

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

In re: Michele L. Blair }
License No. 025-0008371 } Docket No. NU09-0805

DEFAULT ORDER

The Nursing Board held a hearing on the above matter on 10 April 2006 at Central Vermont Hospital 130 Fisher Road, Berlin, Vermont.

Findings of Fact

1. Respondent is subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28, the Administrative Rules of the Board of Nursing and the Administrative Rules of the Office of Professional Regulation.
2. The State filed a Specification of Charges against the Respondent on 20 January 2006.
3. The Office of Professional Regulation served Respondent with notice of the charges by certified mail and first class mail to the Respondent's last known address as provided by the Respondent to the Office of Professional Regulation. The notice of charges contained instructions detailing the Respondent's legal obligation to answer the charges and explaining the consequences of failure file a timely answer. The Respondent was also sent a notice of the default hearing on this matter by certified mail.
4. The Respondent did not answer the charges within the legally permitted time as stated in Office of Professional Regulation Rule 3.3 or at any time thereafter.
5. Upon hearing the State's presentation and taking notice of its own file pursuant to 3 V.S.A. 810(4), the Board found the Respondent to be in default. The allegations contained in the State's specification of charges (copy attached) are therefore treated as proven and serve as the factual basis for the Board's order. OPR Rule 3.4, 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

Conclusions of Law

The Respondent received adequate and legal notice of the charges as indicated by the Board's file and the State's presentation of the case to the Board. Because the Respondent failed to answer the charges of unprofessional conduct, the Board finds the Respondent in default and

will treat the State's factual allegations as if proven pursuant to Office of Professional Regulation Rule 3.4. Accordingly, the Board finds, in the default hearing held pursuant to 3 V.S.A. §809(d), that the Respondent has engaged in unprofessional conduct as alleged in the State's Specification of Charges.

Order

In accordance with the above findings of fact and conclusions of law, the Board of Nursing orders the license of the Respondent to be Revoked, effective as of the date of entry of this Order.

Vermont Board of Nursing:

By: Susan O. Farrell Dated at Berlin: 10 April 2006
Susan O. Farrell, RN, Chairperson

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 4/12/06

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.

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

IN RE:)
MICHELE L. BLAIR) **Docket No: NU09-0805**
License No. 025-0008371)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Michele L. Blair, L.P.N.:

Board Authority

1. The Vermont State Board of Nursing ("the Board") has authority to issue warnings or reprimands, suspend, revoke, limit, condition current licenses, or prevent the renewal of lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. §129(a); 3 V.S.A. 129a; 3 V.S.A. §814(d); 26 V.S.A. §1582; the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. The Respondent, Michele L. Blair, is licensed in the State of Vermont as a licensed practical nurse under license number 025-0008371. The Respondent's license is currently conditioned pursuant to an order of the Board entered December 8, 2005. Attachment A. This license was originally issued on or about August 5, 2003 and is currently set to expire on January 31, 2006.
3. At all times relevant, the Respondent was employed as a licensed practical nurse with Prison Health Services and contracted to work at the Southern State Correctional Facility (the "Facility") located in Springfield, Vermont.
4. Beginning approximately the second or third week of April 2005, Respondent became involved in a sexual relationship with inmate D.K. at the Facility.
5. During an interview conducted on or about October 18, 2005, Respondent advised OPR Investigator Derek Everett that she had performed oral sex on D.K. on two different occasions in the medication room of the Facility where she was assigned to dispense medications.
6. The sexual nature of the relationship between Respondent and D.K. is further evidenced in a series of letters Respondent sent to D.K. D.K. included photocopies of various pages of these letters in a complaint against the Respondent that he sent to the

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
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Department of Health. During the October 18 interview with Investigator Everett, Respondent confirmed that she had written the above mentioned letters to D.K.

7. Additionally, both in her letters and during her interview with Investigator Everett, Respondent acknowledged that at all times during her involvement with D.K., she was aware that D.K. was HIV positive.

Charges

8. The acts, omissions and/or circumstances described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:

- i. 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes performing unsafe or unacceptable patient care and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(1) and (2); and
- ii. 3 V.S.A. §129a(a)(3) (failing to comply with the provisions of state statutes or rules governing the practice of the profession).

Relief Requested

WHEREFORE, the license of Michele L. Blair should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 20th day of January 2006.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

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STATE OF VERMONT



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

In re: Michele L. Blair }
License No. 025-0008371 } Docket No: NU 35-1204

**UNPROFESSIONAL CONDUCT CHARGE
FINDINGS OF FACT, CONCLUSION OF LAW
& ORDER**

On 14 November 2005, this matter came before the Vermont State Board of Nursing for a disposition hearing. Board members Kenneth W. Bush, Susan Farrell, Chairperson, Ellen W. Leff, Donarae Metcalf, Sandra Norton, Linda Rice and Alan Weiss participated. Prosecuting attorney Edward G. Adrian represented the State of Vermont. The Respondent appeared via telephone. Kevin F. Leahy was the presiding officer.

Based on the evidence presented to the Board at the hearing, the Board finds:

The Respondent is licensed by and subject to the disciplinary authority of this Board. 26 V.S.A. Chapter 28, 3 V.S.A. § 129(a), and the Administrative Rules of the Office of Professional Regulation.

2. Respondent holds a State of Vermont license as a Licensed Practical Nurse.
3. The state filed a "Specification of Charges" (attached) dated 14 April 2005 alleging that Respondent engaged in unprofessional conduct by failing to give residents medication on more than one occasion and incorrectly or falsely completing patient charts. Specification of Charges at 2.
4. At all times relevant, Thompson House Nursing Home located in Brattleboro, Vermont employed the Respondent.
5. The Respondent did not contest the charges at the hearing and the State of Vermont recommended a one year conditioned license. The Respondent did not object to the State's recommendation.
6. In light of the representations made to the Board by the State and the Respondent, the Board finds that Respondent engaged in unprofessional conduct as charged.
The Board agrees with the State's recommendation and finds that a conditioned license for a period of 1 (one) year is the appropriate course of action.

ORDER

In light of its findings of fact and conclusions of law, the Board now ORDERS that the Respondent's license be CONDITIONED as follows:

- (a) Respondent's license shall be reissued labeled "conditioned."

Attachment A

- (b) The Respondent's license shall be conditioned for a period of 1 (one) year;
- (c) Respondent shall practice only in a nursing setting where Respondent has on-site supervision for the entire shift by a licensed nurse in good standing; and the Respondent shall not work as a supervising nurse.
- (d) Within one (1) month of the date of entry of this Order and monthly thereafter, Respondent shall cause every nursing employer for whom the Respondent has worked during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. The reports shall be submitted on forms issued by the Board; and it is further ORDERED that
- (e) Respondent shall successfully complete a medication course within 120 days of the entry of this Order. The Board or its designee must approve the medication course in advance.

Vermont Board of Nursing

By: Susan Farrell
Susan Farrell, RN, Chairperson

Date: 12/03/05

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 12/8/05

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, Montpelier, Vermont 05609-1101 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.

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

IN RE:

**MICHELE L. BLAIR
License No. 025-0008371**

Docket No: NU 35-1204

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Michele L. Blair, L.P.N.:

Board Authority

- 1. The Vermont State Board of Nursing ("the Board") has authority to issue warnings or reprimands, suspend, revoke, limit, condition current licenses, or prevent the renewal of lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. §129(a)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a); 26 V.S.A. §1595; the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.**
- 2. Failure to comply with the provisions of state statutes or rules governing the practice of the profession is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(3).**
- 3. Having been disciplined as a registered nurse or licensed practical nurse or nursing assistant is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1595(2).**
- 4. The inability to practice nursing by reason of any cause is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(3).**
- 5. This inability to practice nursing competently includes the performance of unsafe or unacceptable patient care pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(2).**
- 6. Falsifying medical reports or records, or willfully failing to file proper reports is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(7).**
- 7. Fraudulently filing or completing patient records is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1595(3).**

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Montpelier, VT 05602**

8. Gross failure to use and exercise the skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent professional engaged in similar practice under the same or similar conditions, is unprofessional conduct upon which the Board can base disciplinary action 3 V.S.A. §129a(a)(12).
9. Failing to practice competently by way of failure to conform to the essential standards of acceptable and prevailing practice is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(b)(2).

Facts

10. Michele L. Blair (the "Respondent"), is licensed in the State of Vermont as a Licensed Practical Nurse under license number 025-0008371. This license was originally issued on August, 05, 2003 and is currently set to expire on January 31, 2006.
11. At all times relevant, the Respondent was employed as a L.P.N. by Thompson House Nursing Home (the "facility") located in Brattleboro, Vermont.
12. On or about October 27, 2004, the Respondent failed to give a resident NA her 4pm and 8pm medications.
13. On or about November 12, 2004, the Respondent failed to give a resident MG the nebulizer treatment that was due the previous night.
14. Respondent filled out the medication report indicating that she had given resident MG the required nebulizer treatment.
15. Respondent was terminated from the facility for falsifying a medication sheet by signing records indicating that medication was given when it was not.

Charges

16. The acts, omissions and/or circumstances described above constitute grounds for discipline because Respondent violated:
 - (i) 3 V.S.A. §129a(a)(3) (Failure to comply with the provisions of state statutes or rules governing the practice of the profession);
 - (ii) 26 V.S.A. §1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes the performance of unsafe or unacceptable patient care pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(2);

STATE OF VERMONT



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- (iii) 26 V.S.A. §1595(2) (has been disciplined as a registered or licensed practical nurse or nursing assistant by competent authority in any jurisdiction);
- (iv) 3 V.S.A. §129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records);
- (v) 26 V.S.A. §1595(3) (Has been fraudulent or deceitful in procuring or attempting to procure a license, in filing or completing patient records, in signing reports or records or in submitting any information or records to the board);
- (vi) 3 V.S.A. §129a(a)(12) (In the course of practice, gross failure to use and exercise on a particular occasion or the failure to use on repeated occasions that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent professional engaged in similar practice under the same or similar conditions, whether or not actual injury to a client, patient or customer has occurred); and
- (vii) 3 V.S.A. §129a(b)(2) (Failure to conform to the essential standards of acceptable and prevailing conduct).

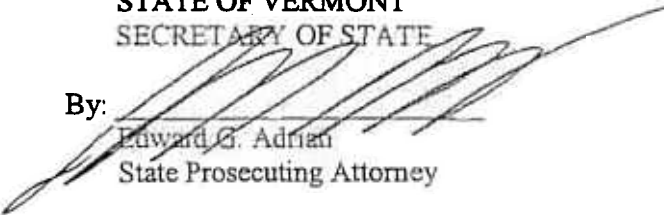
Relief Requested

WHEREFORE, the license of Michele L. Blair should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 19th day of April 2005.

STATE OF VERMONT
SECRETARY OF STATE

By:


Edward G. Adrian
State Prosecuting Attorney

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STATE OF VERMONT



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