

OFFICE OF PROFESSIONAL REGULATION  
VERMONT STATE BOARD OF NURSING

|        |                         |   |               |
|--------|-------------------------|---|---------------|
| IN RE: | Susan Pierce            | ) |               |
|        | Case File No. NU46-1201 | ) | DEFAULT ORDER |
|        | License No. 26-26117    | ) |               |

Introduction

The Board of Nursing held a default hearing in the above matter on April 12, 2004 at Central Vermont Hospital in Berlin, Vermont. Board members De-Ann Welch, Elayne Clift, Sandra Norton, Linda Rice, Donarae Metcalf, Alan Weiss and Ellen Leff participated in the decision. State Prosecuting Attorney Edward Adrian appeared for the State. The Respondent did not attend.

Findings of Fact

1. The Respondent was sent notice of the Charges against her to her last known address at the Windsor South East Correctional Facility by certified mail and first class mail on January 28, 2004.
2. The certified mailing was signed for by M. McGuire on January 30, 2004.
3. Notice of the default hearing was mailed to an updated address by certified and regular mail on March 24, 2004.
4. The certified mailing was signed for by an individual with an illegible signature on March 26, 2004.
5. After taking notice of its own file, the Board found the Respondent to be in default. The allegations contained in the State's Specification of Charges dated January 26, 2004 (copy attached) are therefore treated as the facts on which the Board's order is based.

Conclusions of Law

The Respondent has received adequate notice of the charges against her as indicated by the Board's file. Because the Respondent has failed to answer the charges against her, the State's factual allegations are treated as if proved. Accordingly, the Board finds, in the default hearing held pursuant to 3 V.S.A. §809(d), that the Respondent has engaged in the unprofessional conduct alleged in the State's Specification of Charges.

Order

In accordance with the above findings of fact and conclusions of law, the license of the Respondent is hereby REVOKED.

Appeal Rights

This is a final administrative determination by the Vermont State Board of Nursing. You may appeal by sending a notice of appeal in writing to the Director of the Office of Professional Regulation within 30 days of the date of entry of this order. If you wish to request a stay of the Board's decision, please refer to the attached stay instructions.

By: Linda Rice  
Linda Rice  
Acting Chair

Date: 4-12-04

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 5/3/04

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

**IN RE:** )  
**SUSAN PIERCE, R.N.** ) **Docket No: NU46-1201**  
**License No. 026-0026117** )

**SPECIFICATION OF CHARGES**

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Susan Pierce, R.N.:

**Board Authority**

1. The Vermont State Board of Nursing ("Board") has authority to approve consent orders, issue warnings or reprimands, suspend, revoke, limit, condition or prevent the renewal of current or lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. §129(a)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a); the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.

**Facts**

2. The Respondent, Susan Pierce, is licensed in the State of Vermont as a Registered Nurse under License Number 026-0026117.

3. Respondent was originally licensed on January 10, 2001. The Respondent's license was summarily suspended on December 17, 2001 upon facts resulting in the criminal conviction set forth in paragraph 4 below. Respondent's license currently remains suspended. (See Attachment A).

4. On May 9, 2003, Respondent was convicted after a jury trial in the Vermont District Court, Unit 3, Orange Circuit, Docket No. 481-12-01 Oecr of: one count of obtaining a regulated drug, a felony, in violation of 18 V.S.A. §4223(a)(1); one count of abuse of an elderly person, a misdemeanor, in violation of 33 V.S.A. §§6902(1)(B) and 6913(a); and one count of possession of narcotics, a misdemeanor, in violation of 18 V.S.A. §4234(a)(1).

5. Upon information and belief, Respondent received a sentence of three years of imprisonment on a four to ten year sentence as a result of the convictions.

**Charges**

6. Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 3 V.S.A. §129a(a)(3).

STATE OF VERMONT



Prosecuting Attorney  
Office of  
Professional Regulation  
Montpelier, VT 05602

7. Whether or not committed in this state, being convicted of a crime related to the practice of nursing or a felony which evinces an unfitness to practice nursing is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(2).

8. Engaging in conduct of a character likely to deceive, defraud or harm the public is unprofessional conduct upon which the Board can impose disciplinary action. Engaging in conduct of a character likely to deceive, defraud or harm the public includes diverting supplies or equipment for personal or other unauthorized use pursuant to ARBN, Chapter 4, Rule IV(II)(D)(4). 26 V.S.A. §1582(a)(7).

9. The inability to practice nursing by reason of any cause is unprofessional conduct upon which the Board can base disciplinary action. Any cause includes, but is not limited to, use of drugs, narcotics, chemicals or any other type of materials pursuant to ARBN, Chapter 4, Rule IV(II)(C). 26 V.S.A. §1582(a)(3).

### Relief Requested

WHEREFORE, the license of Susan Pierce should be revoked, or otherwise disciplined.

Dated at Montpelier, Vermont this 26<sup>th</sup> day of January 2004.

STATE OF VERMONT  
SECRETARY OF STATE

By: \_\_\_\_\_

Edward G. Adrian  
State Prosecuting Attorney

nu.pierce.soc

STATE OF VERMONT



Prosecuting Attorney  
Office of  
Professional Regulation  
Montpelier, VT 05602

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

IN RE:  
SUSAN PIERCE, R.N.  
License No. 026-0026117

)  
)  
)

Docket No: NU 46-1201

REQUEST FOR SUMMARY SUSPENSION

NOW COMES the State of Vermont and requests the summary suspension of the nursing license of the Respondent, Susan Pierce, on the basis of the following:

**Board Authority**

1. The Vermont State Board of Nursing ["the Board"] has authority to summarily suspend licenses in cases requiring emergency action. 3 V.S.A. §129(a)(5).
2. The Board may order summary suspension, pending proceedings for revocation or other action, if the Board finds that public health, safety, or welfare imperatively requires emergency action, and if the Board incorporates a finding to that effect in its order. 3 V.S.A. §814(c).
3. Diverting supplies, equipment, or drugs for personal or other unauthorized use is conduct likely to deceive, defraud or harm the public and is a basis on which the Board can impose disciplinary action, including a summary suspension. Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(4)(d); 26 V.S.A. §1582(a)(7).
4. The use of drugs, narcotics, chemicals or any other type of materials constitute a reason that a nurse is unable to practice nursing competently and is a basis on which the Board can impose disciplinary action, including a summary suspension. Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(3); 26 V.S.A. §1582(a)(3).
5. Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is a basis on which the Board can impose disciplinary action, including a summary suspension. 3 V.S.A. §129a(a)(3).

**Facts**

Office of the  
ATTORNEY  
GENERAL  
109 State Street  
Montpelier, VT  
05609

Attachment A

6. The Respondent (whose address is listed in the database of the Office of Professional Regulation as P.O. Box 567, 440 Staplefield Drive, Wells River, Vermont 05081) is a Registered Nurse under License Number 026-0026117.
7. Respondent was originally licensed on January 10, 2001 and Respondent's license has a current expiration date of March 31, 2003.
8. At all times relevant to these Charges, the Respondent was employed by Brookside Nursing Home in Bradford, Vermont.
9. On or about November 29, 2001 through December 3, 2001, Respondent diverted liquid morphine, a Schedule II narcotic and regulated drug, for personal or other unauthorized use.
10. Upon information the Respondent extracted the morphine from a liquid morphine CADD pump using a syringe.
11. On or about December 10, 2001, Respondent voluntarily surrendered her license due to her admitted continued problems with her addiction(s).

### **Claims**

- A. Diverting supplies, equipment, or drugs for personal or other unauthorized use is conduct likely to deceive, defraud or harm the public and is a basis on which the Board can impose disciplinary action, including a summary suspension. Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(4)(d); 26 V.S.A. §1582(a)(7).
- B. The use of drugs, narcotics, chemicals or any other type of materials constitute a reason that a nurse is unable to practice nursing competently and is a basis on which the Board can impose disciplinary action, including a summary suspension. Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(3); 26 V.S.A. §1582(a)(3).
- C. Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is a basis on which the Board can impose disciplinary action, including a summary suspension. 3 V.S.A. §129a(a)(3).

### **Relief Requested**

Wherefore, the State of Vermont requests that:

- D. Findings be made :

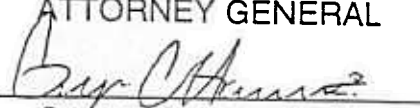
(1) That the Respondent has diverted medications for personal use;

- (2) That the Respondent's use of drugs, narcotics, chemicals or any other type of materials constitute a reason that she is unable to practice nursing competently; and
- (3) That the public health, safety, or welfare imperatively requires emergency action.
- E. The Respondent's license, number 026-0026117 should be **SUMMARILY SUSPENDED** until unprofessional conduct charges are filed and there is a final determination on any needed disciplinary action.

Dated at Montpelier, Vermont this 13<sup>th</sup> day of December 2001.

STATE OF VERMONT

WILLIAM H. SORRELL  
ATTORNEY GENERAL

By:   
George C. Haegele IV  
Assistant Attorney General

Office of the  
ATTORNEY  
GENERAL  
109 State Street  
Montpelier, VT  
05609

STATE OF VERMONT  
BOARD OF NURSING

In re: Susan Pierce  
License No. 26-26117

}  
}  
}

Docket No. . NU46-1201

SUMMARY SUSPENSION ORDER

On December 17, 2001, this case came before the Board of Nursing for a hearing on the State's request for summary suspension.

Based upon the evidence presented by the parties, the Board finds that the allegations in the request for summary suspension have been established to the necessary degree. Therefore, the Board finds that the public health, safety, or welfare imperatively require emergency action against the Respondent's license.

Pursuant to 3 V.S.A. § 814(c), Respondent Susan Pierce's nursing license is SUMMARILY SUSPENDED until a hearing on charges has been held and determined, or other resolution of this case.

BOARD OF NURSING

By: Laurel M. Tjo  
Acting Chair

Dated: 12-17-01

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 12/17/01

Attachment A