STATE OF VERMONT
BOARD OF NURSING

In re: Amy Lynn Crowley License No. 026-0027819	} } }	Docket No. 2010-381(RN)

Decision on
UNPROFESSIONAL CONDUCT CHARGE

Participating Board Members:
Ellen W. Leff, RN, Chair
Alan Weiss
Sandra Norton, LNA
Donarae Metcalf, LPN
William G. White Jr.
Deborah Swartz, RN
John Todd, APRN

Appearances:
for Petitioner, State of Vermont: Lauren Hibbert
for Respondent: pro se

Presiding Officer: Larry S. Novins

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The Vermont Board of Nursing held a hearing in the above matter on November 14, 2011 at the National Life Building in Montpelier, Vermont.

The parties submitted a Stipulation and Consent Order which the Board accepts. The Stipulation and Consent Order leaves to the Board's discretion the sanction to be imposed on Ms. Crowley's license. The Stipulation and Consent Order is attached to this Order so that the factual basis for our conclusions and Order is clear.

Findings of Fact

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

1. At all times relevant Ms. Crowley was a licensed 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 September 13, 2010 this Board summarily suspended Ms. Crowley's license. Ms.

Crowley's license expired on March 31, 2011.

3. At the hearing the Board considered the arguments of the parties, the sworn testimony of Ms. Crowley and documents she submitted.
4. Ms. Crowley cast aside judgment and used a hospital patient's debit/credit card three times eventually leading to criminal charges against her. There was no direct evidence that Ms. Crowley knew that the card belonged to a patient.
5. Ms. Crowley was convicted in August 2011 of three misdemeanor counts of false pretenses based on her unauthorized use of a credit/debit card. Ms. Crowley received a deferred sentence. She was placed on probation. Two years from the conviction date the charges against her are scheduled to be dismissed.
6. Ms. Crowley was ordered to perform 200 hours of community service. She has already completed 150.
7. Ms. Crowley provided much mitigating testimony on her behalf. Ms. Crowley has been a nursing student working on her masters degree. She has maintained a 3.8 average in her studies. Her next educational task is her masters thesis. She wishes some day to teach nursing.
8. Because of the conduct resulting in her convictions Ms. Crowley has been without her nursing license for fourteen months.
9. It appears that the events of the last 14 months have had a profound effect on Ms. Crowley. She submitted a report from her treating physician outlining the depression she suffered after being charged with the crimes mentioned above. The physician reported on November 8, 2011 that Ms. Crowley is, "...of sound mind and [I] have treated her for the psychological problems related to the unfortunate situation in which she has found herself in this past year." This report will require an update as set forth in the Order below.
10. Ms. Crowley expressed a strong desire to "prove" herself. She seems genuinely motivated to better herself and overcome the situation spawned by her poor judgment.
11. Ms. Crowley should be able to practice nursing safely if certain prerequisites and safeguards are in place. They are enumerated in the Order which follows.

Order

For the violations set forth in the Stipulation and Consent Order which the Board accepts, and to protect the public, health, safety and welfare, the following reinstatement prerequisite and conditions are necessary:

1) Ms. Crowley shall, at her own expense, obtain a mental health evaluation by an independent evaluator pre-approved by the Board or its designee. If the evaluation shows that Ms. Crowley can resume practice as a nurse safely, her license may be re-instated, provided she has met all standard reinstatement prerequisites.

2) Once reinstated, Ms. Crowley's license shall be **conditioned** as set forth in the incorporated Conditions attached hereto.

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, Office of Professional Regulation, National Life Bldg., North, FL2, Montpelier, Vermont 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, RN, Chair

Date November 14, 2011

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 11/30/11

Vermont Board of Nursing
Disciplinary Decision
Conditions Imposed

In re: Amy Lynn Crowley
Docket No. 2010-381(RN)
License No. 026-0027819

As part of the Order issued this date, Ms. Crowley's license shall be conditioned as follows:

1. **Re-issuance of license:** Ms. Crowley's license shall be reissued labeled "conditioned." The conditions shall remain in place until Ms. Crowley completes all requirements ordered and meets each condition.

2. **Duration:** Ms. Crowley shall be subject to these conditions until Ms. Crowley completes one (1) year of **on-site** supervised practice in which Ms. Crowley works at least forty (40) hours every two (2) weeks as a licensed registered nurse.

3. **Part time work:** Part-time work of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis.

4. **Notification to Employers**: Ms. Crowley shall provide a copy of this Order and these Conditions to all employers in any current or future setting in which Ms. Crowley practices as a licensed registered nurse and inform them of the conditional license status. Within ten (10) days of the date of entry of this Order or of any subsequent employment, Ms. Crowley shall cause Ms. Crowley's employer to complete the Employer Agreement (available on the Board's web site) which shall be forwarded to the Vermont Board of Nursing, Attn: Case Manager.

5. **Reports from Employers**: Within one (1) month of the date of entry of this Order and monthly thereafter, Ms. Crowley shall cause every employer Ms. Crowley has worked for during the relevant period as a licensed registered nurse submit to the Board an evaluation of Ms. Crowley's performance during that period. This report shall be on forms issued by the Board.

6. **Nursing Programs:** In the event Ms. Crowley is attending a nursing program, Ms. Crowley shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of this Order and ability of the program to comply with the conditions in the Order during clinical experience.

7. **Practice Under Supervision:** Ms. Crowley shall practice only in a setting where Ms. Crowley has "on-site" for the entire shift by a licensed registered nurse in good standing.

8. **Types of Employment Prohibited:** Ms. Crowley shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency or as a personal care provider during the effective period of this Order.

9. **Out-of-State Practice** Out-of-state practice can be credited toward fulfillment of this Order only if Ms. Crowley shall first obtain prior approval from this Board for out-of-state practice. If Ms. Crowley fails to obtain prior approval before practicing out-of-state, none of the out of state practice time will be credited toward fulfillment of this terms of this Order. The Board will approve out-of-state practice so long as Ms. Crowley can still comply with the provisions of this Order.

10. **License Renewal:** The Board's Order, and these conditions, do not affect Ms. Crowley's license renewal responsibilities. Ms. Crowley must timely apply for and otherwise comply with the requirements for license renewal.

11. **Remedial Courses:** none

12. **Costs of Compliance:** Ms. Crowley shall bear all costs of complying with these conditions.

13. **Completion of Conditional License Period:** After the conditional license period, Ms. Crowley may petition the Board to remove any and all license conditions. Ms. Crowley must present proof that all terms of this Order have been met. Once Ms. Crowley has shown that all conditions of this Order have been met, the Board will remove the conditions on Ms. Crowley's license and restore Ms. Crowley's licensure privileges.

Vermont Board of Nursing, by

Ellen W. Leff, RN, Chair

11. 14. 11
November 14, 2011

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

IN RE:	)	
AMY LYNN CROWLEY	)	**Docket No. 2010-381**
License No. 026.0027819	)	

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney S. Lauren Hibbert, and the Respondent, Amy Lynn Crowley, RN, who stipulate and agree as follows:

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.

Stipulated Facts

2. Amy Lynn Crowley (the "Respondent") of Rutland, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0027819. This license was originally issued on or about December 17, 2002 and expired on or about March 31, 2011. The Respondent's license was summarily suspended on or about September 14, 2010 by the Board.

3. At all times relevant, Respondent was employed as a Registered Nurse at Rutland Regional Medical Center (the "Facility"), located in Rutland, Vermont.

4. On or about August 23, 2011, under docket number 1247-8-10, the Respondent plead guilty to three counts of False Pretenses or False Tokens (13 V.S.A.§ 2002). The Respondent received a deferred sentence of two years and the Respondent must complete two hundred (200) hours of community service. The allegations against the Respondent were based on her personal use of a credit/debit card of Facility Patient K.M.

Violations

5. 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);

   b. ARBN Chapter 4, Subchapter 4, Rule II(B)(1) and (2) ("Inability to practice nursing competently" includes: (1) performance of unsafe or unacceptable patient care; and (2) failure to conform to the essential standards of acceptable and prevailing nursing practice);

   c. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud, or harm the public) which includes aiding, abetting, or assisting any person in any act in violation of this chapter or acts against the best interest of the public, pursuant to ARBN Chapter 4, Subchapter 4, Rule II(D)(10);

   d. 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 practice); and

   e. 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).

Understandings

6. Respondent admits the facts above are true.

7. Respondent understands that the Nursing Board must review and accept the terms of the Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.

8. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced her rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.

9. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

10. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.

11. Respondent voluntarily enters into this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.

12. Respondent voluntarily waives her right to a hearing on the facts before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order. The Respondent and the State shall each be able to have a hearing on whether the facts constitute unprofessional conduct and if so, the appropriate sanction/disposition.

13. Respondent agrees that the Order set forth below may be entered by the Board.

ORDER

Based on the Stipulation above, it is **ORDERED AND ADJUDGED** as follows:

A. **The parties have not reached agreement as to the sanction required, if any, as a result of the alleged unprofessional conduct described above.** The parties leave the sanction if any to be determined by the Board of Nursing at the time of the disposition hearing.

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

D. The Board shall hear the disposition hearing at their next meeting, scheduled for Monday, November 14, 2010.

AGREED TO:

Dated: 11/9/11

STATE OF VERMONT
SECRETARY OF STATE

By: S. Lauren Hibbert
S. Lauren Hibbert
State Prosecuting Attorney

AMY LYNN CROWLEY
RESPONDENT

Dated: Nov 4th, 2011

By: Amy L. Crowley
Amy Lynn Crowley

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 11.21.11

By: Ellen Ryff
Chairperson

Date of Entry: 11/30/11

nu.crowley.stp

STATE OF VERMONT
BOARD OF NURSING

In re: Amy Lynn Crowley
License No. 026-27819

Docket No. 2010-381 (RN)

DECISION ON REQUEST FOR SUMMARY SUSPENSION ORDER

Appearances:

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

Presiding Officer: Larry S. Novins

Summary Suspension Order
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

On September 13, 2010 this matter came before the Board of Nursing on the State's Request for a Summary Suspension pursuant to 3 V.S.A. § 814(c). Ms. Crowley did not appear. The Board has authority to summarily suspend a license pending further action, if it determines that public health, safety, or welfare imperatively requires emergency action.

Findings of Fact

Based on a Review of the pleadings and the file, and on evidence presented to the Board at the hearing, the Board finds:

1. Ms. Crowley is licensed as a registered nurse by and subject to the disciplinary authority of this Board. 26 V.S.A. Chapter 28, 3 V.S.A. § 129, the Administrative Rules of the Office of Professional Regulation. 3 V.S.A. § 814(c) permits the Board to summarily suspend a license if it finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order.
2. The State has filed a "Request for Summary Suspension." A copy of the Request is attached to this Decision and Order. The Request alleges that in Ms. Crowley stole then used a credit card of a patient to make 19 or more purchases of good valued at over $1,200.00 in May 2010.
3. The State further alleges that the public health, safety or welfare imperatively requires emergency action.
4. Notice of this hearing was sent to Ms. Crowley at her last known address via certified mail dated September 7, 2010. She received actual notice of this hearing.

5. The Board has reviewed the testimony and documents presented by the State.
6. It is unknown whether Ms. Crowley is currently employed.
7. The Board finds for purposes of this hearing that Ms. Crowley has stolen patient property and is at risk to do so again if summary suspension of her license is not ordered.
8. The allegations in the Request for Summary Suspension (copy attached) have been established to the necessary degree.
9. The evidence presented does imperatively require emergency action for the public health, safety, and welfare. Specifically, summary suspension is necessary to prevent Ms. Crowley from obtaining employment where she is in a position to steal patient property. If summary suspension is not ordered, the Board believes that patient harm is likely to occur.

Conclusions of Law

Our Findings of Fact and Conclusions of Law in this Summary Suspension hearing are for purposes of deciding whether ***at this time*** there is an imperative need to take emergency action. 3 V.S.A. § 814(c). Our Findings and Conclusions herein are for purposes of this Order only.

The State's Request for a Summary Suspension is supported by the evidence presented. The Board concludes that the allegations in the Request for Summary Suspension have been established to the necessary degree. For purposes of this Summary Suspension Hearing, the Findings of Fact above do support Summary Suspension of Ms. Crowley's license. There is an imperative need to take emergency action. 3 V.S.A. § 814(c).

Vermont law requires that unprofessional charges be filed promptly with Ms. Crowley being afforded a prompt hearing. At any merits hearing in this matter, the State will bear the burden of proving unprofessional conduct. Our Findings and Conclusions in this matter will not absolve the State or Ms. Crowley from producing or challenging relevant evidence at a merits hearing. The Findings of Fact and Conclusions of Law at a contested hearing will be based on the evidence admitted at that hearing only.

Order

The State's Request for Summary Suspension is **Granted.** Ms. Crowley's license is summarily suspended pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. 3 V.S.A. § 814(c).

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, RN, Chair

Date: September 13, 2010

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 9-14-2010

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

IN RE:
AMY LYNN CROWLEY
License No. 026.0027819

Docket No. 2010-381

REQUEST FOR SUMMARY SUSPENSION

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; the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.

2. The Board of Nursing is authorized by 3 V.S.A. § 814 to summarily suspend the license of a nurse when it finds that the public health, safety, or welfare imperatively requires emergency action.

Statement of Facts

3. Amy Lynn Crowley (the "Respondent") of Rutland, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0027819. This license was originally issued on or about December 17, 2002 and is currently set to expire on or about March 31, 2011. Respondent has also been licensed by the State of Vermont as a Radiologic Technologist under license number 051.0000730. This license was originally issued on or about April 29, 1994 and expired on or about May 31, 2009.

4. At all times relevant, Respondent was employed as a Registered Nurse at Rutland Regional Medical Center (the "Facility"), located in Rutland, Vermont.

5. On or about August 23, 2010, Respondent was charged with three (3) counts of False Personation (a felony); and three (3) counts of False Pretenses or False Tokens $900 or Less (a misdemeanor) in Vermont Superior Court, Rutland Criminal Division, under docket number 1247-8-10 Rdcr. Probable cause on these counts was found by Judge Zonay on or about August 24, 2010, and Respondent was arraigned on or about August 30, 2010. Respondent pleaded not guilty on all counts.

6. Probable cause was based on a corresponding sworn affidavit by Rutland City Police Officer Edward E. Dumas, stating his belief that Respondent had stolen the credit/debit card of Facility Patient K.M. and used it to make purchases.

STATE OF VERMONT

Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

7. This affidavit indicates that on or about May 19, 2010, Patient K.M. reported to Rutland Police that she believed Facility staff had stolen her credit/debit card, and that subsequent investigation by Officer Dumas led him to believe that Respondent and her husband made approximately nineteen (19) purchases with K.M.'s debit card totaling over twelve hundred dollars ($1200) from on or about May 8, 2010 through on or about May 19, 2010, while Patient K.M. was hospitalized at the Facility.

8. The affidavit indicates that Officer Dumas came to his conclusion in part based on video footage from the stores where the purchases were made with K.M.'s credit/debit card, showing Respondent and her husband purchasing the items at issue at the time, date, and cash register that they were purchased.

9. Moreover, the affidavit indicates that on or about June 20, 2010, Facility Charge Nurse N.D. viewed some of the stores' video footage and recognized Respondent as the female in the footage making purchases with Patient K.M.'s credit/debit card.

10. Moreover, the affidavit indicates that Respondent was assigned to provide care for Patient K.M. on or about April 30 and May 1, 3, 6, 7, and 8, 2010.

11. Based on the foregoing facts, it is more likely than not that Respondent stole the credit/debit card of a patient to whom she was assigned care and used it to make unauthorized purchases, and that such conduct harms the public's health, safety, and welfare to such a degree that it warrants emergency action.

Request for Relief

12. The facts as set out above establish that in order to protect the public health, safety, or welfare of the people of the State of Vermont, emergency action is imperative.

13. The above acts and circumstances, alone or in combination, violate:

a. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause);

b. ARBN Chapter 4, Subchapter 4, Rule II(B)(1) and (2) ("Inability to practice nursing competently" includes: (1) performance of unsafe or unacceptable patient care; and (2) failure to conform to the essential standards of acceptable and prevailing nursing practice);

c. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud, or harm the public) which includes aiding, abetting, or assisting any person in any act in violation of this chapter or acts against the best interest of the public, pursuant to ARBN Chapter 4, Subchapter 4, Rule II(D)(10);

d. 3 V.S.A. § 129a(a)(12) (Exercising undue influence on or taking improper advantage of a person using professional services, or promoting the sale of

STATE OF VERMONT

Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

services or goods in a manner which exploits a person for the financial gain of the practitioner or a third party);

e. 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 practice); and

f. 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).

WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. § 814(c), the Respondent's nursing license number 026.0027819 be summarily suspended, pending a hearing on the merits.

DATED at Montpelier, Vermont this 3rd day of September, 2010.

STATE OF VERMONT
SECRETARY OF STATE

By: _____
BetsyAnn Wrask
State Prosecuting Attorney

nu.crowley.sumsusp

STATE OF VERMONT

Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107