

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

IN RE:	)	
BREANNA NICOLE LINNEY	)	Docket No. 2021-13
License No. 025.0135088	)	

VOLUNTARY INDEFINITE SUSPENSION STIPULATION

NOW COME the State of Vermont (the "State"), by and through State Prosecuting Attorney Benjamin E. Novogroski, and the Respondent, Breanna Nicole Linney (the "Respondent"), who stipulate and agree as follows:

1. To moot summary suspension proceedings under 3 V.S.A. § 814(c) in the matter captioned above, the State and Respondent request that license number 025.0135088 be voluntarily suspended, for an indefinite period, pending adjudication of the above-captioned matter on the merits.
2. This Stipulation is neither an admission of responsibility by the Respondent nor a concession by the State that its Request for Summary Suspension is not well-founded.
3. Proceedings on the merits should be promptly instituted and determined.
4. Respondent understands that this agreement is a matter of public record and that this suspension pending adjudication on the merits may be reported to other licensing authorities as provided in 3 V.S.A. § 129(a)(6).

ORDER

The Board of Nursing hereby suspends license number 025.0135088 pending adjudication on the merits of the matter captioned above.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 2/3/2021

By: /s/ Benjamin E. Novogroski
Benjamin E. Novogroski
State Prosecuting Attorney
Office of Professional Regulation
802.828.1217
benjamin.novogroski@vermont.gov

BREANNA NICOLE LINNEY
RESPONDENT

Dated: 2/3/2021

By: /s/ *Breanna Linney*
Breanna Nicole Linney

Print Name Here: Breanna Linney

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: _____

By: _____
Board Chair

Date of Entry: 2/9/2021

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

IN RE:)
BREANNA NICOLE LINNEY) **Docket No. 2021- 13**
License No. 025.0135088)

REQUEST FOR SUMMARY SUSPENSION

NOW COMES the State of Vermont (the “State”), by and through State Prosecuting Attorney Benjamin E. Novogroski, and petitions the Vermont State Board of Nursing (the “Board”) to summarily suspend the license of Licensed Practical Nurse Breanna Nicole Linney. In support of such petition, the State alleges the following:

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”).
2. The Board is authorized by 3 V.S.A. § 814 to summarily suspend the license of a licensed practical nurse when it finds the public health, safety, or welfare imperatively requires emergency action.

Statement of Facts

3. Breanna Nicole Linney (“Respondent”) of Topsham, Vermont is licensed by the State as a Licensed Practical Nurse (“LPN”) under license number 025.0135088. This license was issued on March 6, 2020 and will expire on January 31, 2022.
4. As an LPN, Respondent is subject to the standards of acceptable care and prevailing practice, which include a prohibition on diverting prescription medication, a prohibition on diverting facility property, and a prohibition on consuming unauthorized prescription medication during a nursing assignment.
5. At all relevant times, Respondent worked as an LPN at Valley Vista (the “Facility”).
6. At all relevant times, Respondent’s LPN job responsibilities at the Facility, included, but was not limited to, picking up patients’ prescription medications from pharmacies, accounting for and registering patients’ prescription medications in the Facility’s narcotics

log, securing patients' prescription medications in the Facility's narcotics lockbox, and administering prescription medications to patients.

7. A patient at the Facility, B.M. (the "Patient"), was prescribed 14, 30-milligram extended release capsules of Adderall (the "Prescription"), to be administered twice-a-day.
8. The Prescription is a regulated drug as defined under 18 V.S.A. § 4201(29).
9. On January 5, 2021, pursuant to her nursing duties, Respondent picked up the Prescription at a local pharmacy.
10. Upon arrival at the Facility location at Bradford, Vermont, Respondent and another nurse counted the Prescription capsules (the "Capsules") in the nursing room,
11. Respondent and another staff member recorded 14 Capsules in the Facility's narcotic log.
12. Respondent and another staff member locked the 14 Capsules in the Facility's narcotics cabinet.
13. On January 7, 2021, after the Patient complained, the Facility discovered that eight (8) of the 11 remaining Capsules did not contain any medication.
14. After being confronted by Facility staff, Respondent admitted to emptying the contents of at least four (4) Capsules.
15. Respondent explained that, after emptying the Capsules mentioned in Paragraph 14, she placed them back into the Patient's Prescription bottle.
16. Respondent also consumed the contents of at least one (1) of the four (4) emptied Capsules prior to her arrival at the Facility.
17. Respondent admitted to stockpiling the contents of the other three (3) emptied Capsules in plastic pouches branded "Silent Knight" for later personal use.
18. The Facility uses plastic pouches branded "Silent Knight" to crush patients' medication, when needed.
19. Respondent also admitted to taking prescription medication without authorization from a patient at the Facility location in Vergennes, Vermont.
20. Respondent admitted to struggles with mental health, mood, fatigue, and substance use.

Violation One: 26 V.S.A. § 1582(a)(2) – Diverting or Attempting to Divert Drugs or Equipment or Supplies for Unauthorized Use.

21. The State re-alleges and incorporates Paragraphs 3 through 20 above.

- 22. Under Vermont law, an LPN is prohibited from diverting drugs for unauthorized use.
- 23. Paragraphs 7 through 19 above demonstrate that Respondent diverted drugs from the Facility for unauthorized personal use.
- 24. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent has committed unprofessional conduct in violation of 26 V.S.A. § 1582(a)(2).

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.

- 25. The State re-alleges and incorporates Paragraphs 3 through 20 above.
- 26. Under Vermont law, an LPN must exercise independent professional judgment in the performance of licensed activities when such judgment is necessary to avoid action repugnant to the profession.
- 27. Paragraphs 3 through 19 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 by (i) emptying the contents of at least four (4) of the Prescription Capsules and placing them back into the Patient's Prescription bottle; (ii) diverting the Prescription for unauthorized personal use; (iii) taking Facility supplies to stockpile patient prescription medication for unauthorized personal use; (iv) diverting other prescription medication from the Facility location in Vergennes, Vermont; and (v) consuming unauthorized prescription medication during a nursing assignment.
- 28. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent committed unprofessional conduct in violation of 3 V.S.A. § 129a(a)(15).

Violation Three: 3 V.S.A. § 129a(b)(1) – 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.

- 29. The State re-alleges and incorporates Paragraphs 3 through 20 above.
- 30. Under Vermont law, an LPN must practice competently through the performance of safe and acceptable patient or client care.

31. Paragraphs 3 through 19 above demonstrate that Respondent failed to practice competently through the performance of unsafe or unacceptable patient care by (i) emptying the contents of at least four (4) of the Prescription Capsules and placing them back into the Patient's Prescription bottle; (ii) diverting the Prescription for unauthorized personal use; (iii) taking Facility supplies to stockpile patient prescription medication for unauthorized personal use; (iv) diverting other prescription medication from the Facility location in Vergennes, Vermont; and (v) consuming unauthorized prescription medication during a nursing assignment.
32. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent committed unprofessional conduct in violation of 3 V.S.A. § 129a(b)(1).

Violation Four: 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.

33. The State re-alleges and incorporates Paragraphs 3 through 20 above.
34. Under Vermont law, an LPN must practice competently by conforming to the essential standards of acceptable and prevailing practice.
35. Paragraphs 3 through 19 above demonstrate that Respondent failed to conform to the essential standards of acceptable and prevailing practice by (i) emptying the contents of at least four (4) of the Prescription Capsules and placing them back into the Patient's Prescription bottle; (ii) diverting the Prescription for unauthorized personal use; (iii) taking Facility supplies to stockpile patient prescription medication for unauthorized personal use; (iv) diverting other prescription medication from the Facility location in Vergennes, Vermont; and (v) consuming unauthorized prescription medication during a nursing assignment.
36. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent committed unprofessional conduct in violation of 3 V.S.A. § 129a(b)(2).

Violation Five: 26 V.S.A. § 1582(a)(3) – Engaging in Conduct of a Character Likely to Deceive, Defraud, or Harm the Public.

37. The State re-alleges and incorporates Paragraphs 3 through 20 above.
38. Under Vermont law, an LPN is prohibited from engaging in conduct of a character likely to deceive, defraud, or harm the public.

39. Paragraphs 3 through 19 above demonstrate that Respondent engaged in conduct of a character likely harm the public by (i) emptying the contents of at least four (4) of the Prescription Capsules and placing them back into the Patient's Prescription bottle; (ii) diverting the Prescription for unauthorized personal use; (iii) taking Facility supplies to stockpile patient prescription medication for unauthorized personal use; (iv) diverting other prescription medication from the Facility location in Vergennes, Vermont; and (v) consuming unauthorized prescription medication during a nursing assignment.
40. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for suspension because Respondent committed unprofessional conduct in violation of 26 V.S.A. § 1582(a)(3).

Violation Six: 3 V.S.A. § 129a(a)(5) – Practicing the Profession When Medically or Psychologically Unfit to Do So.

41. The State re-alleges and incorporates Paragraphs 3 through 20 above.
42. Under Vermont law, an LPN must not practice the profession when medically or psychologically unfit to do so.
43. Paragraphs 16 through 20 above demonstrate that Respondent engaged in LPN practice when she was medically or psychologically unfit to do so by (i) admitting to struggling with mental health and substance use issues; (ii) consuming the Prescription during a nursing assignment; and (iii) using Facility supplies to stockpile patient prescription medication for unauthorized personal use.
44. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent committed unprofessional conduct in violation of 3 V.S.A. § 129a(a)(5).

Relief Requested

45. Members of the public, patients, and potential patients have no way of learning Respondent's dangerous behavior and will remain unprotected during the pendency of these proceedings. The facts set forth above establish that in order to protect the public health, safety, and/or welfare of the people of the State of Vermont, emergency action is imperative.

WHEREFORE, the State of Vermont respectfully requests that, pursuant to 3 V.S.A. § 814(c), Breanna Nicole Linney's Licensed Practical Nurse license, number 025.0135088, be summarily suspended, pending a hearing on the merits.

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DATED at Williston, Vermont this 26th day of January, 2021.

STATE OF VERMONT
SECRETARY OF STATE

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