

**STATE OF VERMONT
BOARD OF NURSING**

In re: Jennifer S. Oakley
License No. 026.0108279

}
} Docket No. 2016-72 (RN)
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SUMMARY SUSPENSION ORDER

Participating Board Members:

Jeanine Carr, RN, Chair
Ellen Watson, APRN
William G. White, Jr., Public Member
Jennifer Laurent, APRN
Virginia Hudson, RN
John Welch, Jr., Public Member

Appearances:

Prosecuting the case: S. Lauren Hibbert, Esq.
Respondent: did not appear

Presiding Officer:

George K. Belcher

Exhibits:

State Exhibit 1:	Drug checkout sheet 1/17/16
State Exhibit 2:	Nursing notes; Patient #1, 1/17/16
State Exhibit 3:	Urine Screen Patient #1, 1/17/16
State Exhibit 4:	Confirmation Lab report Patient #1
State Exhibit 5:	Respondent's Urine Screen Results
State Exhibit 6:	Photo of hypodermic needles in Respondent's coat

**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 April 11, 2015 at the Office of Professional Regulation in Montpelier, Vermont. Respondent did not appear.

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 Licensed Registered Nurse, licensed in Vermont. Her license is currently set to expire on or about March 31, 2017. She is therefore subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 26 V.S.A. § 1595 & 1598, 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.
3. The Request for Summary Suspension alleges that the public health, safety or welfare imperatively requires emergency action.
4. Notice of this hearing was sent to Respondent at her last known address via certified mail dated April 4, 2016. The Respondent did not appear at the hearing or otherwise defend.
5. The allegations in the Request for Summary Suspension (copy attached) have been established to the necessary degree. The State presented the testimony of Shelley McKay, Director of ER services at Cottage Hospital.
6. The Respondent was seen with hypodermic needles in her coat while on shift at the hospital or prior to leaving the hospital. (State Ex. 6) There was suspicion that the Respondent was removing medications from the hospital.
7. On January 17, 2016 at 1:49 PM the Respondent documented that she administered Morphine 5mg to Patient #1. (State Exs. 1 and 2)
8. On January 17, 2016 at 7:12 PM the urine of Patient #1 was collected. It tested negative for Morphine. (State Exs. 3 and 4)
9. On January 17, 2016 ER Director McKay requested the Respondent to give a urine sample. Initially Respondent was reluctant, but she eventually consented to the urine test. The sample was collected on January 17, 2016. The sample tested positive for Morphine and Cannabinoid. (State Ex. 5)
10. There is persuasive evidence that the Respondent was diverting regulated Morphine from her patient to herself on January 17, 2016.
11. The evidence presented imperatively requires emergency action for the public health, safety, and welfare. Specifically, summary suspension is necessary to prevent patient harm.

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: Jeanine Carr
Jeanine Carr, RN, Chair

Date: April 11, 2016

DATE OF ENTRY: 4/15/16

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:

JENNIFER S. OAKLEY

License No. 026.0108279

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Docket No. 2016-72

REQUEST FOR SUMMARY SUSPENSION

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. Jennifer S. Oakley (the "Respondent") of East Corinth, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0108279. This license was originally issued on or about November 17, 2014 and is currently set to expire on or about March 31, 2017.
4. At all times relevant, Respondent was employed at Cottage Hospital (the "Facility"), located in Woodsville, New Hampshire.
5. On or about January 17, 2016, Respondent was responsible for Patient 1's care in the Facility's Emergency Department.
6. On or about January 17, 2016, at approximately 13:49 Respondent documented that she administered Morphine 5mg IVP. At approximately 14:20 Respondent documented that patient's "pain is decreased."
7. On or about January 17, 2016, Respondent's co-workers observed syringes in her jacket pocket.
8. On or about January 17, 2016, Patient 1's urine was collected and tested for narcotics at approximately 19:12. Urine was negative for Morphine.

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9. On or about January 17, 2016, S.M, Director of Nursing in the Emergency Department, requested that Respondent's urine be tested for narcotics. Respondent tested positive for cannabis and Morphine.
10. Respondent is employed at a Vermont nursing home.
11. Summary suspension is required to protect the public when a registered nurse diverts narcotics from patients and uses the controlled substance while at work.

Request for Relief

12. 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.
13. The above acts and circumstances, alone or in combination, violate:
 - a. 26 V.S.A. § 1582(a)(2)(diverting or attempting to divert drugs or equipment or supplies for unauthorized use);
 - b. 26 V.S.A. § 1582(a)(3) (Engages in conduct of a character likely to deceive, defraud or harm the public);
 - c. 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);
 - d. 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); and
 - e. 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).

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WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. § 814(c), the Respondent's nursing license number 026.0108279 be summarily suspended, pending a hearing on the merits.

DATED at Montpelier, Vermont this 9 day of April, 2016.

STATE OF VERMONT

SECRETARY OF STATE

By: 
S. Lauren Hibbert
State Prosecuting Attorney

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