from two physicians in Keene, New Hampshire. In addition, the Respondent had a prescription for methadone from a physician based out of Bellows Falls Vermont. The Respondent admitted that she had a history of substance abuse and to using the drugs that she diverted while on duty at the Hospital.

8. Between June, 2003 and February, 2004 the Hospital records show at least an additional seven separate instances whereby morphine or Demerol were charted as administered to patients H.F., J.M., P.S., D.F., L.W., D.C., J.G. and A.K. The Records indicate that the Respondent had: 1) wasted morphine without a witness; 2) given a patient morphine without a standing order; 3) wasted fictitious amounts of morphine; and 4) recorded incorrect times for the administration and sign out of the morphine.

9 The Hospital records contain a forged signature of "R.Gaines" for morphine witnessed as wasted by the Respondent on or about January 23, 2004 at 4:00 PM.. Rebecca Gaines, a nurse at the Hospital was not working on that shift, her name is spelled wrong and Ms. Gaines told Investigator Kennedy that the Respondent had admitted to forging Ms. Gaines' signature in the past. The Hospital records contain a forged signature of "Larry LaBarge" for Demerol witnessed as wasted by the Respondent on or about February 14, 2004 at 5:15 PM.. Larry LaBarge, a nurse at the Hospital, told Investigator Kennedy that the Respondent had written a note asking Mr. LaBarge to sign for the wasting. Mr. LaBarge confirmed that the signature was a forgery as he did not sign the sheet, since he did not witness the wasting.

Charges

10. The above acts and circumstances, alone or in combination, violate: 3 V.S.A. § 129a(a) (3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession); 3 V.S.A. §§ 129a(b)(1)(failure to practice competently by any reason of any cause on a single occasion or on multiple occasions . . . performance of unsafe or unacceptable patient care); 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause); 26 V.S.A. § 1582(a)(5) (is addicted to the use of habit forming drugs); 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public); Vermont Board of Nursing Administrative Rule (the "Rules") Chapter 4, Rule IV, II, B, 1; (performance of unsafe or unacceptable patient care); and Rule Chapter 4, Rule IV, II, D. 4 (diverting supplies, equipment, or drugs for personal or other unauthorized use).

Request for Relief

WHEREFORE, the Respondent's license should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

STATE OF VERMONT

Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

DATED at Montpelier, Vermont this 5th day of November, 2004.

STATE OF VERMONT
SECRETARY OF STATE

By: _____
Edward G. Adrian
State Prosecuting Attorney

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STATE OF VERMONT

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