

**STATE OF VERMONT
BOARD OF NURSING**

In re: Cristie Lynn Conley
License No. 026-26694

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Docket No. NU98-0109
2009-76

Appearances:

Petitioner, State of Vermont: Betsy Ann Wrask
Respondent: Did not appear

Presiding Officer: Larry S. Novins

DEFAULT ORDER

The Board held a hearing on the above matter on August 10, 2009 at the National Life Building in Montpelier, Vermont. Ms. Conley did not attend and was not represented by counsel.

Findings of Fact

1. Ms. Conley was licensed as a registered nurse and is therefore subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 814(d), 26 V.S.A. § 1582(a), the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.
2. On June 25, 2009 Ms. Conley was sent notice of Charges in this matter by certified mail to her last known address. A copy of the Specification of Charges is attached to this Default Order.
3. OPR Rule 3.3 requires that an Answer be filed within 20 days of the date on which the notice of charges was mailed by the Director.
4. Licensees are required to notify the Board of any change of address within 30 days. 3 V.S.A. § 129a(a)(14).
5. The return receipt shows that the charges were signed for and received by J.B. presumably on Ms. Conley's behalf.
6. Ms. Conley has not filed an answer to the charges.
7. On July 28, 2009 Notice of the default hearing scheduled for August 10, 2009 was mailed to Ms. Conley at that same address by certified mail.
8. Ms. Conley has still not answered the charges.
9. Upon hearing the State's presentation and taking notice of its own file, the Board finds Ms. Conley to be in Default. The allegations contained in the State's Specification of Charges are therefore treated as the facts on which the Board's Order is based. OPR Rule 3.4, 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

Conclusions of Law

Ms. Conley has received adequate or constructive notice of the charges in this matter as indicated by the Board's file and the State's presentation. Because Ms. Conley has failed to answer the charges, the State's factual allegations are treated as if proved. O.P.R. Rule 3.4. Accordingly, the Board finds, in this Default Hearing held pursuant to 3 V.S.A. §809(d), that Ms. Conley has engaged in the unprofessional conduct alleged in the State's Specification of Charges.

Order

In accordance with the above Findings of Fact and Conclusions of Law, Ms. Conley's license is hereby **Suspended Indefinitely**, effective as of the date of the hearing.

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, National Life Bldg., North, FL2, Montpelier, VT 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.

To request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Nursing

By: Ellen Leff
Ellen Leff, R.N., Chair

Date: August 10, 2009

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 8/12/09

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

IN RE:)
CRISTIE LYNN CONLEY) Docket No. 2009-76 (NU98-0109)
License No. 026.0026694)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Cristie Lynn Conley, RN:

Board Authority

1. The Vermont State Board of Nursing (the "Board") has authority to issue warnings or reprimands; suspend, revoke, limit, or 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 (the "ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Cristie Lynn Conley (the "Respondent") of Mineville, New York is licensed by the State of Vermont as a Registered Nurse under license number 026.0026694. This license was originally issued on or about September 13, 2001 and lapsed on or about March 31, 2009.
3. At all times relevant, Respondent was employed as a Registered Nurse at Addison County Home Health & Hospice (the "Facility"), located in Middlebury, Vermont.
4. On or about January 27, 2009 in a Mandatory Report of Unprofessional Conduct, Clinical Director S.T. reported that on or about January 28, 2009, the Facility planned to terminate Respondent's employment after learning that Respondent had admitted to police that she had substituted forty (40) Tylenol for forty (40) Percocet which Respondent had picked up from a pharmacy and was meant to be delivered to a patient.
5. A review of Vergennes Police Department records concerning the investigation of this matter reveals in part the following:
 - a. On or about January 17, 2009 in a sworn written statement, L.P., who has Power of Attorney for R.Q. and who helps care for R.Q., reported that he had reason to believe Respondent stole pain medicine from R.Q. during the week of January 12,

STATE OF VERMONT



Prosecuting Attorney
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9 Baldwin Street
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2009. L.P. reported that on or about January 12 or 13, 2009, Respondent obtained ten (10) Oxycodone tablets from a pharmacy for R.Q., and then got thirty (30) more Oxycodone for R.Q. on or about January 14, 2009. L.P. advised that on or about January 15, 2009, he telephoned Respondent to ask where the Oxycodone was located in R.Q.'s home because the pills could not be located. Thereafter, L.P. advised that Respondent came to R.Q.'s home and located the pills, but then suggested to L.P. that the pills be flushed down the toilet, which L.P. refused. L.P. stated that he then took the pills to Marble Works Pharmacy in Vergennes, Vermont, to confirm that these pills were Oxycodone. However, L.P. reported that the pharmacist advised L.P. that the pills were actually Tylenol.

- b. On or about January 26, 2009 in a sworn written statement, Respondent at first stated that she obtained the Oxycodone pills from the pharmacy and delivered them to R.Q. However, in a second sworn written statement on this same date, Respondent thereafter admitted that she took the Oxycodone pills meant for R.Q. from the pharmacy and switched them with Acetaminophen. Respondent advised she felt this was her only option for her sister, who is in the end stage of AIDS.
- c. On or about February 9, 2009 in an affidavit, Vergennes Police Officer Matthew Roorda advised that he had probable cause to believe that Respondent had committed Fraud or Deceit, in violation of 18 V.S.A. § 4223. Officer Roorda stated that on or about January 17, 2009, L.P. advised that R.Q. came home from the hospital on or about January 10, 2009 after having had an operation for an aneurysm. L.P. advised Officer Roorda that R.Q. was prescribed forty (40) 50mg Tramadol as a result, which L.P. filled at Marble Works Pharmacy in Vergennes, Vermont. L.P. further advised that Respondent began caring for R.Q. on or about January 12, 2009, and that on January 13, 2009, Respondent called R.Q.'s doctor to inform him that the Tramadol was not strong enough for the pain R.Q. was experiencing; therefore, the doctor prescribed forty (40) 5mg Oxycodone to R.Q.

Officer Roorda further stated that Respondent filled the new prescription for the Oxycodone on or about January 13, 2009 at Marble Works Pharmacy, but only received ten (10) of the forty (40) Oxycodone prescribed; the pharmacist told Respondent that there were only ten (10) Oxycodone in stock. However, Officer Roorda stated that upon questioning, the pharmacist told Officer Roorda that the real reason Respondent was not given the full prescription was because the pharmacist knew Respondent "from previous involvements at the pharmacy and did not trust giving [Respondent] all [forty (40)] Oxycodone." Respondent had the remaining thirty (30) Oxycodone filled at Marble Works Pharmacy on or about January 14, 2009.

Officer Roorda further advised that he took what was supposed to be the thirty (30) Oxycodone to Marble Works Pharmacy and verified that it was, indeed, forty (40) Tylenol.

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6. On or about April 2, 2009, State Investigator Jamie Palmisano contacted J.B., Respondent's sister, who advised that she does have AIDS.

Charges

7. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:
- a. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause) which includes performance of unsafe or unacceptable patient care pursuant to ARBN Chapter 4, Subchapter 4, Rule II(B)(1); and failure to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Subchapter 4, Rule II(B)(2);
 - b. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud, or harm the public) which includes diverting supplies, equipment, or drugs for personal or other unauthorized use pursuant to ARBN Chapter 4, Subchapter 4, Rule II(D)(4);
 - c. 3 V.S.A. § 129a(b)(1) and (2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing nursing practice); and
 - d. 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).

Relief Requested

WHEREFORE, the license of Cristie Lynn Conley should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 20th day of June, 2009.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

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