

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

In re: KRISTIN L. MAGNANT
License No. 026.0021621

}
} Docket No. M2016-31 (2013-156) (RN)
}

**Decision on
Respondent's Petition for Reinstatement of License**

Participating Board Members:

Ellen Watson, APRN, Chair
Jennifer Laurent, APRN
Douglas Sutton, RN
Jeanine Carr, RN
Luana Tredwell, LPN
William White, Public Member
Kelly Sinclair, LNA

Appearances:

Prosecuting the case: Elizabeth Sr. James, Esq.
Respondent: appeared *pro se*

Presiding Officer: George K. Belcher

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

The Vermont Board of Nursing held a hearing in the above matter on October 9, 2017 in Montpelier, Vermont. The State was represented by Elizabeth St. James, Esq. The Respondent appeared *pro se*. On September 11, 2017 the Respondent filed a letter with the Board of Nursing seeking to reinstate her Vermont RN license. The State filed an Objection to Respondent's Request for Reinstatement dated October 3, 2017.

Findings of Fact

Based on the evidence presented and the documents in the Respondent's file, the Board finds as follows:

1. The facts of this case are substantially uncontested. Kristin L. Magnant, (the "Respondent") was a registered nurse licensed in Vermont and was therefore subject to the regulatory authority of this Board, pursuant to 3 V.S.A. §§ 129, 129a, 26 V.S.A.

Chapter 28, the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation. Her license was originally issued on or about June 29, 1994.

2. By Order of the Vermont Board of Nursing, the Respondent's Vermont license was indefinitely suspended on April 14, 2014. This discipline resulted from facts showing that the Respondent had secured prescriptions for Phentermine by fraudulently "calling in" a prescription to a pharmacy by a purported physician who she had never seen as a patient. The prescription had been fraudulently presented regularly from 2009 to 2013 when the prescription was questioned by the pharmacy.
3. The Respondent has not worked as a nurse since her suspension in April of 2014. Her license is therefore not current.
4. The State of Vermont opposed reinstatement of the Respondent's license until she had satisfied certain prerequisites and conditions.

Conclusions of Law and Discussion

Based on the evidence presented and the facts found above we conclude as follows:

1. The Vermont Board of Nursing has authority to suspend the license of a nurse following a finding of unprofessional conduct. 26 VSA Sec. 1582. A Board may deny reinstatement of a license which has been suspended. 3 VSA Sec. 129(a)(5). The burden to establish that a licensee is entitled to reinstatement of a suspended license is upon the licensee.
2. It was the decision of the Board to approve the Respondent's current request for reinstatement, subject to the conditions as set forth in the Reinstatement Recommendation which was filed by the State at the hearing and which is incorporated into the Order below. The conditions of reinstatement are deemed necessary to protect the public. It is noted that, because the Respondent has been out-of-practice, her re-licensure will require a "refresher course" of which she is aware.

Order

Respondent's Request for Reinstatement of her license is **APPROVED** in part, as follows.

1. The Respondent is immediately eligible to renew and revive her Registered Nurse License. Upon issuance, Respondent's license shall be **CONDITIONED FOR A MINIMUM OF SIX (6) MONTHS**. The conditions will be as follows:
 - (a) Re-issuance of License. Upon commencement of these conditions Respondent shall be issued a license labeled "conditioned".
 - (b) Length of Time Conditions Imposed. The conditions shall remain in place until Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent completes **a minimum of six (6) months** of supervised registered nurse practice in which Respondent works at least forty (40) hours every two (2) weeks as a registered nurse. Part time hours of fewer than forty (40) hours every two (2) weeks shall be credited on a prorated basis. Respondent shall be prohibited from working more than forty (40) hours per week.

- (c) Monitoring. The Office of Professional Regulation, through the Enforcement Case Manager, shall be responsible for monitoring Respondent's compliance with these Conditions. All reports of correspondence regarding compliance with these conditions shall be subject to the Case Manager in accordance with the conditions listed in this Order.
- (d) Required Coursework. Respondent must successfully complete the **Righting a Wrong: Ethics in Professionalism in Nursing** course through the National Council of State Boards of Nursing. Respondent must submit the completed workbook and written documentation of completion (certificate of completion, etc.) to the Enforcement Case Manager. This course must be completed within sixty (60) days of the date of entry of this Order. Failure to complete this course within the proscribed timeframe will be considered a violation of this Order.
- (e) Notification of Employers/Nursing School. Respondent shall provide a copy of this Order to all employers in any current or future setting in which Respondent practices as a nurse and inform them of Respondent's conditional license status. Within ten (10) days of the date of entry of this Order or of any subsequent nursing employment, Respondent shall cause Respondent's immediate supervisor to submit to the Board an employer agreement form approved by the Board, acknowledging receipt of the Order and the ability to comply with the conditions of the Order.

In the event that the Respondent is attending a nursing program which has a clinical portion that involves actual patient care, Respondent shall provide a copy of the Order to the Program Director. Respondent shall cause the Program Director to submit to the Board a nursing program agreement form approved by the Board, acknowledging receipt of the Order and the ability of the program to comply with the conditions in the Order during clinical practice.

- (f) Reports from Employers/Program Director. Within one (1) month of the date of this order or within one (1) month of the commencement of nursing employment, and monthly thereafter, Respondent shall cause every nursing employer Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. In the event that the Respondent is attending a nursing program, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Respondent's performance and attendance. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance (i.e. consistently meeting all standards of nursing practice) and attendance.
- (g) Practice Under Supervision. Respondent shall practice as a registered nurse only in a setting where Respondent has onsite supervision for the entire shift by a licensed registered nurse who is in good standing with the Board.
- (h) Types of Employment Prohibited. Respondent shall not work in a supervisor role. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency, or as a private duty nurse or personal care provider requiring a nursing or nursing assistant license during the effective period of this Order.
- (i) Interview with the Board or its Designee. Respondent shall appear in person for interviews with the Board or its designee upon request.

- (j) Out-of-State Practice. Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board. The Board will approve out-of-state nursing practice so long as Respondent can still comply with the provision of this Order. If Respondent receives discipline on a nursing license held in another state during the conditional period, Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.
 - (k) Notification of Place of Employment/Personal Address/Telephone Number. Within ten (10) days of the entry of this Order, Respondent shall notify the Board, in writing, of Respondent's current place of employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in employment (including resignation to termination, personal address, or telephone number.
 - (l) Notification of Other States. In the event that the Respondent is licensed in nursing in any other state's), Respondent must inform the nursing licensing board of the state(s) in which Respondent is licensed of the conditional status of Respondent's Vermont nursing license within thirty (30) days of the date of entry of this Order.
 - (m) License Renewal. This Order does not automatically extend or renew the license and Respondent must comply with the requirements for license renewal.
 - (n) Costs. Respondent shall bear all costs of complying with this Order.
 - (o) Violation of this Order. If Respondent violates this Order, the Board, after giving Respondent notice and opportunity to be heard, may rescind or modify this Order and impose additional appropriate disciplinary actions. If a complaint of unprofessional conduct is made against Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.
 - (p) Completion of Conditional License Period. Respondent shall submit a petition to the Docket Clerk to remove any and all conditions on Respondent's license. The State will assent to, or oppose, Respondent's petition. The Board will conduct a hearing if necessary. Respondent bears the burden and must present proof that Respondent has fully complied with the terms of this Order and that Supervised Practice is no longer necessary to protect the public.
2. Notwithstanding any provision above, the Respondent must continue to meet all Board requirements for maintaining a license, license renewal, and license reinstatement.
 3. This Order is a matter of public record and may be reported to other licensing authorities as provided in 3 VSA Sec. 129(a).
 4. This Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

SO ORDERED

Vermont Board of Nursing

By: 

Ellen Watson, APRN, Chair

Date: October 10, 2017

DATE OF ENTRY

10/17/17

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, 89 Main Street, Fl. 3, 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.