STATE OF VERMONT
BOARD OF NURSING

IN RE:	)	
Patricia R. Byrne	)	Case File No. NU66-0303
License No. 26-6909	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Introduction

The Vermont Board of Nursing ("the Board") held a hearing in this case on Monday, February 9, 2004, at 133 State Street in Montpelier, Vermont. Board members Alan Weiss, Susan Farrell, Laurey Tyo, Elayne Clift, Ellen Leff and Donarae Metcalf participated in the decision. Edward Adrian, Prosecuting Attorney, appeared for the State. Patricia Byrne ("the Respondent") was present and was represented by Attorney Christopher Ekman. Christopher Winters was the Presiding Officer.

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

Findings of Fact

1. The Respondent is a registered nurse who holds license number 26-6909 issued by the State of Vermont.

2. Respondent, at all times relevant, was employed by Professional Nurses of Burlington, Vermont. As part of her duties, the Respondent has provided home health care for an ill boy and provided support to his mother.

3. For many years, the Respondent has been seeing health care providers at a family health center in Bomoseen, Vermont. Over the years, the staff at the health center have come to know that the Respondent has "thoughts" which could be characterized as "paranoid" and "delusional."

4. Staff at the practice have repeatedly spoken to social workers and mental health workers about the Respondent. Those workers believe there is nothing they can do because the Respondent has not demonstrated that she is a threat to harm

herself or others.

5. In particular, the Respondent has expressed to others that there have been people on her roof trying to get her. She believes that someone has cut a hole in her door and was trying to choke her. Respondent believes that someone came into her house and left the door open, either stealing or causing all of her home heating oil to disappear. Respondent believes that someone tied knots in her dog's rope-leash. She believes that the CIA or others may be controlling her heartbeat remotely. Respondent believes someone is sending her letters from her deceased sister. Respondent frequently refers to "they" or "them" but does not identify who "they" are.

6. The chiefs of police from Castleton and Fair Haven once responded to a sexual assault complaint from the Respondent in August of 2002. She claimed to have been locked into a supermarket in Fair Haven, and that a clerk had done this to her intentionally. The Respondent claims that several times when she went into this market, it was as though someone had placed a "rod" in her rectum, which caused her to have diarrhea. It is unclear whether she actually believes someone physically placed a rod in her rectum, or if she just felt like that was what was happening. She believes it is more than a coincidence that this happened on several occasions when she went to this supermarket.

7. Respondent refuses to seek any mental health treatment. She states that the last time she did so, "they" took her six children away from her and "sold them down the river."

8. The Respondent does not take any medication. She states that she cannot afford medication.

9. One of Respondent's health care providers at a clinic in Bomoseen, Vermont was treating the Respondent for hypertension problems. That health care provider, a general practice physician, has seen the Respondent as a patient approximately 5-6 times.

10. The physician is not a psychiatrist and is not board certified in mental health. As a general practitioner, he regularly diagnoses people with depression and anxiety problems, which are common. On occasion, he will identify patients with delusion or paranoia problems and refer them to a psychiatrist for further diagnosis and treatment, which would be beyond his expertise.

11. The physician identified the Respondent as someone who needs mental health treatment and who suffers from paranoid delusions. He suggested to the Respondent that she seek help but she has refused.

12. Respondent refuses to seek mental health care, therefore, there has been no

diagnosis by a psychiatrist.

13. On her last visit for hypertension problems, the physician learned that the Respondent is a registered nurse and felt obligated to report this to the Board of Nursing.

14. Respondent's employer had limited the Respondent's duties to very specific assignments she felt were appropriate for this nurse. Respondent has not been taken off the work list of the employer but has not worked as a nurse for approximately one year. Respondent's employer offered her free counseling through the Employee Assistance Program but Respondent did not choose to accept the offer.

Conclusions of Law

A. Pursuant to 26 V.S.A. §1582(a) and 3 V.S.A. §129(a)(5), the Board of Nursing may revoke, suspend or otherwise discipline the license of a nurse who engages in unprofessional conduct as defined by 26 V.S.A. §1582 and 3 V.S.A. §129a.

B. The Respondent has exhibited an inability to practice nursing competently by reason of any cause pursuant to 26 V.S.A. §1582(a)(3). "Any cause" includes, but is not limited to, reasons of physical or mental disability. Board Administrative Rules Chapter 4, Rules (IV)(2)(C).

C. More specifically, the evidence has shown that the Respondent has a mental disability, the nature of which interferes with her ability to practice nursing competently. This is unprofessional conduct as defined by 26 V.S.A. §1582(a)(6) and 3 V.S.A. §129a(a)(5).

D. The Board is not limited to a reactive role in this instance. The Board does not have to wait until there is actual patient harm before concluding that the mental disability interferes with the nurse's ability to practice competently. Using any definition of the word "disability," the State has met its burden. Interference, hindrance, incapacitation, disadvantage, impeding normal achievement. Based on the evidence presented, most particularly, the Respondent's own testimony, all are adjectives applicable to the Respondent's condition as it relates to her ability to continue to practice nursing.

Opinion

The Board is charged with the solemn duty of protecting the public. Although no specific instances of harm were shown, it is clear that the Respondent's judgment and ability to practice nursing are impaired by her untreated mental condition. She should not be placed in the position of interacting with vulnerable patients, especially in the unstructured and

unsupervised settings in which she has previously worked. The Board sincerely hopes the Respondent will take this opportunity to seek treatment and demonstrate to the Board that her license should be reinstated.

Order

A. In light of the above findings and conclusions, the Board hereby INDEFINITELY SUSPENDS the Respondent's license, effective as of the date of entry of this Order, below, until such time she is evaluated by a licensed psychiatrist, approved in advance by the Board or its designee, who deems the Respondent safe to return to the practice of nursing. Such return to practice will be under the conditions the Board deems appropriate to protect the public health, safety and welfare.

B. This Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

C. This Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

Appeal Rights

This is a final administrative determination by the Vermont Board of Nursing. You may appeal by sending a notice of appeal in writing to the Director of the Office of Professional Regulation within 30 days of the date of entry of this order. If you wish to request a stay of the Board's decision, please refer to the attached stay instructions.

By: Susan Farrell
Susan Farrell
Chair

Date: February 18, 2004.

OFFICE OF PROFESSIONAL REGULATION

Date of entry: 2/27/04