

**STATE OF VERMONT
BOARD OF NURSING**

In re: Stephen Davis
License No. 025-7744

}
} Docket No. 2014-174 (LPN)
}

**Decision on
Unprofessional Conduct Charge**

Participating Board Members:

Jeanine Carr, RN, Chair
Ellen Watson, APRN, Vice Chair
William G. White, Jr., Public Member
Deborah Swartz, RN
Douglas Sutton, RN
Virginia Hudson, RN
Luana Tredwell, LPN
Jennifer Laurent, APRN
Kelly Sinclair, LNA

Appearances:

Prosecutor: Annika Green
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 February 9, 2015 at the Office of Professional Regulation Conference Room at the City Center in Montpelier, Vermont.

The prosecution has the burden of proof in this matter. To prevail on any unprofessional conduct charge, it must prove the charge by a preponderance of the evidence.

Background

The Specification of Charges alleges that Mr. Davis, in violation of Vermont Statutes, failed to ensure that a dementia patient took her prescribed medication.

Findings of Fact

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

1. Mr. Davis is a licensed practical nurse and is therefore subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 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 March 8, 2014 Mr. Davis was employed as an LPN at Birchwood Terrace Healthcare in Burlington, Vermont. On that date Mr. Davis gave regular medications to a patient who had been diagnosed with dementia. Previously, he had been instructed on the proper steps to take when administering medication to dementia patients. Mr. Davis left the medications with the patient without making sure that she took them.
3. The essential standards of acceptable and prevailing nursing practice required Mr. Davis to ensure that the patient took her medications. Failure to do so could endanger that patient or another patient who might gain access to the medication.

Conclusions of Law

Based on the evidence presented and Facts found above we conclude as follows:

1. **Re: Alleged Violation of 26 V.S.A. § 1582(a)(3):** As charged, this statute allows sanctions for the same conduct as 3 V.S.A. § 129a(a)(b)(1) or (2) below. Although we find a failure meet the requirements of this statute, we consider violation of this statute and 3 V.S.A. § 129a(b) as one violation for purposes of determining an appropriate sanction.
2. **Re: Alleged Violation of 26 V.S.A. § 1582(a)(7):** The Prosecution has proved by a preponderance of the evidence that Mr. Davis has engaged in conduct of a character likely to harm the public. This is unprofessional conduct. 3 V.S.A. § 129a(a)(3).
3. **Re: Alleged Violation of 3 V.S.A. § 129a(b)(1) and (2):** The Prosecution has proved by a preponderance of the evidence that Mr. Davis failed to practice competently. We find that Mr. Davis' conduct as found above constituted a failure to conform to the essential standards of acceptable and prevailing practice. This is unprofessional conduct.

Discussion

Mr. Davis has been licensed as an LPN since 1999. In October 2009 in Docket No. 2008-404 his license was conditioned a series of documentation and discontinued medication errors between 2005 and 2008. The Stipulation shows that Mr. Davis had earlier received employer warnings and been required to engage in counseling for his errors.

Despite the 2009 disciplinary Order in which Mr. Davis was required to take a remedial course and practice while supervised, he appears to have not learned from the experience. Mere

imposition of another remedial course will not sufficiently impress Mr. Davis with the seriousness or dangerousness of his conduct. A period of suspension is required.

Order

For the violations above, to protect the public, health, safety and welfare, the following sanction is necessary.

Mr. Davis's license is **suspended for a minimum of 60 days**, effective the date of this decision.

It may be reinstated and 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, 89 Main Street, Fl. 3, 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: 
Jeanine Carr, RN, Chair

Date: February 10, 2015

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 2/12/15

**Vermont Board of Nursing
Disciplinary Decision
Conditions Imposed**

**In re: Stephen Davis
Docket No. 2014-174(LPN)
License No. 025-7744**

Pursuant to the Decision entered on this date, Mr. Davis' license is suspended for **60 days**, effective immediately. Before his license may be reinstated Mr. Davis must:

- 1) Successfully complete a course, pre-approved by the Board or its designee, in the care of Alzheimer's and dementia patients;
- 2) Successfully complete a course, pre-approved by the Board or its designee, in safe medication administration.

When Mr. Davis has provided documentation showing he has successfully completed the courses, then, after the 60 day suspension has been completed, his license may be reinstated. If the courses are not successfully completed before his license has been suspended for 60 days, his license will remain suspended until the courses are completed.

Once reinstated, Mr. Davis' license shall be **conditioned**, as follows:

1. **Re-issuance of license:** Mr. Davis' license shall be reissued labeled "conditioned." The conditions shall remain in place **for two years from the date of reinstatement** until Mr. Davis completes all requirements ordered and meets each condition.
2. **Duration:** Mr. Davis shall be subject to these conditions until Mr. Davis completes **two years** of supervised practice in which Mr. Davis works at least forty (40) hours every two (2) weeks as a licensed practical 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:** Mr. Davis shall provide a copy of this Order and these Conditions to all employers in any current or future setting in which Mr. Davis 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, Mr. Davis shall cause his 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 reinstatement of his license and monthly thereafter, Mr. Davis shall cause every employer he works for during the relevant period as a licensed practical nurse to submit to the Board an evaluation of Mr. Davis' performance during that period. This report shall be on forms issued by the Board.
6. **Nursing Programs:** In the event Mr. Davis is attending a nursing program, Mr. Davis 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:** Mr. Davis shall practice only in a setting where Mr. Davis has "direct supervision" for the entire shift by a licensed registered nurse or licensed practical nurse in good standing.
8. **Types of Employment Prohibited:** Mr. Davis 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 Mr. Davis shall first obtain prior approval from this Board for out-of-state practice. If Mr. Davis 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 Mr. Davis can still comply with the provisions of this Order.
10. **License Renewal:** The Board's Order, and these conditions, do not affect Mr. Davis' license renewal responsibilities. Mr. Davis must timely apply for and otherwise comply with the requirements for license renewal.
11. **Completion of Conditional License Period:** After the conditional license period, Mr. Davis may petition **on a form available from the Board** to remove any and all license conditions. Mr. Davis must present proof that all terms of this Order have been met. Once Mr. Davis has shown that all conditions of this Order have been met, the Board will remove the conditions on Mr. Davis' license and restore Mr. Davis' licensure privileges.

Vermont Board of Nursing, by



Jeanine Carr, RN, Chair

February 10, 2015