

**STATE OF VERMONT
BOARD OF NURSING**

In re: Jennifer Mary Laughlin

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}
} Docket No. NU 13-0804
}

**Decision on
UNPROFESSIONAL CONDUCT CHARGE**

Participating Board Members:

Alan Weiss, acting Chair
Sandra Norton, LNA
Donarae Metcalf, LPN
Margaret Luce, RN
Ellen W. Leff, RN
Deann Welch, LPN
Kenneth W. Bush, RN

Appearances:

for Petitioner, State of Vermont: Edward G. Adrian
for Respondent: pro se

Presiding Officer: Larry S. Novins

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

The Board of Nursing held a hearing in the above matter on April 11, 2005 at the Central Vermont Hospital in Berlin, Vermont. One week before the hearing, Ms. Laughlin requested that the hearing be continued. Her letter was not addressed to the docketing clerk. The State opposed the request. It was only when the State filed its objection, that the docketing clerk or presiding officer knew of the request. The presiding officer denied the request. Ms. Laughlin was informed of the decision. At the hearing the Board affirmed that decision, and the hearing took place. Her letter to the Board was considered during its deliberations after the formal presentation of evidence.

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 State alleges in its specification of charges that Ms. Laughlin on a renewal application dated February 14, 2001 wrongfully answered "no" to the question "Have you ever been

convicted of a crime other than a minor traffic violation?" The State further alleges that in July 2004 while employed as an R.N at the Haven Health Care Center in Rutland, Vermont Ms. Laughlin was found sleeping on duty at her nursing station and did not attend a resident.

Findings of Fact

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

1. This respondent is licensed as a registered nurse and is subject to the disciplinary authority of this Board. 26 V.S.A. §1582(a), 3 V.S.A. § 129(a).
2. Ms. Laughlin's license lapsed in 1997.
3. On June 22, 1998 Ms. Laughlin was convicted of DUI #1 a misdemeanor in the Rutland District Court Docket No. 271-2-97.
4. On February 14, 2001, on her renewal application, Ms. Laughlin answered "No" to the question, "Have you ever been convicted of a crime other than a minor traffic violation?"
5. A DUI is not a minor traffic violation.
6. At all times material to the June 2004 allegations, Ms. Laughlin was employed at the Haven Health Care Center in Rutland, Vermont.
7. On the night of June 7 - June 8, 2004 J.S., a fellow employee and RN at Haven Health Care Center, found Ms. Laughlin asleep on duty.
8. At approximately 1:30 a.m. J.S. asked Ms. Laughlin to attend to a female resident who had called for assistance to go to the bathroom. Ms. Laughlin said she would. She fell asleep at her nursing station desk and did not attend to the resident.
9. At 3:45 AM on the same day J.S. again asked Ms. Laughlin to help the resident to the bathroom. Ms. Laughlin said she would. She fell back asleep at her nursing desk and did not attend the resident.
10. J.S. had to assist the resident himself at approximately 4:20 AM.
11. After assisting the resident, J.S. could not find Ms. Laughlin after looking in every room. J.S. eventually found Ms. Laughlin asleep on a bed with the privacy curtain pulled up over her.
12. At approximately 5:20 a.m. J.S. awoke Ms. Laughlin who had gone outside but again fallen asleep, this time on a picnic table.
13. Apart from being asleep at inappropriate times, Ms. Laughlin exhibited no signs of any unusual physical condition or impairment.
14. There was one other night where Ms. Laughlin's whereabouts were unknown to the testifying witness, J.S.
15. Ms. Laughlin's letter requesting a continuance mentioned a back injury which she said has caused her to be out of work since June 2004.

Conclusions of Law

1. The State has proven by a preponderance of the evidence that Ms. Laughlin, by failing to disclose her DUI conviction, which is more than a "minor traffic violation," violated 26 V.S.A. § 1582 (a)(1), ARBN Chapter 4 Rule IV(II)(A) (making a false representation in renewing a license to practice).

2. The State has proved, as shown in findings 5 through 12, by a preponderance of the evidence that Ms. Laughlin violated 26 V.S.A. §1582 (a)(7)(engaging in conduct of a character likely to harm the public), and 26 V.S.A. §1582 (a) (three) (inability to practice nursing competently by reason of any cause), which includes performance of unsafe or unacceptable patient care and failure to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN and Chapter 4 Rule IV(II)(B)(1) and (2).

3. The violations above also constitute a violation of 3 V.S.A. §129a (a) (3)(failing to comply with the provisions of Federal or state statutes or rules governing the practice of the profession).

The evidence presented at the hearing shows that during one shift on the night of June 7 - June 8, 2004, Ms. Laughlin showed signs of exhaustion, no more. One patient was denied immediate attention. The Board is concerned that there was no indication that Ms. Laughlin asked for assistance, or asked to be relieved of her duties that night. Doing so would have been the responsible action for one with significant professional responsibilities. The Board was presented with no substantial evidence that this incident was more than an isolated event.

It is now over eight years since the April 1997 DUI offense for which Ms. Laughlin was convicted in 1998.

Order

For failing in 2001 to report a 1998 DUI conviction, the Board imposes a **reprimand**.
For her violations of June 7, 2004 the Board imposes a **reprimand**.

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, 26 Terrace Street, Drawer 09, Montpelier, Vermont 05609-1106 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.

BOARD OF NURSING

By: Alan H. Weiss
Alan Weiss, Acting Chair

Dated: 11 april 05

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 5/3/05

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

IN RE:)
JENNIFER MARY LAUGHLIN) **Docket No. NU 13-0804**
License No: 026-0021240)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Jennifer Mary Laughlin, R.N.:

Board Authority

1. The Vermont Board of Nursing ("the Board") has jurisdiction to investigate complaints of unprofessional conduct and discipline nurses pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §1582; the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.
2. Making a false representation in renewing a license to practice constitutes unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(1); ARBN Chapter 4, Rule IV(II)(A).
3. Engaging in conduct of a character likely to harm the public is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(7).
4. The inability to practice nursing competently by reason of any cause is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(3).
5. The inability to practice nursing competently includes performance of unsafe or unacceptable patient care and failure to conform to the essential standards of acceptable and prevailing nursing practice. ARBN Chapter 4, Rule IV(II)(B)(1) and (2).
6. Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 3 V.S.A. §129a(a)(3).

Statement of Facts

7. The Respondent, Jennifer Mary Laughlin, is licensed by the State of Vermont as a Registered Nurse under license number 026-0021240.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

8. The Respondent's license was originally issued on July 8, 1993 and the Respondent's license is currently set to expire on March 31, 2005.

9. On her renewal application dated February 14, 2001, the Respondent stated "No" to the question of "Have you ever been convicted of a crime other than a minor traffic violation?" By way of information, the Respondent's license lapsed on April 14, 1997 and was not renewed until February 21, 2001.

10. According to certified court records, on June 22, 1998, the Respondent was convicted of DWI #1, a misdemeanor, in Rutland County District Court, Docket No. 271-2-97.

11. In July of 2004, the Respondent was employed as an R.N. at Haven Health Care Center (the "Center") in Rutland, Vermont.

12. On ^{June} July 7, 2004, the Respondent was found sleeping while on duty by J.S., an L.N.A. at the Center.

13. At approximately 1:30 a.m., J.S. had asked the Respondent to attend to a resident who had pushed her call light for assistance to the bathroom, to which the Respondent answered "no problem". However, the Respondent fell asleep at her nursing station desk and did not attend to the resident.

14. After the resident rang again at 3:45 a.m., J.S. woke up the Respondent and again asked her Respondent to help the resident, to which the Respondent answered "no problem, ok". However, the Respondent fell back asleep at her nursing station desk and did not attend to the resident. J.S. had to assist the resident, who stated she could not wait any longer, at approximately 4:20 a.m.

15. After assisting the resident, J.S. could not find the Respondent and looked in every room. He found her asleep on a bed with the privacy curtain pulled up over her. After waking the Respondent, she went outside for "fresh air" and fell asleep on the picnic table until approximately 5:20 a.m. when J.S. again woke her up.

16. L.S., an L.P.N. at the Facility, also witnessed the Respondent sleeping at her desk that night at around 3:00 a.m., and also witnessed the Respondent sleeping on the picnic table at around 4:30 to 5:00 a.m.

17. On or about August 19, 2004, the Respondent admitted to State Investigator Ron West to having fallen asleep on the picnic table. The Respondent also admitted to not disclosing the 1998 DWI conviction to the Board any renewal application.

Charges

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

18. The acts, omissions and/or circumstances described above constitute grounds for discipline because Respondent violated:

- i. 26 V.S.A. §1582(a)(1); ARBN Chapter 4, Rule IV(II)(A) (making a false representation in renewing a license to practice); and
- ii. 26 V.S.A. §1582(a)(7) (engaging in conduct of a character likely to harm the public); and
- iii. 26 V.S.A. §1582(a)(3) (inability to practice nursing competently by reason of any cause), which includes performance of unsafe or unacceptable patient care and failure to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(1) and (2); and
- iv. 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).

Relief Requested

WHEREFORE, the license of Jennifer Mary Laughlin should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 8th day of December 2004.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

nu.laughlin.soc

STATE OF VERMONT



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