

**STATE OF VERMONT
BOARD OF NURSING**

In re: Audra Lamothe
License No.

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}
}

Docket No. NU37-1008
~~2009~~-392
2008

**Decision on
UNPROFESSIONAL CONDUCT CHARGE**

Participating Board Members:

Ellen W. Leff, RN, Chair
Jeanine Carr, RN, Vice Chair
Alan Weiss
Sandra Norton, LNA
Donarae Metcalf, LPN
Linda Rice, APRN
William G. White, Jr.
Deborah Robinson, RN
Margaret Luce

Appearances:

for Petitioner, State of Vermont: Betsy Ann Wrask
for Respondent: Was not present

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 July 13, 2009 at the National Life Building 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 prosecution alleges in its Specification of Charges that Ms. Lamothe was habitually intemperate, based on a DUI charge and conduct at her place of employment, in violation of Vermont statutes.

Findings of Fact

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

1. Ms. Lamothe is licensed as a registered nurse by and subject to the disciplinary 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. Ms. Lamothe's answer does not contest the charges against her. Her answer states that a reckless endangerment charge which accompanied her DUI charge was dismissed. This implies that she was in fact convicted of DUI second offense, which we find today.
3. Ms. Lamothe reported that she completed a 42 day residential treatment program.
4. Ms. Lamothe was reported by the prosecutor to be in residential treatment again at the time of this hearing.
5. Based on Ms. Lamothe's continued difficulties with alcohol and prescription drugs, the Board finds that continued treatment is necessary.
6. The Board was informed at today's hearing that the parties had arrived at a Stipulation and Consent Order. It was not available for the hearing.

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)(5):** The State has proved by a preponderance of the evidence that Ms. Lamothe is habitually intemperate or is addicted to the use of habit-forming drugs. This is unprofessional conduct. 3 V.S.A. § 129a(a)(3).
2. **Re: Alleged Violation of 26 V.S.A. § 1582(a)(7):** The State has not proved by a preponderance of the evidence that Respondent has engaged in conduct of a character likely to deceive, defraud, or harm the public. 3 V.S.A. § 129a(a)(3). This charge is dismissed.
3. **Re: Alleged Violation of 26 V.S.A. § 1582(a)(3):** The State has proved by a preponderance of the evidence that Ms. Lamothe is unable to practice nursing competently by reason of any cause. This is unprofessional conduct. 3 V.S.A. § 129a(a)(3).
4. **Re: Alleged Violation of 26 V.S.A. § 129a(a)(3):** 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. Any allegation of failure to comply with statutes or rules has been addressed above. This statute does not provide an independent grounds for discipline. There is no violation of this statute. This charge is dismissed.

Discussion

Ms. Lamothe requested that this matter be continued so that she could attend the hearing. Rather than post-pone a determination of the facts of this case which Ms. Lamothe did not contest, we elect to find unprofessional conduct and impose an *interim sanction*.

Order

For the violations above, to protect the public, health, safety and welfare, the following sanction is necessary. Ms. Lamothe's license is **indefinitely suspended**. This sanction will remain in effect until the parties submit and the Board approves any Stipulation and Consent Order. The docket clerk will set this matter for a Stipulation hearing at the Board's next meeting.

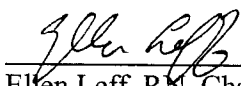
APPEAL RIGHTS

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, RN, Chair

Date: ~~June~~ July 14, 2009

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 7/20/09