

**STATE OF VERMONT
SECRETARY OF STATE
BOARD OF NURSING**

In re: Tanya Gladys Marcy	}	
License Nos. 026.0067621 (RN)	}	
025.005447 (LPN)	}	Docket No. 2013-380 (RN)
	}	

Appearances:

Prosecutor: S. Lauren Hibbert, Esq.

Respondent: Did not appear

Presiding Officer: George K. Belcher

DEFAULT ORDER

The Board of Nursing held a hearing in the above matter on June 8, 2015 at the Office of Professional Regulation in Montpelier, Vermont. Respondent did not attend and was not represented by counsel.

Findings of Fact

1. Respondent was licensed as a Registered Nurse during the times in question as set forth in the Specification of Charges (attached). She 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. Her nursing license was summarily suspended by the Board by order dated October 14, 2013. The Respondent also holds an inactive practical nursing license numbered 025.0054447.
2. The Respondent did not appear at the hearing in October of 2013 in which her license was summarily suspended.
3. The current Specification of Charges was filed on March 13, 2015 and was sent to the Respondent by certified mail, return receipt requested. The Notice of Charges was returned to the Office of Professional Regulation "unclaimed". No answer or other appearance or defense was filed by the Respondent.
4. A Notice of Default Hearing was sent by certified mail to the respondent on April 29, 2015 to the address of the Respondent which is on file with the Office of Professional Regulation. This notice was also returned "unclaimed". A regular mailing of the notice of default hearing was not returned.
5. Rule 3.4 of the Administrative Rules for the Office of Professional Regulation provides that the failure to answer the charges within the time allowed (20 days) will justify a finding of default and the allegations of the charges will be treated as proven and disciplinary action will be taken. The factual basis of the Specification of Charges (copy attached) concerning drug diversions and convictions of narcotic possession and abuse of elderly adults is established.

Conclusions of Law

Respondent has received adequate notice of the charges in this matter as indicated by the Board's file and the Prosecution's presentation. Because Respondent has failed to answer the charges, the factual allegations in the Specification of Charges are treated as proven. O.P.R. Rule 3.4. Accordingly, the Board finds, in this Default Hearing held pursuant to 3 V.S.A. §809(d), that Respondent has engaged in the unprofessional conduct alleged in the Specification of Charges (attached).

Order

In accordance with the above Findings of Fact and Conclusions of Law, Respondent's licenses are hereby **Suspended Indefinitely**, effective as of the date of the hearing. Should Respondent apply for reinstatement, the Board at that time will determine whether any conditions can permit him to resume practice while protecting public health and safety.

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, 89 Main St., Fl. 3, 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.

Vermont Board of Nursing

By:


Jeanine Carr, RN, Chair

Date: June, 2015

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 6/9/15

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

IN RE:)
TANYA GLADYS MARCY) Docket No. 2013-380
License Nos. 026.0067621)
025.0054447)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Tanya Gladys Marcy;

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.

Statement of Facts

2. Tanya Gladys Marcy ("Respondent") of Montgomery Center, Vermont is licensed by the Board as a registered nurse under license number 026.0067621. This license is currently summarily suspended after Board action on October 14, 2013. This licesence was originally issued on May 29, 2010. Respondent also holds an inactive practical nurse license numbered 025.0054447.
3. At all times relevant, Respondent was employed a registered nurse at Ava Maria Community Care Home in Richford, Vermont.
4. Between late April and early June of 2013, Respondent repeatedly diverted narcotic pain medication from vulnerable, elderly patients under her care.
5. Respondent admitted to Deputy Glidden, verbally and in writing, that she had diverted medication from the Facility. Respondent admitted taking some of the drugs herself and selling some of the drugs for street value.
6. On or about November 4, 2013, Respondent plead guilty in the Franklin Criminal Division, on docket no. 892-8-13 FrCr, to on count of narcotic possession in violation

OF VERMONT



Cutting Attorney
Office of
Professional Regulation
Main Street
3rd Floor
Montpelier, VT
85620-3402

of 18 V.S.A. § 4234(a)(1) and one count of abuse of vulnerable adults in violation of 13 V.S.A. § 1376(a).

Charges

7. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:
- a. 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);
 - b. 3 V.S.A. § 129a(a)(10)(Conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession.)
 - c. 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).

Relief Requested

WHEREFORE, the license of Tanya Gladys Marcy should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 13 day of March, 2015.

STATE OF VERMONT
SECRETARY OF STATE

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

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402

**STATE OF VERMONT
BOARD OF NURSING**

In re: Tanya Gladys Marcy
License No. 026-67621

}
}
}

Docket No. 2013-380(RN)

SUMMARY SUSPENSION ORDER

Appearances:

Prosecuting the case: Gabriel Gilman
for Respondent: Did not appear

Presiding Officer: Larry S. Novins

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

On October 14, 2013 this matter came before the Board of Nursing on a Request for a Summary Suspension. The hearing was held at the Office of Professional Regulation conference room at the City Center in Montpelier, Vermont. Ms. Marcy did 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. Ms. Marcy 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.. 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 prosecutor has filed a "Request for Summary Suspension." A copy of the Request is attached to this Decision and Order. The Request alleges that Ms. Marcy repeatedly diverted narcotic pain medication from vulnerable, elderly patients under her care.
3. The Request for Summary Suspension further alleges that the public health, safety or welfare imperatively requires emergency action.
4. Notice of this hearing was sent to Ms. Marcy at her last known address via certified mail dated October 3, 2013. Respondent received notice of today's hearing.
5. The Board finds for purposes of this hearing that Ms. Marcy diverted narcotic drugs from

- patients and used them for herself and also sold some of those drugs to others.
6. The allegations in the Request for Summary Suspension (copy attached) have been established to the necessary degree.
 7. The evidence presented does imperatively require emergency action for the public health, safety, and welfare. Specifically, summary suspension is necessary to prevent Ms. Marcy from practicing and further endangering patient health and the public safety.
 8. If summary suspension is not ordered, the Board believes that patient harm and harm to the public safety 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(c). Our Findings of Fact and Conclusions of Law herein are for purposes of this Order only.

The Prosecutor'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 Ms. Marcy's license. There is an imperative need to take emergency action. 3 V.S.A. § 814(c).

Vermont law requires that unprofessional charges be filed promptly with Ms. Marcy being afforded a prompt hearing. At any merits hearing in this matter, the prosecutor will bear the burden of proving unprofessional conduct. Our Findings and Conclusions in this matter will not absolve the prosecution or Ms. Marcy 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 Request for Summary Suspension is **Granted**. Ms. Marcy'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).

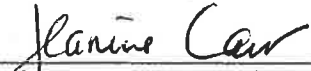
APPEAL RIGHTS

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, 89 Main Street, Fl. 3, 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: 
Jeanine Carr, RN, Chair

Date: October 14, 2013

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 10/14/13

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

IN RE:)
TANYA GLADYS MARCY)
License Nos. 026.0067621)
025.0054447)

Docket No. 2013-380

PETITION FOR SUMMARY SUSPENSION

Now comes the State of Vermont, by and through State Prosecuting Attorney Gabriel M. Gilman, and petitions the Board to summarily suspend those Board licenses held by the respondent, Tanya Gladys Marcy:

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. Tanya Gladys Marcy ("Respondent") of Montgomery Center, Vermont is licensed by the Board as a registered nurse under license number 026.0067621. At this writing, the license is active and set to expire March 31, 2015. Respondent also holds an inactive practical nurse license numbered 025.0054447.
4. At all times relevant, Respondent was employed a registered nurse at Ava Maria Community Care Home in Richford.
5. Those facts and circumstances set out in the June 20, 2013 affidavit of Franklin County Sheriff's Deputy Osburn Glidden, attached hereto as Exhibit A, are repeated and re-alleged as if fully set forth herein.
6. Between late April and early June of 2013, Respondent repeatedly diverted narcotic pain medication from vulnerable, elderly patients under her care.
7. Respondent's actions deprived patients of pain medication.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402

8. Respondent tampered with, substituted, and otherwise altered medication to conceal her diversion, including by purposefully scraping numerical markings from non-narcotic tablets and substituting the altered non-narcotic tablets for narcotic tablets.
9. Respondent substituted Tylenol for oxycodone in medication cassettes. By substituting altered, acetaminophen-containing tablets for oxycodone, Respondent not only created a risk of exposing patients to undue pain but also placed patients at risk of acetaminophen overdose, injury, and death.
10. Respondent admitted to Deputy Glidden, verbally and in writing, that she had diverted medication from the Facility. Respondent admitted taking some of the drugs herself and selling some of the drugs for street value.
11. On August 19, 2013, Respondent was arraigned in the Franklin Criminal Division, on docket no. 892-8-13 Frer, and charged with two counts of narcotic possession in violation of 18 V.S.A. § 4234(a)(1) and two counts of abuse of vulnerable adults in violation of 13 V.S.A. § 1376(a).

Request for Relief

12. The facts as set out above establish that emergency action is imperative to protect the public health, safety, or welfare of the people of the State of Vermont.
13. The above acts and circumstances, alone or in combination, violate:
 - a. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause) which includes performance of unsafe or unacceptable patient care pursuant to ARBN Rule 11.2(b)(1) and failure to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Rule 11.2(b)(2);
 - b. 26 V.S.A. § 1582(a)(5) (Is habitually intemperate or is addicted to the use of habit-forming drugs);
 - c. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud, or harm the public) which includes diverting supplies, equipment, or drugs for personal or other unauthorized use pursuant to ARBN Rule 11.2(d)(4) and falsifying or altering clinical records or making inaccurate or misleading entries pursuant to ARBN Rule 11.2(d)(3);
 - d. 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);
 - e. 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

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402

filing of reports or records or willfully failing to file the proper reports or records);

- f. 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).

WHEREFORE, pursuant to 3 V.S.A. § 814(c), the State of Vermont requests that the Board summarily suspend the Respondent's nursing licenses, numbered 026.0067621 and 025.0054447, pending further proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.

DATED at Montpelier, Vermont this 2nd day of October, 2013.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Gabriel Gilman
State Prosecuting Attorney

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402

AFFIDAVIT

FRANKLIN COUNTY
SHERIFF'S OFFICE

STATE OF VERMONT
FRANKLIN COUNTY, ss.

NOW COMES Deputy Osburn Glidden, **affiant**, being duly sworn and on oath, **deposes** and says he has **probable cause to believe** that Tanya Marcy has committed the offense of Sale of Narcotic Drugs a **violation of Title, 18 Vermont Statutes Annotated Section 4234 (b) (2) counts.**

The Affiant states that the Vt. Criminal Justice Training Council as a part time Police Officer has certified him since 2009. That the affiant's current rank and duties are those of a Deputy Sheriff with the Franklin County Sheriff's Office and, that he has held these duties for approx. four years prior to this date. Further that the information contained herein is based upon personal knowledge and observations.

On 05/31/13 I responded to the Ava Maria Care Facility at 1 Pinnacle Meadows in Richford, Vt. To meet with Steven Doe, Manager. Upon arrival Mr. Doe advised me that sometime between 04/20/13 and 05/24/13 someone had stolen 15 Hydrocodone tablets. Mr. Doe advised that Medication had been prescribed as a pain relief medication for an 86-year-old patient. Mr. Doe said the Meds. Were never given to the patient and upon returning the Meds. To the pharmacy he was advised that the Hydrocodone had been replaced with other tablets, which could be Tylenol

I asked Mr. Doe if he had any one person that stood out as a suspect and he advised that one employee, identified as Tanya Marcy, seemed to always having money problems although she made good money and had few expenses. Mr. Doe also advised that she had sometimes exhibited strange behavior recently, possibly attributable to a drug problem.

On 06/10/13 I again responded to to Ava Maria Complex in Richford and again met with Mr. Doe. Mr. Doe advised that they had found another theft of prescription meds. Which had been prescribed for an 85 yr. Old patient. Doe also gave me 3 cassettes containing tablets. Mr. Doe said that the tablets in the cassette were Tylenol and that someone had scrapped the numbers off the tab so they looked like the original prescription Meds. (Oxycodone)

Subscribed and sworn to before me on

this 20th day of June, 2013

[Signature]
(Notary Public) (Judicial Officer)

[Signature]
(Affiant)

6/20/13
(Date)

This exchange of Med. was noticed by the on duty Nurse before being given to the patient. This exchange involved about 45 to 50 tablets.

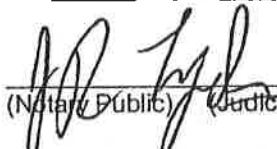
On 06/17/13 I returned to the Ava Maria complex to Speak with the suspect Tanya Marcy. Ms. Marcy and I went into one of the Office and sat down. I explained to Ms. Marcy why I was there and told her she was not under arrest and could leave at any time. I began asking Ms. Marcy about her job and if she knew anything about the stolen drugs. Ms. Marcy said she had made a stupid mistake and had just thrown away the last twelve years of her life. At this time I stopped Ms. Marcy and told her that although she still wasn't under arrest that I now had to read her Miranda rights to her. Ms Marcy was read her Miranda rights which she waived and agreed to talk with me.

Tanya Marcy advised in a written statement that she had stolen the drugs on both occasions. Marcy said she took Tylenol into the bathroom, scrapped off the identifying numbers and replaced the prescription drugs with the Tylenol, put the plastic caps on the cassettes and put them back in the med. cart

Tonya Marcy stated that she had taken some of the drugs herself, from each incident, and on two times sold the rest of the meds to a male subject in Berkshire for \$5.00 each

It should be noted that the 86 yr.old and the 87-year-old patients both suffer from chronic conditions and pain, which are somewhat relived when given the prescribed medication.

Subscribed and sworn to before me on
this 20th day of June, 2013


(Notary Public)

(Judicial Officer)


(Affiant)

6/20/13
(Date)