

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

In re: COLLEEN MATTESON
License No. 026.0067563

}
} Docket No. 2018-45 (RN)
}

SUMMARY SUSPENSION ORDER

Participating Board Members:

Ellen Watson, APRN, Chair
Jennifer Laurent, APRN
Virginia Hudson, RN
Deborah Swartz, RN
Luana Tredwell, LPN
Kelly Sinclair, LNA
Jill Duel, LPN
William G. White, Jr., Public Member

Appearances:

Prosecuting the case: Elizabeth St. James, Esq.
Respondent: was not present and not represented

Presiding Officer:

George K. Belcher

Exhibits:

State Exhibit 1: Ludlow Police Statement dated 4/16/18

**Summary Suspension Order
FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

This matter came before the Board of Nursing on a Request for a Summary Suspension. The hearing was held on May 14, 2018, at the Office of Professional Regulation in Montpelier, Vermont.

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 as follows:

1. Respondent is a Registered Nurse licensed in Vermont. Her license is set to expire on March 31, 2019. She is subject to the regulatory authority of this Board. 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. 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 Respondent was personally served with a Notice of Summary Suspension Hearing dated May 9, 2018 and a copy of the Request for Summary Suspension of the same date. Service was made by Investigator Michael Rouse by personal delivery on May 9, 2018. At the time of service, the Respondent told Investigator Rouse that she did not intend to attend the hearing. The Respondent did not appear at the hearing.
3. The State presented the testimony of Investigator Michael Rouse who is a law enforcement officer working as an investigator for the Office of Professional Regulation. Investigator Rouse was assigned to investigate this matter in April of 2018 upon a referral by the Gill Odd Fellows Nursing facility. The referral involved the termination of employment of the Respondent on suspicion of diverting Oxycodone tablets. The Respondent admitted to Investigator Rouse that she had diverted Oxycodone from her nursing employment between October of 2017 and April of 2018. (See also the admission contained in State Exhibit 1.)
4. The diversion of Oxycodone tablets involved hundreds of tablets which were intended to be used by patients on an "as needed" or "PRN" basis. The diversion also involved the Respondent forging the signatures of other nurses to hide the diversion. The diverted pills were used by the Respondent for her personal use.
5. The Respondent has prior discipline cases of record with the Vermont Nursing Board involving medication errors. (See Dockets 2012-628 and 2015-125.)
6. There is ample evidence that the Respondent diverted drugs in violation of 26 VSA Sec. 1582(a)(2); performed unsafe or unacceptable patient care in violation of 3 VSA Sec. 129a(b)(1); engaged in conduct of a character likely to deceive in violation of 26 VSA Sec. 1582(a)(3); willfully made false reports or records in violation of 3 VSA Sec. 129a(a)(7); and failed to exercise independent professional judgment in performance of licensed activities in violation of 3 VSA Sec. 129a(a)(15). Clearly, the patients under her care were at risk.
7. The evidence presented show facts which imperatively require emergency action for the public health, safety, and welfare. Specifically, summary suspension is necessary to prevent patient harm, and to protect the general integrity of the medical profession.

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 Respondent'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 Respondent 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 Respondent 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**. Respondent'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).

Vermont Board of Nursing

By:


Ellen Watson, APRN, Chair

Date: May 18, 2018

DATE OF ENTRY: 5/22/18

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.

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

IN RE:

COLLEEN MATTESON

License No. 026.0067563

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Docket No. 2018- 45

REQUEST FOR SUMMARY SUSPENSION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Elizabeth A. St. James, and petitions the Board of Nursing to summarily suspend the license of Registered Nurse Colleen Matteson. In support of such petition, the State alleges the following:

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. Chapter 28; the Administrative Rules of the Board of Nursing (the "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. Colleen Matteson ("Respondent") of Ludlow, Vermont is licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0067563. This license was originally issued June 11, 2010, and expires on March 31, 2019.
4. At all relevant times, Respondent was employed as an RN at Gill Odd Fellows Home (the "Facility") in Ludlow, Vermont.
5. Between October 2017, and April 2018, Respondent diverted hundreds of Oxycodone 5mg tablets from patients at the Facility.
6. Respondent would sign withdrawals of Oxycodone 5mg out in the Narcotic Count Log for patients with an as-needed prescription.

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7. Respondent forged the names of other nurses in the Narcotic Count Log to conceal her diversion.
8. Respondent would take the pills home for her own personal use.
9. Respondent is currently on supervised practice conditions under Vermont Board of Nursing Docket No. 2015-125, a misconduct case against Respondent which stemmed from medication administration errors.
10. Respondent was also previously disciplined for misconduct arising from medication administration errors in Vermont Board of Nursing Docket No. 2012-628.

Violation One: 26 V.S.A. §1582(a)(2) Diverting or attempting to divert drugs or equipment or supplies for unauthorized use.

11. The State re-alleges and incorporates Paragraphs 3 through 10 above.
12. As an RN, Respondent is prohibited from diverting or attempting to divert drugs, equipment, or supplies for unauthorized use.
13. Respondent diverted or attempted to divert drugs for unauthorized use as demonstrated in Paragraphs 4 through 8 above.
14. 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(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.

15. The State re-alleges and incorporates Paragraphs 3 through 10 above.
16. As an RN, Respondent has an obligation to provide safe and acceptable patient care.
17. Respondent provided unsafe and unacceptable patient care by engaging in the conduct described in Paragraphs 4 through 8 above.
18. 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 3 V.S.A. §129a(b)(1).

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Violation Three: 26 V.S.A. §1582(a)(3) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

19. The State re-alleges and incorporates Paragraphs 3 through 10 above.
20. As an RN, Respondent is required to refrain from engaging in conduct of a character likely to deceive, defraud, or harm the public.
21. Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public as demonstrated in Paragraphs 4 through 8 above.
22. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because the Respondent has committed unprofessional conduct in violation of 26 V.S.A. §1582(a)(3).

Violation Four: 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 filing of reports or records or willfully failing to file the proper reports or records.

23. The State re-alleges and incorporates Paragraphs 3 through 10 above.
24. As an RN, Respondent shall not willfully make or file false reports or records in the practice of the profession, willfully impede or obstruct the proper making or filing of reports or records, or willfully fail to file the proper reports or records.
25. Paragraphs 4 through 8 above demonstrate that Respondent willfully made or filed false reports or records in the practice of the profession.
26. 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 3 V.S.A. §129a(a)(7).

Violation Five: 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 obligations of the profession.

27. The State re-alleges and incorporates Paragraphs 3 through 10 above.
28. As an RN, Respondent is required to exercise her own independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.
29. Respondent's conduct in Paragraphs 4 through 8 above demonstrate Respondent's failure to exercise her own professional judgment in the performance of licensed

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activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.

30. The act(s), omission(s); and/or circumstance(s) described above constitute grounds for summary suspension because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(15).

Relief Requested

31. Respondent currently has an unencumbered license. Members of the public, patients, and potential patients have no way of learning of Respondent's dangerous behavior and will remain unprotected pending suspension of Respondent's license. The facts as set out above establish that in order to protect the public health, safety, 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), the Respondent's nursing license number 026.0067563 be summarily suspended, pending a hearing on the merits.

DATED at Montpelier, Vermont this 9th day of May, 2018.

STATE OF VERMONT
SECRETARY OF STATE

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