

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

In re: BOBBI J. DAVIS
License No. 026.0091147

}
}
} Docket No. 2018-122 (RN)
}

FINDINGS AND ORDER

Participating Board Members:

Ellen Watson, APRN, Chair
Jennifer Laurent, APRN
Luana Tredwell, LPN
Douglas Sutton, RN
Krystal Bernier, LPN
William G. White, Jr., Public Member
Wendy Thurston, RN

Appearances:

Prosecuting the case: Jennifer B. Colin, Esq.
Respondent: was not present and was not represented

Presiding Officer:

George K. Belcher

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

This matter came before the Board of Nursing on Specification of Charges alleging unprofessional conduct. The hearing was held on May 13, 2019, at the Office of Professional Regulation in Montpelier, Vermont.

Findings of Fact

Based on the pleadings, the documents on file with the Board, and the argument of counsel, the Board finds as follows:

1. Respondent is licensed as a Registered Nurse in the State of Vermont. The 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 Rules of the

Office of Professional Regulation.

2. The prosecutor filed on November 19, 2018 Specification of Charges concerning the Respondent's nursing license. A copy of the Charges is attached to this Decision and Order. The Respondent filed an answer on December 17, 2018 which was dated December 4, 2018. In her answer, the Respondent did not contest any of the alleged facts in the Specification of Charges. The Respondent admitted to accessing the medical records of her boyfriend without a medical purpose. She asserted that she had his oral permission to access his medical records.
3. A notice of hearing was sent to the Respondent by certified and regular mail at the address which the Respondent has filed at the Office of Professional Regulation. The certified mail notice of hearing was returned as unclaimed. The regular mail notice was not returned. The Respondent did not appear at the hearing despite valid notice.
4. In December of 2017 the Respondent accessed the medical records of her boyfriend at the nurse's station at Gifford Medical Center in Randolph, Vermont. On December 5, 2017 she had accessed records including patient function virtual chart, test results and patient medical record transcription. She was not a provider of medical services to her boyfriend at that facility. There was no evidence that she had written authorization to access his medical records.
5. The performance standards at Gifford Medical Center prohibit access to medical records "... only on a need-to-know basis to perform your job duty".

Conclusions of Law

1. The burden of proof in a disciplinary matter is upon the State to show by a preponderance of the evidence that the person engaged in unprofessional conduct. 3 VSA Sec. 129a(c).
2. The Board concludes that the Respondent committed unprofessional conduct. The evidence established that the Respondent violated 26 VSA Sec. 1582 (a)(10) [failure to comply with the Patients' Bill of Rights] since she did not have a written authorization or legitimate medical purpose to access the medical records of her friend; and 3 VSA Sec. 129a(b)(2) [failure to conform to the essential standards of acceptable and prevailing practice].
3. The State prosecutor recommended that the license of the Respondent be WARNED and that the Board impose a condition that she complete a patient privacy training course within sixty days of the entry date of this order.

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

- A. The Board of Nursing hereby **WARNS** Respondent's license.
- B. The Board of Nursing hereby **CONDITIONS** the Respondent's license to practice nursing. The conditions and order terms are as follows:
 - (1) Terms of Conditions: Upon the imposition of these conditions, Respondent shall be issued a license labeled "conditioned." The condition of the license is the Respondent's completion of the Required Course Work within sixty (60) days of the entry of this order. The Respondent's license shall remain as "conditioned" until such time as the condition is deemed satisfied by the Board.

- (2) Required Course Work: Respondent must successfully complete (i.e., receive a passing grade, if applicable) a course in Patients' Privacy that has prior approval by the Board or its designee, and then submit written documentation of completion.
- C. Notwithstanding any provision above, the Respondent must continue to meet all Board requirements for maintaining a license, license renewal and license reinstatement.
 - D. 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).
 - E. This Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

SO ORDERED.

Vermont Board of Nursing

EW
Ellen Watson, APRN, Chair

28 May 2019
Date

5.30.19
Date of Entry

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, 89 Main Street, Fl. 3, 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.



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