



State of Vermont
Office of the Secretary of State

Office of Professional Regulation

89 Main Street, 3rd Floor
Montpelier, VT 05620-3402
sos.vermont.gov

James C. Condos, Secretary of State
Christopher D. Winters, Deputy Secretary
S. Lauren Hibbert, Director

June 24, 2022

Jessica Smith
6 Well Hill Way
Alstead, NH 03602-3820

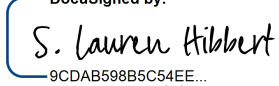
CASE: In Re Jessica Smith
Docket No.: 2022-7

Dear Ms. Smith:

Enclosed please find a copy of the *Notice of Dismissal* that was issued by the prosecuting attorney in the above-referenced case. Subsequently the hearing that was scheduled for July 11, 2022 has been cancelled.

If you have any questions, please do not hesitate to contact the office.

Sincerely,

DocuSigned by:

9CDAB598B5C54EE...
S. Lauren Hibbert
Director

Enclosure: *Notice of Dismissal*

cc: George Belcher, Esq., Hearing Officer
Ultan Doyle, Esq., Prosecuting Attorney
Kristin Donnelly, Case Manager
Jessica Smith, Respondent, First Class Mail, Certified Mail, Email

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

IN RE:	)	
Jessica Smith	)	Docket No. 2022-7
License No. 075.0123262	)	

NOTICE OF DISMISSAL

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Ultan Doyle and hereby dismisses the Specification of Charges filed in the above-captioned case.

DATED at Montpelier, Vermont this 21st day of June, 2022.

STATE OF VERMONT
SECRETARY OF STATE

By: Ultan Doyle
Ultan Doyle
State Prosecuting Attorney
Office of Professional Regulation
802.828.1217
ultan.doyle@vermont.gov

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402



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Office of the Secretary of State**

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**James C. Condos, Secretary of State
Christopher D. Winters, Deputy Secretary
S. Lauren Hibbert, Director**

March 17, 2022

Jessica Smith
6 West Hill Way
Alstead, NH 03602-3820

CASE: In Re Jessica Smith
Credential: Licensed Nursing Assistant / 075.0123262
Docket No.: 2022-7

NOTICE OF CONTESTED HEARING

Dear Ms. Smith:

This case is scheduled for a contested hearing which will be held remotely, on the following date:

Date: July 11, 2022
Time: 9:15 a.m.

This hearing will be convened remotely consistent with 1 V.S.A. §§ 310-314. OPR recommends you participate remotely. If you cannot attend the hearing remotely, connection to the hearing will be available at the Office of Professional Regulation, 89 Main Street, 3rd floor, Montpelier, VT 05602.

To join online, go to the OPR public calendar (<https://sos.vermont.gov/opr-event-calendar>) and select the blue meeting link on the date of your hearing. Then select "Click here to join the meeting". Please see the attached Microsoft Teams Meetings Instructions for step-by-step directions on how to find your meeting on the OPR public calendar. **Please note that you should use the phone numbers and access codes provided in the OPR public calendar or in the email sent to you by the Docket Clerk. Do NOT use the phone numbers and meeting details provided in the attached Microsoft Teams Meetings Instructions.**

Your case may be called later than the time provided, above, based on the progress of those before it. Please plan to be available.

If you have any questions, please do not hesitate to contact the office at 802-828-2367.

Sincerely,

/s/Julie Bowen
Docket Clerk

Enclosure: *Discovery & Hearing Schedule & OPR Calendar Remote Hearing Participation Instructions*

cc: George Belcher, Esq., Hearing Officer
Ultan Doyle, Esq., Prosecuting Attorney
Kristin Donnelly, Case Manager
Jessica Smith, Respondent, First Class Mail, Certified Mail & Email



**STATE OF VERMONT
OFFICE OF PROFESSIONAL REGULATION**

In Re: Jessica Smith
Docket No.: 2022-7

Board: Nursing
Answer: March 17, 2022

Discovery and Hearing Schedule

On the above date the Office of Professional Regulation received Respondent's Answer on the above referenced docket number. As a result, the following Discovery (exchange of information) and Hearing Schedule has been issued.

1. State's Investigative file to be disclosed: **March 31, 2022**
2. State's Witnesses to be disclosed: **March 31, 2022**
3. Respondent's Witnesses to be disclosed: **April 28, 2022**
4. Expert Witness Disclosure, if either party chooses, (including qualifications, a summary of the expert's opinion, and the basis of that opinion)
 - a. State's expert disclosed by: **May 5, 2022**
 - b. Respondent's expert disclosed by: **May 19, 2022**
5. Depositions completed by (if any): **June 23, 2022**
6. Pre-filed Testimony filed by (if any): **June 23, 2022**
7. Motions filed by (if any): **June 23, 2022**
8. Responsive Motions filed by: **July 7, 2022**
9. Exhibits exchanged by: **July 5, 2022**

Case is scheduled for a hearing before the Board of Nursing:

Date: **July 11, 2022 Time: 9:15 a.m.**

Place: This hearing will be convened remotely consistent with 1 V.S.A. §§ 310-314. OPR recommends you participate remotely. If you cannot attend the hearing remotely, connection to the hearing will be available at the Office of Professional Regulation, 89 Main Street, 3rd floor, Montpelier, VT 05602.

Exhibits (Supporting Documents)

To submit exhibits prior to the Hearing, parties must send the exhibits by mail or email to the Docket Clerk (sos.docketclerk@vermont.gov). Exhibits that have not been received by the Docket Clerk at least one day prior to the Hearing will need to be submitted electronically during the Hearing. Parties should confirm with the Docket Clerk that the exhibits mailed or emailed prior to the Hearing have been received.

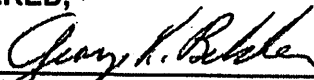
Each exhibit should be a separate attachment and clearly labeled. State's exhibits shall be numbered. Respondent's exhibits shall be lettered. If you need assistance with this process, please contact the Docket Clerk.

Changes to This Schedule

Parties may change the dates set forth in this schedule by mutual agreement. Written stipulations of the agreed upon date changes shall be filed with the Docket Clerk. Motions to Continue the Hearing Date or Motions to Request an Earlier Hearing must be filed in writing with the Docket Clerk. A Motion to Continue the Hearing Date that is filed less than 6 working days before the scheduled hearing date will be denied unless extraordinary grounds are documented in the motion. If a party wishes to have a prehearing conference with the Board's Presiding Officer or the assigned Administrative Law Officer, that request must be filed in writing with the Docket Clerk.

Please note that ALL filings (e.g., exhibits, motions, etc.) must be served on the Docket Clerk and opposing party.

So ORDERED,



Administrative Law Officer

Date: MARCH 17, 2022

Answer

Case Name: <u>In Re Jessica Smith</u>	Docket Number: <u>2022-7</u>
Your Name: <u>Jessica Smith</u> (person completing the form B either the respondent or the respondent's attorney)	
Telephone: (daytime) <u>603 558 3379</u>	E-mail <u>MSU2AC18@icloud.com</u>

Attach Additional Sheets As Needed

1. **Undisputed Facts:** State all material facts in the charges that you do not dispute. You may use the paragraph numbers from the specification of charges rather than repeating each statement.

Attached.

2. **Disputed Issues of Fact:** State all material facts that you contend are disputed. You may use the paragraph numbers from the specification of charges rather than repeating each statement.

Attached.

- OVER -

attached.

4. Sign and Date: By signing, I affirm that all pages of this form are complete and truthful.

I ☒ have ☐ have not attached additional information.

28A
Signature

3/4/2022
Date

Please mail the original to:

Vermont Secretary of State
Office of Professional Regulation
Attn: Docket Clerk
89 Main Street, 3rd Floor
Montpelier, VT 05620-3402

You must also send a copy to:

Prosecuting Attorney who charged the case
89 Main Street, 3rd Floor
Montpelier, VT 05620-3402

March 4, 2022

To The State of VT:
Secretary of State
Office of Professional Regulation
Board of Nursing

Good Day,

I am writing on behalf of a letter I received dated 2/15/22.

This letter is about an incident that happened in 2019. The last time I have heard from anyone on this matter was the end of 2019. I spoke to a woman (unsure of whom, as its been some time). We spoke about the allegations and I explained again the circumstances. She was very confident not to worry that this would go in front of the board and she was certain it would end there. I Have not heard from anyone since then until this letter.

I just want the chance to yet again defend myself against these allegations. I am sure my original statement is around.

1, I did indeed bring a client in my personal car. I was truthfully unaware of the policies of the company I was working for and for that I expect the wrongness of my actions. The company (VNH) insisted that I needed to up my personal car insurance. So it my understanding because I had this "insurance" I was covered. There was no bad intent on my end. The client had asked if I could go to a local farm stand and get him some fresh corn. He wanted to hand me cash. I didn't feel comfortable taking said cash from him and offered to bring him so he could get what he desired for dinner. I mean, my job was the do what I could to provide the best possible care I could.

I had worked in a prior in home care setting for Staffing Solutions and I was allowed to do said activity with clients. I learned quickly.

2. the \$200 check. Once again, I thought I was covering my own butt. This client was stating how he would like someone to come in a do some deep cleaning as the people he has coming in now only do the daily basics. He didn't want someone to come all the time just as needed. I offered. My own time, not VNH's time. I help a lot around my community with family and friends or just whomever was in need. I love the help any way I can. This client stated he would talk to his family. The next time I had him on my schedule he mentioned that he would like me to come do this for him. I explained to him my schedule coming up and he agreed on a Saturday (im sorry I don't remember dates). I went there on my time and washed his curtains, hung them back up, deep cleaned his floors, dusted and helped him with some other things, I also ran out and got his mail and newspaper. He offered to pay me cash, and I

respectfully told him I did not feel comfortable taking cash. So he wrote a check. He had planned to have me come back in a couple months and would let me know.

Since all of this happened, I have offered to pay back to the client but was shot down every time. Even though I was there on my free time, I will still gladly pay it back. This was never a malicious attempt and I have far from a thief.

I enjoy what I do. I have held my license for over 16 years. I have tested out a couple different atmospheres of nursing (in home, nursing home, hospital setting) and I have found that the routine and consistency of the nursing home setting is where I am most comfortable and can provide the best care of my ability.

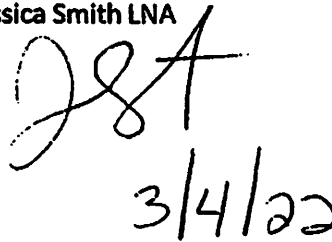
I have plans on my own and with my employer of furthering my nursing career. I began starter classes to become an LPN but put all aside when my oldest son passed away. My employer is willing to put me through the Med Cert class as they feel I am a very good fit. I help this title at Cedar Hill in VT and enjoyed it but also learned I am more passionate about my hands on care. Where I work now I go to work with a smile and leave with the knowledge that I made a difference. I feel like I found my place. It's not the typical understaffed/overworked situation so I am able to spend a little bit more time with these residents and can really make a difference in their day to day. They look forward to be working. Both residents and staff.

I am respectfully asking for my license to not be revoked. I have made mistakes along the way as every human does. An I can honestly say I learn from them. I take pride in my license. I take pride in my work. I would not do a deliberate thing to jeopardize my life, my career or the people I am caring for (at work and at home).

Thank you for your time.

Sincerely,

Jessica Smith LNA

Handwritten signature of Jessica Smith and the date 3/4/22.

Reference's:

D.O.N of Elmwood Center Claremont NH
Cyndi Woodman Tubman
1-802-316-7969

Coworker of Cedar Hill Windsor VT
Alica Laplante
1-603-558-3854

Coworker/Team Lead of Cedar Hill Windsor VT
Lauren Smith 603-313-0234

Scheduler at Staffing Solutions of VT

Mandy Wright

603-558-4279

I am currently employed as of 12/1/2021 at Woodlawn Care Center Newport NH.

Updated information :

Address: 84 canal st apt c

Newport NH 03773

Phone : 603-558-3379

Thank you for your time.

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

IN RE:

JESSICA L. SMITH

License No. 075.0123262

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Docket No. 2022-7

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont (the "State") and makes the following charges against Licensed Nursing Assistant Jessica L. Smith:

Board Authority

1. 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. Chapter 28; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation ("OPR Rules").

Statement of Facts

2. Jessica L. Smith ("Respondent") of Alstead, New Hampshire is licensed by the State as a Licensed Nursing Assistant ("LNA") under license number 075.0123262. This license was issued on August 29, 2016 and expired on November 30, 2020.
3. At all relevant times, Respondent worked as an LNA with Visiting Nurse and Hospice for Vermont and New Hampshire in White River Junction, Vermont.
4. At all relevant times, Respondent provided home care for a patient (the "Patient").
5. At all relevant times, Respondent's LNA job duties while caring for the Patient, included, but were not limited to, following his patient care plan, assisting with personal hygiene, and assisting with household chores.
6. In or about September of 2019, Respondent was caring for the Patient.
7. While providing care for the Patient, Respondent admitted to accepting and cashing a \$200 check from the Patient.
8. Respondent also admitted to driving the Patient in her vehicle.

Violation One: 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 Services or Goods in a Manner That Exploits a Person, for the Financial Gain of the Practitioner or Third Party.

9. The State re-alleges and incorporates Paragraphs 2 through 8 above.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
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05620-3402

10. Under Vermont law, an LNA must not exercise undue influence on, or take improper advantage of, a person using professional services, or promoting the sale of services in a manner that exploits a person, for the financial gain of the practitioner or a third party.
11. Paragraphs 3 through 8 above demonstrate that Respondent did exercise undue influence, or take improper advantage of person using professional services, for the financial gain of Respondent because she improperly accepted and cashed a \$200 check from the Patient.
12. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct in violation of 3 V.S.A. § 129a(a)(12).

Violation Two: 3 V.S.A. § 129a(a)(15) – Failing to Exercise Independent Professional Judgment in the Performance of Licensed Activities When That Judgment is Necessary to Avoid Action Repugnant to the Profession.

13. The State re-alleges and incorporates Paragraphs 2 through 8 above.
14. Under Vermont law, an LNA must exercise independent professional judgment in the performance of licensed activities when such judgment is necessary to avoid action repugnant to the profession.
15. Paragraphs 3 through 8 above demonstrate that Respondent failed to exercise independent professional judgment in the performance of licensed activities when such judgment is necessary to avoid action repugnant to the profession because she accepted and cashed a \$200 check from the Patient and transported him in her own vehicle while providing care.
16. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct in violation of 3 V.S.A. § 129a(a)(15).

Violation Three: 3 V.S.A. § 129a(b)(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: (2) Failure to Conform to the Essential Standards of Acceptable and Prevailing Practice.

17. The State re-alleges and incorporates Paragraphs 2 through 8 above.
18. Under Vermont law, an LNA must practice competently by conforming to the essential standards of acceptable and prevailing practice.
19. As an LNA, Respondent is subject to the standards of acceptable care and prevailing practice, which includes maintaining personal boundaries and avoiding conflicts of interest with patients.
20. Paragraphs 3 through 8 above demonstrate that Respondent failed conform to the essential standards of acceptable and prevailing practice because she accepted and cashed a \$200 check from the Patient and transported him in her own vehicle while providing care, which created a conflict of interest with the patient and failed to maintain personal boundaries.

STATE OF VERMONT



Prosecuting Attorney
Office of
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05620-3402

21. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct in violation of 3 V.S.A. § 129a(b)(2).

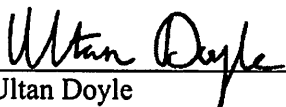
Relief Requested

WHEREFORE, the State of Vermont respectfully requests that the Board revoke, suspend, condition, or otherwise discipline Jessica L. Smith's Licensed Nursing Assistant License.

DATED at Randolph, Vermont this 11th day of February, 2022.

STATE OF VERMONT
SECRETARY OF STATE

By:


Ultan Doyle
State Prosecuting Attorney
Office of Professional Regulation
802.828.1217
ultan.doyle@vermont.gov

STATE OF VERMONT



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