

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

In Re: Sheri Gordon
License No. 026.0109313

Docket No. 2015-70

Findings of Fact, Conclusions of Law and Order

Introduction

The above-entitled matter was heard by Administrative Law Officer Michael S. Kupersmith on May 2, 2016. The Vermont Board of Nursing appointed the Administrative Law Officer to hear the case pursuant to 3 V.S.A. § 129(f). The State was represented by Rachel Allen, Esq. The Respondent was present and was represented by Phyllis R. McCoy-Jacien, Esq. Upon the evidence presented, the Administrative Law Officer finds as follows:

Findings of Fact

1. Sheri Gordon is licensed by the State of Vermont as a Registered Nurse under license number 026.0109313. The license was originally issued on or about January 21, 2015 and expires on or about March 31, 2017.
2. On or about January 26, 2015, Respondent was hired by the Rutland Regional Medical Center (RRMC) to perform duties as a Registered Nurse.
3. As part of the new-hire procedure, Respondent was required to submit a valid CPR certification card. Respondent submitted a photocopy of a CPR card purportedly issued by Glens Falls Hospital. The photocopy was admitted into evidence as exhibit #1. There is no dispute that the card submitted was altered from its original form. As altered, the date of issue is 8/12/2014 and "recommended renewal date," i.e., the expiration date, is 08/2018. There is no dispute that normally a CPR card is valid for a period of two years.
4. On January 29, 2015, the copy of Respondent's CPR card (exhibit #1) was forwarded to RRMC employee-relations specialist Lesley Classen by another employee, Steve Hazelton, along with a notation that there was "an issue" about the card. Ms. Classen noted, as had Mr. Hazelton, that the card had apparently been issued for four years instead of the usual two. It appeared to Ms. Classen that the dates on the card had been altered.
5. Ms. Classen contacted Lesa Cathcart, the Director of Nursing of the RRMC psychiatric unit which had hired Ms. Gordon. On January 29, Ms. Classen and Ms. Cathcart met with Ms. Gordon on the psychiatric unit and asked Ms. Gordon about the apparent alteration of the CPR card.

6. Ms. Gordon explained that she had just been made aware by her prior employer that there was an issue about the card and that she had contacted a Mr. Shaw at the Glens Falls Hospital to ask him about the card. (The name Robert Shaw appears on exhibit #1 on the line for the (CPR) instructor's name.) She said that she had left a voice mail and email for Mr. Shaw and that he was in the process of obtaining an updated card for her. Ms. Gordon further explained that she would never have altered the card and had no explanation for how that could have happened.
7. Ms. Classen suggested that they telephone Mr. Shaw right then and Ms. Gordon agreed. Ms. Classen called, but was unable to speak with Mr. Shaw. She left a voicemail instead. (Later, Ms. Classen received an email from Mr. Shaw stating that he had received neither voicemail nor email from Ms. Gordon.)
8. At that time, Ms. Gordon stated that she remembered that she had not received her last CPR card from the Glens Falls Hospital, but rather from the "Stanton Facility" (Stanton). She opined that perhaps Stanton had altered the card. Ms. Gordon further stated that she never would have altered the card herself.
9. After receiving the email from Mr. Shaw, Ms. Gordon's employment was terminated by RPMC because of the alteration of the CPR card and the inability to reconcile the various explanations for the same. Ms. Classen spoke later to Ms. Gordon who indicated she had an updated card from September, 2014 and inquired whether she could be re-hired if she presented that card. Ms. Gordon did fax an updated card which was dated January 29, 2015.
10. Sheri Gordon testified on her own behalf. She acknowledged that she had submitted exhibit #1 to RPMC with her new-hire paperwork. She stated that Ms. Classen and Ms. Cathcart had spoken to her about the CPR card and that at the time she did not recall how it had happened that it had been altered. She testified that she since remembered that she had been out socializing with fellow nurses; that someone had joked about performing CPR for a person at another table who was coughing; that she had removed her CPR card from her wallet and said she would do it. When one of her friends pointed out that the card had expired, she herself had jokingly altered the dates.
11. Ms. Gordon was interviewed in June, 2015 by OPR investigator Dennis Menard. Ms. Gordon told Mr. Menard the same story about the alteration of the CPR card, except that she said that one of her friends had altered the dates.
12. At hearing, Ms. Gordon presented a photocopy of a CPR card that had been issued to her on September 20, 2014 with a "recommended renewal date" of September 20, 2016. The photocopy was admitted as Respondent's exhibit A. She testified that the card had been issued to her before her hire date. She testified that after leaving RPMC on January 29, she had returned home, but could not immediately find her card. She called "Stanton" and received a replacement card dated January 29, 2015. (A copy of this card was sent to Ms. Classen.) Three weeks later, she found the original card from Stanton.

Discussion

The Respondent, Sheri Gordon, had a valid CPR card (exhibit *A*) at the time she was hired by RMCC. In view of this circumstance, I must conclude that Ms. Gordon's submission of the old, altered card was inadvertent as she claims.

I must conclude, however, that Ms. Gordon was deceptive in her various explanations about the alteration of the CPR card she submitted to RRMC (exhibit #1) and who had altered it. When first confronted about the apparent alteration of the card by Ms. Classen, Ms. Gordon was without explanation. Her first reaction was that the issuing authority at Glens Falls Hospital must be responsible. She also said that shortly before her hire by RRMC, her prior employer had brought her attention to the problem with the card's issuance and expiration dates.

In other words, Ms. Classen was not the first person to bring to Ms. Gordon's attention the issue with the card; she could not have been surprised by this revelation by Ms. Classen. She had an earlier opportunity to reflect on the condition of the card. In light of the prior notification, one must question: (1) why Ms. Gordon did not previously recall that the Glens Falls card (exhibit #1) had expired and that (2) she had a more recent, valid card (exhibit *A*); (3) why Ms. Gordon did not take time to reconstruct the circumstances leading to the alteration of the Glens Falls card; (4) why she did not take pains to submit the valid card (exhibit *A*) to RMCC.

Instead, Ms. Gordon first claimed that she did not know how the card had been altered and that she would never do such a thing herself. These statements were untrue. She later told Mr. Menard that a friend had altered the card and then testified at hearing that she herself had done it. At one time she said that someone at the Stanton Facility might have done it. Ms. Gordon also claimed that she had contacted Mr. Shaw at Glens Falls Hospital to inquire about the condition of the card. This claim was untrue as well.

Conclusions of Law

The Board of Nursing has charged the Respondent violated 3 V.S.A. § 129a(b)(1) and (2) in that Respondent failed to practice competently by reason of any cause on a single occasion or on multiple occasions, whether actual injury to a client, patient or customer has occurred, by either (1) performance of unsafe or unacceptable patient or client care, or (2) failure to conform to the essential standards of acceptable and prevailing practice. This case involved failure to conform to the essential standards of acceptable and prevailing practice.

Here, Respondent gave a deceptive answer to a co-worker when confronted with an altered CPR card. Among professional nurses, candor is essential. One's co-workers must be confident that information given them is honest and accurate. It is self-evident that nurses, especially hospital nurses, work with a vulnerable population. Information that is transmitted from one medical worker to another must be accurate; health and safety, if not life and death, are at stake. If one is uncertain, far better to say, "I don't know; I must investigate." than to fabricate a response.

The Administrative Law Officer notes that the Respondent was not specifically charged with making deceptive statements to a co-worker. Rather, she was charged with altering a CPR

card and submitting it to RRMC in order to qualify for employment. See Specification of Charges, dated December 22, 2015, ¶ 4. However, at the commencement of the hearing, the prosecuting attorney stated that Respondent was charged for both submitting an altered CPR card and for making deceptive statements. The Respondent did not object and evidence in support of making deceptive statements was offered without objection. Pursuant to V.R.C.P. 15(b), it is proper both to receive such evidence and to base a decision upon it.¹

The Above Findings of Fact and Conclusions of Law are hereby reported to the Vermont Board of Nursing with a recommendation that the Respondent be WARNED. It is also recommended that the Respondent be required to participate in a course offered by The National Council of State Boards of Nursing entitled, "Righting a Wrong: Ethics and Professionalism in Nursing."

Dated this 6th day of May, 2016


Michael S. Kupersmith
Administrative Law Officer

The Vermont Board of Nursing considered the report of findings of fact, and conclusions of law at its meeting on June 13, 2016. After considering the report, the Board takes the following action:

- / / Rejects the report and schedules the matter for hearing.
- / / Schedules the matter for additional evidence.
- ☒ Accepts the report, adopts the findings of fact and conclusions of law, and orders the recommended discipline as set forth above.

SO ORDERED.

Vermont Board of Nursing


Jeanine Carr, Chair

6/13/16
date

6/14/16
Date of Entry

¹ V.R.C.P 15(b) provides:

(b) **Amendments to Conform to the Evidence.** When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. . . .