

**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 licenses 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."

- (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).

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
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);

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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

nu.blair.soc

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602