

**STATE OF VERMONT
BOARD OF NURSING**

In re: Alicia Purchase
License No. 025-7595

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Docket No. NU89-0408

**Decision on
UNPROFESSIONAL CONDUCT CHARGE**

Participating Board Members:

Ellen W. Leff, RN, Chair
Jeanine Carr, RN, Vice Chair
Alan Weiss
Sandra Norton, LNA
Donarae Metcalf, LPN
Deann Welch, LPN
Kenneth W. Bush, RN
William G. White Jr.
Deborah Robinson, RN
Susan Dumas, APRN

Appearances:

for Petitioner, State of Vermont: Edward G. Adrian
for Respondent: William B. Miller, Jr.

Presiding Officer: Larry S. Novins

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

The Vermont Board of Nursing held a hearing in the above matter on March 9, 2009 at the National Life Building in Montpelier, Vermont.

The prosecution has the burden of proof in this matter. To prevail on any unprofessional conduct charge, it must prove the charge by a preponderance of the evidence.

Background

The prosecution alleges in its Specification of Charges that Ms. Purchase removed a prescription pad from her place of employment and permitted it to be used illegally in violation of statutes.

Findings of Fact

Based on the evidence presented, the Board finds as follows:

1. Ms. Purchase is licensed as a licensed practical nurse by and subject to the disciplinary 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.
2. Between May 2002 and June 2008, Ms. Purchase was employed as a licensed practical nurse at Green Mountain Urology, Inc. (GMU), which has offices in Colchester and Middlebury, Vermont.
3. Ms. Purchase and others in that practice would often carry a prescription pad to fill out on standing orders of the doctor she worked for, or for mail order prescriptions or refills on voice orders from her employing doctor for non-narcotic drugs. Sometimes she would use the doctor's stamp when his patients needed diagnostic tests.
4. On Friday, September 8, 2006, Ms. Purchase left work and took her lab coat home with her. She had only one lab coat and launders it herself. Inside the lab coat's pockets was a blank prescription pad and a name stamp with the name of Dr. A.M., a urologist at GMU.
5. When she arrived at her home Ms. Purchase left her lab coat and the blank prescription pad and name stamp in her vehicle.
6. Ms. Purchase allowed her daughter, J.P. to borrow her car with the lab coat still in it.
7. Ms. Purchase's daughter found the prescription pad and removed some blank prescriptions from the pad.
8. J.P. returned the vehicle on the evening of Sunday, September 10, 2006.
9. J.P. attempted to obtain vicodin through pharmacies in Ticonderoga, New York and Middlebury, Vermont.
10. Ms. Purchase returned to work the following Monday unaware that her daughter had taken prescriptions from the pad.
11. On September 12, 2006 at approximately 3:30 p.m. at Kinney Drugs in Middlebury, Vermont, J.P. attempted to get a fraudulent prescription filled for 120 Vicodin pills. The prescription had her brother's name and date of birth on it. The prescription was not filled and police were later alerted.
12. Ms. Purchase was the only nurse working at GMU office on September 12, 2006. GMU received a telephone call from the pharmacy inquiring about the validity of a prescription for Ms. Purchase's son. The receptionist at GMU called Ms. Purchase on her cell phone so that Ms. Purchase could return the call.
13. Ms. Purchase, who was on her way home, called the pharmacy and spoke with the pharmacist. At the hearing she claimed she could not clearly remember the telephone call, but described learning about the call as confusing and upsetting. She suspected that the prescription she was asked about was written by her daughter, since no one else she could think of would have known her brother's date of birth. She testified that it is possible that she might have told the inquiring pharmacist that the prescription was legitimate.
14. At the time her daughter was not living at home. She had an infant child.
15. After speaking with the pharmacist Ms. Purchase went home and called her daughter, J.P. J.P. came to her home. Ms. Purchase confronted her daughter who admitted to her that she had taken the prescriptions from the pad Ms. Purchase brought home. She admitted

- to Ms. Purchase that she had tried to obtain drugs illegally. She also admitted that she was addicted to Vicodin. Ms. Purchase had her and her infant son move back home with her and helped her daughter begin her rehabilitation.
16. Ms. Purchase called Marble Works Pharmacy in Middlebury and told them that if any prescriptions came in on the office prescription pads, that they should call the office to verify their legitimacy.
 17. Despite knowing what her daughter had done with the prescriptions, Ms. Purchase did not notify her employing physician. She didn't tell him or the office manager about the prescription pad and stamp she brought home, or her daughter's misuse of prescriptions from the pad. She did not tell her employer or the office manager that she had received a phone call from a pharmacist regarding the legitimacy of prescriptions written on GMU prescription forms.
 18. Ms. Purchase was contacted by Middlebury police within a day or two thereafter. [State's Exhibit 3.] She told the officer about her daughter using her car and discovering prescriptions being used.
 19. Ms. Purchase testified that based on her knowledge of a prior unrelated incident she expected the police would tell her employer what had happened. So, she did not her employer. Ms. Purchase said she was too embarrassed and upset to talk about what had happened with her employer.
 20. Ms. Purchase's daughter was eventually prosecuted and convicted for her attempt to illegally obtain drugs.
 21. At the time the prescription pad was taken from the GMU office and for over a year afterward Ms. Purchase's employing physician, Dr. A.M., did not know that his prescription pad had been stolen. He found out in April 2008 when he was called to testify about the illegal prescriptions in New York State.
 22. Ms. Purchase admitted at the hearing that it was indeed her professional obligation to tell her employer about the prescription pad and stamp when she discovered their use. She admitted that she failed to meet that obligation by not telling him.
 23. At least two months after her employer learned about the misuse of his prescriptions, Ms. Purchase was asked to leave the practice. In July 2008 Ms. Purchase received a glowing letter of reference from GMU. The office manager who testified at the hearing described Ms. Purchase as a very good nurse, caring, motivated and skilled. She described Ms. Purchase as a strong patient advocate and patient educator and teacher who works well with others. She was also described as able to handle multiple assignments in a calm and relaxed manner under stress. Ms. Purchase's office had no hesitation in recommending her for future employment.
 24. Ms. Purchase now practices in Tennessee where she is employed at an Ob-Gyn practice.

Discussion

On the evidence presented it appears that Ms. Purchase's taking the prescription pad and stamp home was not intentional, but was a careless error. However, once she learned that prescriptions from that pad had been taken and used illegally, she should have told her employer immediately. Ms. Purchase admitted that her failure to do that was a breach of her professional obligations.

The State has broken down its charges into four counts based on 1) the taking home of the prescription pad, 2) failing to notify her employer that she had taken the pad, 3) being the proximate cause of prescription forgery resulting in criminal prosecution, and 4) telling a pharmacist that one of the prescription's use was legitimate. As our conclusions below show, Ms. Purchase's error and unprofessional conduct arises from her failure to notify her employing doctor immediately when she learned that she had taken the prescription pad home.

Conclusions of Law

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

Count I: Taking the Prescription Pad Home

We do not conclude that taking of the prescription pad in the pocket of her lab coat under the circumstances shown in this case rises to the level of unprofessional conduct. We find no violation of: 26 V.S.A. § 1582(a)(3), Nursing Board Rule Ch. 4, II (b) 1 and 2, or 3 V.S.A. § 129a(b)(1) and (2). Count I is dismissed.

Count II Failing to immediately report upon finding out she had taken of the prescription pad home

Re: Alleged Violation of 26 V.S.A. § 1582(a)(3): The State has not proved by a preponderance of the evidence that Ms. Purchase is unable to practice nursing competently by reason of any cause. We find no violation of this statute.

Re: Alleged Violation of 26 V.S.A. § 1582(a)(7): The State has not proved by a preponderance of the evidence that Ms. Purchase engaged in conduct of a character likely to deceive, defraud or harm the public. We find no violation of this statute.

Re: Alleged violation of 3 V.S.A. § 129a(b)(1) and (2): The State has proved by a preponderance of the evidence that Ms. Purchase failed to practice competently as defined by this statute. We do find that Ms. Purchase's conduct as found above constituted a failure to conform to the essential standards of acceptable and prevailing practice. 3 V.S.A. § 129a(2). **This is unprofessional conduct.**

Count III Being proximate Cause of Her Daughter's Forgery and Prosecution

We decline to conclude that Ms. Purchase's conduct was the proximate cause of criminal conduct and prosecution. Count III is dismissed.

Count IV Telling the Pharmacist J.P.'s Prescription was Legitimate

There was insufficient evidence for us to conclude that Ms. Purchase told the inquiring pharmacist that one of the prescriptions she was asked about was legitimate. With regard to this count we find no violation of 26 V.S.A. § 1582(a)(3), 26 V.S.A. § 1582(a)(7), or 3 V.S.A. § 129a(b)(1) or (2). This charge is dismissed.

Order

For the violation above, to protect the public, health, safety and welfare, the following sanction is necessary.

Ms. Purchase's license is **reprimanded**.

APPEAL RIGHTS

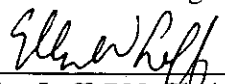
This is a final administrative determination by the Vermont Board of Nursing. A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, Office of Professional Regulation, National Life Bldg., North, FL2, 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.

To request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Nursing

By:


Ellen Leff, RN, Chair

Date March 10, 2009

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 3/19/09