

**STATE OF VERMONT
BOARD OF NURSING**

In re: Scott Knudsen
License No. 026-31787

}
}
}

Docket No. 2011-142 (RN)

**Decision on
UNPROFESSIONAL CONDUCT CHARGE**

Participating Board Members:

Ellen W. Leff, RN, Chair
Jeanine Carr, RN, Vice Chair
Alan Weiss
Sandra Norton, LNA
William G. White, Jr.
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 December 12, 2011 at the National Life Building in Montpelier, Vermont. Mr. Knudsen appeared by telephone.

The basic facts in this case have been stipulated to by the parties. At the hearing the Board took additional testimonial evidence from Mr. Knudsen and documentary evidence including a New Hampshire Board of Nurse Order. The Board was called to determine whether the facts constitute unprofessional conduct. To prevail on any unprofessional conduct charge, the State must prove the charge by a preponderance of the evidence.

Background

The prosecution alleges in its Specification of Charges that Mr. Knudsen in violation of Vermont Statutes was disciplined in New Hampshire and intentionally failed to disclose that action when renewing his Vermont license.

Findings of Fact

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

1. Mr. Knudsen is a licensed registered 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. Mr. Knudsen's license was summarily suspended by Order of this Board dated May 9, 2011. The charges herein were filed on August 1, 2011.
3. The parties submitted a Stipulation and Consent Order which shall be attached and incorporated into this Decision.
4. On January 26, 2011 Mr. Knudsen's license was disciplined by the New Hampshire Board of Nursing. The discipline came after a Default hearing. The New Hampshire Board suspended Mr. Knudsen's license for two years.
5. The basis of the New Hampshire suspension was a drug screen conducted on August 31, 2009 which reported a positive test result. According to the New Hampshire Board Order, which we find credible, Mr. Knudsen tested positive for cocaine in August, 2009. A second test from the same sample also tested positive.
6. Mr. Knudsen contended that the test had provided a false positive result. He had been given the opportunity for a hair follicle test which would prove the accuracy or falsity of the other tests. He declined to do so and was then terminated from his employment in New Hampshire.
7. On March 31, 2011 Mr. Knudsen submitted his Vermont license renewal application. To the question "Has Vermont or any other state, federal authority or other jurisdiction (US or elsewhere) restricted, suspended, revoked, or taken any other disciplinary actions against a license, certificate, or registration that you hold or held in any profession or occupation?" Mr. Knudsen answered, "No."
8. Mr. Knudsen was aware in February of 2010 that the New Hampshire Board was investigating him. He sent documentary evidence to them to be considered as part of their investigation. He did not give the New Hampshire Board of Nursing an updated address or contact information when he left New Hampshire and began working in Vermont. Although Mr. Knudsen could easily have stayed in touch with New Hampshire authorities to find out what, if any action, they may have considered against him, he did not do so. Without any direct evidence at our hearing to indicate that Mr. Knudsen had actual knowledge of the January 2011 New Hampshire Order, we cannot find that he had actual knowledge of it when he submitted his renewal application in March, 2011. Yet, Mr. Knudsen had ample reason to question what the New Hampshire Board was considering. He took no affirmative action to clear up the pressing matter in New Hampshire. He deliberately "looked the other way" to maintain his ignorance of any New Hampshire repercussions from his August 2009 drug test results. In that regard, Mr. Knudsen's conduct was deceptive and likely to mislead.
9. At today's hearing Mr. Knudsen submitted several letters of reference from professional colleagues showing the high regard in which he has been held. The most recent letter was dated 2005.

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)(1):** The State has not proved by a preponderance of the evidence that Mr. Knudsen has made or caused to be made a false, fraudulent or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing. 3 V.S.A. § 129a(a)(3). This charge is dismissed.
2. **Re: Alleged Violation of 26 V.S.A. § 1582(a)(3):** On the information presented we decline to conclude that Mr. Knudsen is unable to practice nursing competently by reason of any cause. 3 V.S.A. § 129a(a)(3). This charge is dismissed.
3. **Re: Alleged Violation of 26 V.S.A. § 1582(a)(7):** The State has proved by a preponderance of the evidence that Mr. Knudsen has engaged in conduct of a character likely to deceive, defraud, or harm the public. This is unprofessional conduct. 3 V.S.A. § 129a(a)(3).
4. **Re: Alleged Violation of 3 V.S.A. § 129a(a)(7):** The State has not proved by a preponderance of the evidence that Mr. Knudsen willfully made or filed false reports or records in the practice of the profession; or willfully impeded or obstructed the proper making or filing of reports or records or willfully failed to file the proper reports or records. This charge is dismissed.
5. **Re: Alleged Violation of 3 V.S.A. § 129a(b)(1) and (2):** On the evidence presented we decline to conclude that Mr. Knudsen failed to practice competently. This charge is dismissed.
6. **Re: Alleged Violation of 26 V.S.A. § 129a(a)(3):** Mr. Knudsen violated New Hampshire statutes. 3 V.S.A. § 129a(a)(3) defines unprofessional conduct to include failing to comply with provisions of federal or state statutes or rules governing the practice of the profession. Mr. Knudsen violated a state statute governing the practice of nursing.

Discussion

At the hearing the parties submitted very different proposals for possible sanctions. Mr. Knudsen asked the Board to permit him to work for a traveling nurse agency. The State opposed that option. At this time the Board lacks sufficient information to determine which conditions are necessary to protect the public. Based on the New Hampshire Board of Nursing Findings, the Stipulation and Consent Order Findings, and our Findings of Fact herein, the Board adopts the following order.

Order

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

Mr. Knudsen's license shall remain **indefinitely suspended**. Mr. Knudsen may petition the Board for reinstatement when he has done the following:

Within forty-five (45) days of requesting reinstatement:

- 1) Mr. Knudsen shall obtain an independent evaluation report by a licensed professional specializing in drug and alcohol abuse, pre-approved by the Board or its designee and who has verified receipt of this Order;
- 2) The results of the report with the drug and alcohol independent evaluator must indicate that Mr. Knudsen does not present a risk to the safety, health, or welfare of his potential patients; and
- 3) Mr. Knudsen must submit to the Board or its designee the results of a minimum of four (4) random urine analyses, collected in an observed setting, administered by a person or an entity that has been pre-approved by the Board or its designee, and analyzed by a lab pre-approved by the Board or its designee which is qualified to analyze samples for forensic purposes.
- 4) The results of the random urinalyses shall be negative. Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine analysis shall cause that screen to be presumed to be positive.
- 5) Mr. Knudsen shall enter into a treating professional agreement with a treating professional pre-approved by the Board; and enter into a substance abuse treatment plan approved by the Board with the pre-approved treating professional.

Mr. Knudsen's license shall not be reinstated until these prerequisites are met.

When the Board has determined that these reinstatement conditions have been met, it will determine at a hearing to be held at that time what, if any, conditions on Mr. Knudsen's license may be necessary to protect the public.

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 December 12, 2011

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 12/12/11

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

IN RE:)
SCOTT KNUDSEN) Docket No. 2011-142
License No. 026.0031787)

STIPULATION AND CONSENT ORDER

NOW COMES the State of Vermont, by and through State Prosecuting Attorney S. Lauren Hibbert, and the Respondent, Scott Knudsen, 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. Scott Knudsen (the "Respondent") of South Burlington, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0031787. This license was originally issued on or about September 9, 2005 and is currently set to expire on or about March 31, 2013. Previously the Respondent was licensed as Licensed Practical Nurse under license number 025.0007964 which was originally issued on or about August 31, 2000 and expired on or about January 31, 2002.
3. At all times relevant, Respondent was employed at Porter Hospital (the "Facility"), located in Middlebury, Vermont.
4. On or about February 28, 2011, the Office of Professional Regulation received a Discipline Case Summary Report from NURSUS stating that the Respondent had been disciplined in New Hampshire. On or about January 26, 2011 the New Hampshire Board of Nursing suspended the Respondent's license for two years after it found that the Respondent tested positive for cocaine in an annual drug screening on or about August 31, 2009.
5. On or about March 31, 2011, the Respondent submitted his Registered Nurse Renewal Application. A review of his Renewal Application reveals that the Respondent answered "No" to the question "Has Vermont or any other state, federal authority, or other jurisdiction (US or elsewhere) restricted, suspended, revoked, or

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

taken any other disciplinary action against a license, certificate, or registration that you hold or held in any profession or occupation?"

6. The Respondent maintains the drug test completed on or about August 31, 2009 was a false positive.

Violations

7. The State contends that the act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because allegedly the Respondent has committed unprofessional conduct in violation of:
- a. 26 V.S.A. § 1582(a)(1) (Has made or caused to be made a false, fraudulent or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing);
 - b. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause) pursuant to ARBN Chapter 4, Subchapter 4, Rule II(C) "Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs, narcotics, chemicals, or any other type of materials;
 - c. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud or harm the public);
 - d. 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records; or willfully failing to file the proper reports or records);
 - 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).

8. The Respondent disputes the State's position and shall have the opportunity to argue that the agreed-upon facts do not constitute unprofessional conduct for any and/or all of the Charges above.

Understandings

9. Respondent admits the facts above are true.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

10. 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.
11. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
12. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
13. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
14. 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.
15. Respondent voluntarily waives his 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.
16. 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, December 12, 2010.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

AGREED TO:

Dated: 12/8/11

STATE OF VERMONT
SECRETARY OF STATE

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

SCOTT KNUDSEN
RESPONDENT

Dated: 12/8/2011

By: Scott Knudsen
Scott Knudsen

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 12-12-11

By: Ellen Jeff
Chairperson

Date of Entry: 12/12/11

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

STATE OF VERMONT
BOARD OF NURSING

In re: Scott Knudsen
License No. 026-31787

}
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} Docket No. 2011-142(RN)

DECISION ON REQUEST FOR
SUMMARY SUSPENSION ORDER

Appearances:

for Petitioner, State of Vermont: Lauren Hibbert
for Respondent: did not appear

Presiding Officer: Larry S. Novins

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

On May 9, 2011 this matter came before the Board of Nursing on the State's Request for a Summary Suspension. Mr. Knudsen 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. 3 V.S.A. § 814(c).

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. Mr. Knudsen is licensed 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 Mr. Knudsen tested positive for cocaine use on August 31, 2009 and in his Vermont renewal application failed to report that he had been disciplined in New Hampshire for the drug use.
3. The State further alleges that the public health, safety or welfare imperatively requires emergency action.
4. Notice of this hearing was sent to Mr. Knudsen at her last known address via certified mail dated May 3, 2011. There was no indication that Mr. Knudsen had actual

- knowledge of today's hearing.
5. The Board finds for purposes of this hearing that Mr. Knudsen tested positive for cocaine use in August of 2009, that his license was suspended in New Hampshire, and that he failed to disclose any of this in his renewal application in March 2011.
 6. Mr. Knudsen's conduct shows a willingness to evade legal requirements which can translate to patient harm.
 7. The allegations in the Request for Summary Suspension (copy attached) have been established to the necessary degree.
 8. The evidence presented does imperatively require emergency action for the public health, safety, and welfare. Specifically, summary suspension is necessary to prevent patient harm. If summary suspension is not ordered, the Board believes that patient harm will 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©. Our Findings of Fact and Conclusions of Law 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 Mr. Knudsen's license. There is an imperative need to take emergency action. 3 V.S.A. § 814©.

Vermont law requires that unprofessional charges be filed promptly with Mr. Knudsen 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 Mr. Knudsen 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 exclusively on the evidence admitted at that hearing.

Order

The State's Request for Summary Suspension is **Granted**. Mr. Knudsen'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
Ellen Leff, RN, Chair

Date: May 9, 2011

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 5/10/11

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

IN RE:

SCOTT KNUDSEN

License No. 026.0031787

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Docket No. 2011-142

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. Scott Knudsen (the "Respondent") of South Burlington, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0031787. This license was originally issued on or about September 9, 2005 and is currently set to expire on or about March 31, 2013. Previously the Respondent was licensed as Licensed Practical Nurse under license number 025.0007964 which was originally issued on or about August 31, 2000 and expired on or about January 31, 2002.
4. At all times relevant, Respondent was employed at Porter Hospital (the "Facility"), located in Middlebury, Vermont.
5. On or about February 28, 2011, the Office of Professional Regulation received a Discipline Case Summary Report from NURSUS stating that the Respondent had been disciplined in New Hampshire. On or about January 26, 2011 the New Hampshire Board of Nursing suspended the Respondent's license for two years after it found that the Respondent tested positive for cocaine in an annual drug screening on or about August 31, 2009. See Attachment A.
6. On or about March 31, 2011, the Respondent submitted his Registered Nurse Renewal Application. A review of his Renewal Application reveals that the Respondent answered "No" to the question "Has Vermont or any other state, federal authority, or other jurisdiction (US or elsewhere) restricted, suspended, revoked, or

taken any other disciplinary action against a license, certificate, or registration that you hold or held in any profession or occupation?" See Attachment B.

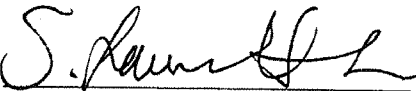
Request for Relief

7. 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.
8. The above acts and circumstances, alone or in combination, violate:
 - a. 26 V.S.A. § 1582(a)(1) (Has made or caused to be made a false, fraudulent or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing);
 - b. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause);
 - c. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud or harm the public);
 - d. 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);
 - e. ARBN Chapter 4, Subchapter 4, Rule II(C) ("Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs, narcotics, chemicals, or any other type of materials);
 - f. 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records; or willfully failing to file the proper reports or records);
 - g. 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
 - h. 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 026.0031787 be summarily suspended, pending a hearing on the merits.

DATED at Montpelier, Vermont this 3 day of May, 2011.

STATE OF VERMONT
SECRETARY OF STATE

By: 

S. Lauren Hibbert
State Prosecuting Attorney

nu.knudsen.sumsusp

Discipline Case Summary Report

Printed for VERMONT on 02/28/2011

INDIVIDUAL:

Name: **KNUDSEN, SCOTT LIPPITT**
DOB: 05/20/1956 Gender: MALE

LICENSES DISCIPLINED:

NEW HAMPSHIRE | RN | 049170-21

GENERAL CASE INFORMATION:

Case Number: 650337 Date Action Was Taken: 01/26/2011
Jurisdiction: NEW HAMPSHIRE

General Case Comments:

At its meeting of January 20, 2011, Board members voted to suspend RN license for 2 years for violating Nurse Practice Act including testing positive for drug for which he did not have lawful prescription. Monetary penalty of \$500 was assessed to deter future misconduct and to defray costs associated with investigation and prosecution of case to be paid within 90 days of effective date of Board's order.

VIOLATIONS (BASIS FOR ACTION):

Violation Code: 35 - DRUG SCREENING VIOLATION

HIPDB Narrative (Comments):

Tested positive for cocaine use during annual drug screening for employer.

INITIAL ACTIONS:

Initial Code: 1135 - SUSPENSION OF LICENSE Stayed: NO

Duration: 01/26/2011 - 01/26/2013 Fine: NO Appeal - Date: NO

HIPDB Narrative (Comments):

RN license for period of 2 years for violating NPA including testing positive for drug for which Respondent did not have lawful prescription. Monetary penalty of \$500 assessed.

Initial Code: 1173 - PUBLICLY AVAILABLE FINE/MONETARY PENA... Stayed: NO

Fine: \$500.00 Appeal - Date: NO

HIPDB Narrative (Comments):

RN license for period of 2 years for violating NPA including testing positive for drug for which Respondent did not have lawful prescription. Monetary penalty of \$500 assessed.

Initial Report Attached Documents:

 s_knudsen.pdf

REVISION ACTIONS:

There are no revisions for this Discipline Case

JURISDICTION ALERT HISTORY:

NURSIS.

Attachment A



STATE OF NEW HAMPSHIRE
NEW HAMPSHIRE BOARD OF NURSING
21 S FRUIT ST STE. 16
CONCORD NH 03301-2431

Webpage: <http://www.state.nh.us/nursing>

TDD Access: Relay NH 1-800-735-2964

Nursing 603-271-2323

Nurse Asst. 603-271-6282

In the Matter of:
Scott Knudsen, RN
(Adjudicatory/Proceeding)

Docket No. 10-1201-0261

FINDINGS OF FACT AND RULINGS OF LAW AND SANCTIONS

A Hearing, chaired by the Board chairperson Robert Duhaime, RN, was held, in absentia, on January 20, 2011 at the Board of Nursing's office, 21 S. Fruit St., Concord, N.H. for Scott Knudsen, RN, (Respondent) pursuant to the December 29, 2010 Notice of Hearing.

Present at the show cause hearing were:

Witnesses: J. Harvey, Dir. of Quality Assurance, Travel Nurse Across America (via cell phone)
S. Goodness, Adm. Supervisor, NH Board of Nursing
M. Walker, Ex. Director, NH Board of Nursing

Board members: H. Featherston, K. Hartman, C. Smith, S. Dyer, C. Naas and K. Kidder

Board members absent: N. Fortin, K. Baranowski

Recused from voting: B. Libby

and Board staff: S. Goodness, K. Dickson.

Atty. L. O'Connor, Prosecutor for the Board

Findings of Fact

1. The Board first granted a license to practice as a registered nurse to Scott Knudsen, RN ("Respondent") on August 27, 2007. Respondent holds license number 049170-21. Respondent's license expired on May 20, 2010.
2. On or about August 31, 2009, the Board received a complaint from June Harvey of Travel Nurse Across America, LLC alleging that Respondent tested positive for cocaine use during an annual drug screening at Dartmouth Hitchcock Medical Center.
3. On or about August 17, 2009, Respondent submitted to an annual drug screening for his employer, Travel Nurse Across America, LLC.
4. At the time of the drug screening, Respondent was on assignment at Dartmouth-Hitchcock Medical Center and had been on assignment at that facility for approximately one year.
5. The sample for the drug screening was taken at Dartmouth-Hitchcock in Keene, NH.
6. The test was positive for cocaine.

7. A reserved portion of the original sample was sent for a second test on August 26, 2009.
8. The second test confirmed the positive results with a 5534 ng/mL of benzoylecgonine, the primary metabolite of cocaine.
9. The cutoff threshold for benzoylecgonine is 25 ng/mL.
10. Prior to terminating Respondent, Ms. Harvey recommended that Respondent submit to a hair follicle test to prove whether or not Respondent's assertion that the lab made a mistake was correct.
11. Respondent did not have a hair follicle test done.
12. Respondent was terminated from Travel Nurse Across America, LLC as a result of the drug test.

Rulings of Law

1. Respondent engaged in professional misconduct by testing positive for a drug for which he did not have a lawful prescription in violation of RSA 326-B:36, II (p)(3)

Sanctions

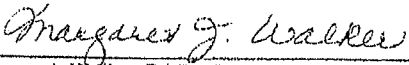
1. For violating the Nurse Practice Act including testing positive for a drug for which he did not have a lawful prescription, the Board **Suspends** Respondent's RN license for a period of 2 years and assess a monetary penalty of \$500 to deter future misconduct and to defray the costs associated with the investigation and prosecution of this case to be paid within 90 days from the effective date of the Board's order in one single payment by certified bank check or postal money order payable to the "NH Board of Nursing". Failure to pay the penalty by the deadline will cause the penalty to be reported to credit reporting services for inclusion on the Respondent's credit record. If the Board determines that collection action including court proceedings are necessary to enforce this obligation, the Board will petition the Court to assess the Respondent with all costs including reasonable legal fees and accrued interest at the prevailing government rate.
2. Should Respondent wish to petition for reinstatement of his registered nursing license, Respondent shall:
 - a. Provide the Board with three character references related to Respondent's honesty, integrity, timeliness and productive work habits. If Respondent has been employed within the past year, at least one of the references must be from an employer;
 - b. Appear before the Board to provide an oral presentation in support of the petition.
3. Should the Board grant reinstatement of Respondent's registered nursing license, a probation period shall follow and the terms, conditions, and stipulations shall be determined at the time of Respondent's Board appearance noted in 2 b. above.
4. Respondent shall provide a copy of this order to all nursing license boards and registries where he is currently licensed or registered and schools of nursing where currently enrolled within 30 days of receipt of the NH Board-executed copy as well as to all licensing boards, employers and schools of nursing for which the Respondent makes future application at the time of such application.

5. Should Respondent apply for any New Hampshire license under RSA 326-B authority on or after the effective date of this order, Respondent shall by the act of filing such application automatically waive any statute of limitations or laches defense which may otherwise be available concerning the misconduct set forth above with the misconduct being fully addressed in the context on Respondent's license application. Respondent shall bear the burden of proving that he possesses sufficient knowledge, judgment, skills, abilities and character qualifications to be licensed in any such future licensing proceedings.
6. Any relief from the provisions of this order shall be granted pursuant to RSA 326-B:39.
7. This order shall become a public document upon signature and a summary of the misconduct noted above may be published in the Board's newsletter and notification of federal and other state agencies and boards of nursing shall be effectuated as required or permitted by law.

Board rationale:

- Failure to respond and failure to appear at the hearing

BY ORDER OF THE BOARD:



Margaret J. Walker Ed.D., RN
Executive Director

1/26/11

Date

Vermont Secretary of State
Office of Professional Regulation
National Life Building, North FL 2
Montpelier VT 05620-3402



Vermont Board of Nursing
(802) 828-2396
Renewal Clerk
(802) 828-1505
www.vtprofessionals.org

Registered Nurse Renewal Application

Current Expiration 3/31/2011	Renewal Period Covering 4/1/2011 - 3/31/2013	Renewal Application Fee \$95.00 Non-Refundable Processing Fee For Office Use Only
You Must Complete The Information Below: License Number: <u>026.31787</u> Name: _____ Address: _____ City/State/Zip: _____ Circle One: ☒ Mr. ☐ Mrs. ☐ Ms.		

Directions: To renew you must enclose a check in the amount indicated, payable in US funds from a bank with a United States affiliate to "Office of the Secretary of State." The renewal application fee is non-refundable. If the completed renewal, along with all supporting documentation, is not received by the expiration date you will be required to pay a late renewal penalty. The penalty is \$25.00 for renewals submitted less than 30 days late. Thereafter, the penalty increases by \$5.00 for every additional month or fraction of a month, not to exceed \$100.00.

**Reminder: You may not practice your licensed profession without an Active license.

Has your name changed since you last renewed, or if this is your first renewal since you were originally licensed?	(Circle One)
If "Yes," you must attach a copy of your marriage license, civil union license or section of divorce decree granting you the authority to change your name.	Yes ☐ No ☒

Section A: Demographic Information

If your mailing address has changed, indicate your new address in the box to the right. Note: It is unprofessional conduct for a licensee to fail to notify the Secretary of State's Office of a change of name or address within thirty (30) days (3 V.S.A. § 129a(a)(14)).	P.O. Box
	Street/Apt # <u>457</u>
	City/State/Zip <u>2001 J. Edgar Hoover Rd. S. Burlington VT</u>
	Country

If your 911 address has changed, indicate your new address in the box to the right.	P.O. Box
	Street/Apt #
	City/State/Zip

Phone: ()	Cell Phone: <u>802-251-2057</u>
Fax: ()	E-Mail Address: <u>Kristen.Kauter@yahoo.com</u>

Date of Birth <u>5/20/56</u>	Place of Birth (City, State, Country) <u>Montpelier, VT</u>	Gender (Circle One) Female ☐ Male ☒
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Social Security Number: <u>[REDACTED]</u>	** (Providing your social security number (SSN) is mandatory, and requested under the authority granted by 42 U.S.C. § 4652(c). It will be used by the Departments of Taxes, Child Support, and the Department of Labor in the administration of Vermont law, to identify individuals affected by such laws. Your SSN is not disclosed as part of a public records request).
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OR

Passport Number: _____	*** (If you do not have a social security number you must provide a passport number as evidence that there is no attempt to procure a license fraudulently (3 V.S.A. § 129a))
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Attachment B.

Section B: Vermont Mandatory "Good Standing" Declarations

CHILD SUPPORT:

Child Support Orders (15 V.S.A. § 795(c)): As of the date of this application: (you must check one)	
☒	I am not subject to a child support order; OR
☐	I am subject to a child support order and am in good standing* or in full compliance with a plan to pay; OR
☐	I am not in good standing* or in full compliance with a plan to pay.*

TAXES:

Tax Compliance (32 V.S.A. § 3113(b)): As of the date of this application: (you must check one)	
☒	I have never lived or worked in Vermont and do not owe Vermont taxes; OR
☐	No taxes are due and payable and all required returns have been filed; OR
☐	The liability for any taxes due and payable is on appeal; OR
☐	I am in compliance with a payment plan approved by the Vermont Department of Taxes; OR
☐	I am not in good standing* with the Vermont Department of Taxes or in full compliance with a plan to pay.

UNEMPLOYMENT COMPENSATION:

Unemployment Compensation (21 V.S.A. § 1378(b)): As of the date of this application: (you must check one)	
☒	This does not apply to me because I have never been an employer in Vermont; OR
☐	No contributions or payments in lieu of contributions are due and payable; or the liability for any contributions or payments in lieu of contributions due and payable is on appeal; or the employing unit is in compliance with a payment plan approved by the commissioner; OR
☐	I am not in good standing* or in full compliance with a plan to pay.

DISTRICT COURT FINES / JUDICIAL BUREAU:

Unpaid Judgments (4 V.S.A. § 1110(b&c)): As of the date of this application: (you must check one)	
☒	I do not have any unpaid judgments
☐	I am in good standing* with respect to any unpaid judgment issued by the judicial bureau or district court for fines or penalties for a violation or criminal offense; OR
☐	I am not in good standing.*

* "Good standing" is defined in the statutes cited above. For more information, refer to the relevant statute specific to the particular question.

Name: S. K...

License #: 225 1031387

RN Renewal 2011 0151 - March 2011

Section C: Vermont Mandatory Credential and Fitness Questions

Please circle Yes or No for each of these questions. If the answer is Yes follow the provided instructions. Since you were originally licensed (and this is your first renewal), or since you completed your last renewal application:

Have you committed acts of abuse, neglect, or misappropriation of patient property?	Yes	☒ No
If "Yes," provide a detailed written explanation and attach all related documents.		

Has Vermont or any other state, federal authority, or other jurisdiction (US or elsewhere) denied your application for a license, certificate, or registration in any profession or occupation?	Yes	☒ No
If "Yes," attach a copy of the order or official notification of the action.		

Has Vermont or any other state, federal authority, or other jurisdiction (US or elsewhere) restricted, suspended, revoked, or taken any other disciplinary action against a license, certificate, or registration that you hold or held in any profession or occupation?	Yes	☒ No
If "Yes," provide a copy of the order or official notification of the action.		

Have you surrendered a license, certificate, or registration to a licensing authority?	Yes	☒ No
If "Yes," provide a detailed written explanation.		

Are you currently under investigation by another licensing authority?	Yes	☒ No
If "Yes," provide a detailed written explanation and a copy of any available information from the licensing authority.		

Have you been convicted of a crime other than a minor traffic violation? (Driving While Intoxicated and Driving Under the Influence are not minor)	Yes	☒ No
If "Yes," provide a detailed written explanation and attach the official certified court documents.		

Do you have any criminal charges pending against you in any jurisdiction (US or elsewhere)?	Yes	☒ No
If "Yes," provide a detailed written explanation and attach a copy of the charging documents.		

Note: Vermont law requires that you report to the Office of Professional Regulation, a felony conviction or any conviction of a crime related to the practice of your profession; within 30 days: 3 V.S.A. § 129a(a)(11).

Do you have a physical or mental condition or disorder which in any way impairs or limits your ability to practice this profession with reasonable skill and safety?	Yes	☒ No
If "Yes," please have your provider submit a detailed statement explaining how you are able to practice safely.		

Does your use of alcohol, drugs, or medications in any way impair or limit your ability to practice this profession with reasonable skill and safety?	Yes	☒ No
If "Yes," provide a detailed written explanation.		

Are you currently addicted to or in any way dependent on, the use of alcohol or habit forming drugs?	Yes	☒ No
If "Yes," provide a detailed written explanation.		

Are you currently participating in a supervised program or professional assistance program which monitors you in order to assure that you are not engaging in the use of alcohol or controlled substances?	Yes	☒ No
If "Yes," please provide the contract/stipulation under which you are practicing.		

Name: Jane L. Koster
RN Renewal 2011 0131 - March 2011

License #: 126-5531782

Section D: RN Nursing Education Program Requirements

Provide the name and location of your original/initial RN NURSING PROGRAM		Name <i>Vermont Technical College</i>	
City <i>Randolph</i>	State <i>VERMONT</i>	Country <i>USA</i>	

Provide the name of the US STATE from which you received your ORIGINAL RN LICENSE.	Name of State <i>Maine</i>
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Have you graduated from your original/initial RN Nursing education program within the last five (5) years (04/01/2006 – 03/31/2011)?	Yes	☒ No
Provide the date of completion of this nursing program (MM/DD/YYYY).	<i>05 / 15 / 06</i>	

If you answered "Yes" in section D (you have completed a nursing education program within the last 5 years) – you may skip sections E, F and G. No further information is required with the exception of Section H, your signature and date.

If you answered "No" in section D (you have NOT completed a nursing education program within the last 5 years) – you must answer Section E and ALL of Section F (including Employment History). If you practiced in a private duty or volunteer capacity you must also answer Section G. Then provide your signature and date in Section H.

Name: *[Signature]*

License #: _____

Section E: RN RE-ENTRY Program Requirements

Have you successfully completed a Board approved RN Re-entry program within the last five (5) years (04/01/2006 – 03/31/2011)?	Yes	☒ No
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Provide the name and location of your RN RE-ENTRY PROGRAM		Name	
City	State	Country	

Provide the date of completion of this re-entry program (MM/DD/YYYY).	/ /
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If you answered "Yes" in section E (you have completed a re-entry program within the last 5 years) – you may skip sections F and G. No further information is required with the exception of Section H, your signature and date.

Section F: Practice & Experience Requirements

Chapter 5. NURSING Subchapter 2 LICENSURE AND ENDORSEMENT IV. LICENSE RENEWAL

Practice of nursing at the level of licensure within the past five years means practice as described in 26 V.S.A. § 1572, definitions, for at least 120 days, 960 hours, in the five years prior to the expiration date or 50 days, 400 hours, within the two years prior to the expiration date. Eight hours are equivalent to one day of nursing practice.

Have you practiced as an RN:			
for 50 days (400 hours) within the last two (2) years		☒ Yes	No
-OR-			
for 120 days (960 hours) within the last five (5) years?			

Name: [Signature]

License #: 005-1031287

Provide the following information for all RN employment within the last five (5) years
(Most recent employment first):

****DO NOT complete this section if your original/initial RN program was completed within the last 5 years****

Your Job Title	RN	
Paid or Volunteer?		
Full time	☒ Yes	☐ No
Part time	☐ Yes	☐ No
Date of Employment	From (MM/DD/YYYY) 05/21/2011	To (MM/DD/YYYY) 3/31/2011
Name of Agency/Institution	Parker Hosp. - Fall	
Mailing Address	P.O. Box	
	Street/Apt #	
	City/State/Zip/Country Middlebury, Vermont	
Agency/Institution Phone #		
Supervisor's Name and Title	Charles Liberty RN	
Supervisor's Phone Number	388-4701 Main OR.	

Your Job Title	RN	
Paid or Volunteer?		
Full time	☒ Yes	☐ No
Part time	☐ Yes	☐ No
Date of Employment	From (MM/DD/YYYY) 05/15/2010	To (MM/DD/YYYY) 02/28/2011
Name of Agency/Institution	Fitch Allen Medical Center	
Mailing Address	P.O. Box	
	Street/Apt # Cholchester Avenue	
	City/State/Zip/Country Burlington, Vermont	
Agency/Institution Phone #		
Supervisor's Name and Title	Boske Stahl	
Supervisor's Phone Number		

Name: [Signature]

License #: 026.0031287

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Your Job Title	RN	
Paid or Volunteer?		
Full time		
Part time	☒ Yes	☐ No
Date of Employment	From (MM/DD/YYYY) 05/15/2009	To (MM/DD/YYYY) 05/15/2010
Name of Agency/Institution	Dartmouth H. Leach Medical Center	
Mailing Address	P.O. Box Street/Apt # One Medical Center City/State/Zip/Country Lebanon, NH	
Agency/Institution Phone #		
Supervisor's Name and Title	Pauline Smith RN	
Supervisor's Phone Number		

Your Job Title	RN	
Paid or Volunteer?		
Full time		
Part time	☒ Yes	☐ No
Date of Employment	From (MM/DD/YYYY) 05/15/2009	To (MM/DD/YYYY) 05/15/2009
Name of Agency/Institution	Clinical one / Porter Hospital	
Mailing Address	P.O. Box Street/Apt # Porter Center City/State/Zip/Country 100 Lake Street, U.S. Mount 802-388-4701	
Agency/Institution Phone #	802-388-4701	
Supervisor's Name and Title	Charlotte Liberty RN	
Supervisor's Phone Number	802-388-4701 main or	

Name: [Signature]

License #: 026.003782

Section G: Private Duty or Volunteer

Did you practice as a Registered Nurse in a private duty or volunteer capacity?	Yes	<u>No</u>
If YES to the question above attach the following documentation: Private Duty: 1. An Official letter from the client/patient's Attending Physician or Advanced Practice Registered Nurse (APRN) on their letterhead, stating that RN care was required. The letter must clearly list the Physician's or APRN name, title, contact telephone number and have their signature. 2. A letter from your Employer or Client, verifying your role and duties as a Private Duty Nurse. They must verify the number of days, hours and dates worked. The letter must clearly list the Employer/Clients name, contact telephone number, email address, mailing address and have their signature. Volunteer: 1. An Official letter from your Employer sent directly to the Vermont Board of Nursing office from the Director of Nursing or Director of Human Resources. A copy of your Job Description as a Volunteer Nurse, and a letter listing the number of days, hours and dates worked. The letter must clearly list the name of the Director of Nursing or Director of Human Resources, their telephone number, email address, mailing address and have their signature		

Section H: Affirmation

Statement of Applicant

I certify, under the pains and penalties of perjury, that all information I have provided in this application is true and accurate. I understand that furnishing false information may constitute unprofessional conduct and result in the denial of my application for renewal or further disciplinary action. The maximum penalty for perjury is fifteen years in prison and/or a \$10,000 fine. (13 V.S.A. §2901)	
	
Signature of Applicant	Date: <u>3/21/11</u>

Renewal Form Registered Nurse (RN) March 2011

Name: A. Jordan

License #: 026-0031787

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RN Renewal 2011 0431 - March 2011

Office of Professional Regulation

Vermont Board of Nursing
National Life Building, North, Floor 2
Montpelier, VT 05620-3402
Phone: (802) 828-2396 Fax: (802) 828-2484
<http://vtprofessionals.org/opr1/nurses/>

Office of Professional Regulation Survey (optional)

Would you be willing to serve as an Ad Hoc member of the Board/Commission/Advisory panel for your profession? <i>If you answer "Yes," submit a letter of intent and resume to the Office for consideration.</i>	Yes	☒ No
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Would you be willing to serve as a Board/Advisor member of the Board/Commission/Advisory panel for your profession? <i>If you answer "Yes," submit a letter of intent and resume to the Office for consideration.</i>	Yes	☒ No
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Would you be willing to serve as an Expert Witness for licensing cases associated with your profession?	☒ Yes	No
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If you answered "Yes" to the question above, what is your area of expertise?
<i>Surgical</i>

Name: *[Signature]*

RN Renewal 2011 0131 - March 2011

License #: *000-0031787*