

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

<i>In re</i>	Paula Sarringer	}
License No.	025-0008446	}
Docket No.	NU 47-0107	}

**FINDINGS OF FACT
CONCLUSIONS OF LAW & ORDER**

Introduction:

On Monday 11 February 2008, the Vermont Board of Nursing ("Board") heard this contested case. The State of Vermont brought charges against Respondent Paula Sarringer in August 2007 alleging unprofessional conduct. Board members Kenneth W. Bush, Jeanine Carr, Donarae Metcalf, Sandra J. Norton, Linda M. Y. Rice (Chairperson), Deborah Robinson, Alan H. Weiss, DeAnn Welch and William White were present and participated in the hearing. Board member Ellen Leff was recused.

The Respondent was unable to appear personally and participated by telephone without counsel. Edward G. Adrian represented the State of Vermont. Board counsel Kevin F. Leahy presided.

Findings of Fact &
Conclusions of Law:

1. The Board licenses the Respondent and may exercise its disciplinary authority if the Board finds that the State has proven allegations of licensee unprofessional conduct. 26 V.S.A. Chapter 28; 3 V.S.A. § 129(a); the Admin. Rules for the Bd. of Nursing and the Admin. Rules for the Office of Prof. Reg.
2. Respondent holds a Board issued State of Vermont practical nursing (LPN) license.
3. The crux of the State's case is that the Respondent, in December 2006, allegedly made several documentation errors.
4. The Respondent generally denies the factual allegations set forth in the Specification of Charges (the "Charges") filed by the State of Vermont and dated 30 August 2007.
5. In a disciplinary hearing, the state has the burden of proof. To satisfy its evidentiary burden, it must "show by a preponderance of the evidence that [a licensee] has engaged in unprofessional conduct." 3 V.S.A. § 129a (c).

6. Although the Respondent generally denies the allegations, or denies aspects of the allegations made in the State's Charges, she does acknowledge that she was ill during the period in which the alleged unprofessional conduct occurred.
7. The Respondent provided, and the Board received, evidence from her treating endocrinologist Margaret Ferry M.D (State's Exhibit #2) showing that Respondent was under Dr. Ferry's care during the operative period in 2006. It was during this period in 2006 that the Respondent allegedly made several documentation errors or irregularities.
8. The evidence provided by the State of Vermont and the testimony of the Respondent demonstrated that she continued working in December 2006 at a time when she was admittedly compromised due to a serious endocrine condition.
9. The Respondent's medical condition caused several symptoms that significantly impaired her function and ability to practice competently.
10. Dr. Ferry's documentation and the Respondent's testimony seem to indicate that Respondent has regained her functionality from the illness she suffered in 2006 and into 2007 as well.
11. The issue before the Board, however, concerns 2006 and the evidence demonstrates that the Respondent was medically unfit to practice in December 2006 when the State alleges that she made several medication documentation errors between 23 December and 25 December 2006.
12. The Board finds that the State's evidence and the Respondent's admissions show that she engaged in licensed practiced in December 2006 while medically and psychologically unfit to do so. *See also*, State's Exhibit #1 (Respondent admitting that "I worked while I was sick . . . [t]his facility is understaffed and I felt a responsibility to the patients although I was very tired and my health was not in the best condition.")
13. The State charged the Respondent with violating 3 V.S.A. §129a (b)(1) which recognizes that it may be unprofessional conduct, even if there is no harm to a patient or client, if the licensee provides unsafe or unacceptable patient or client care.
14. The Board finds, and the evidence presented at the hearing of this matter proves, that the Respondent engaged in unprofessional conduct. The unprofessional conduct was in violation of 3 V.S.A. §129a (b)(1) since her impaired physical and psychological condition as a result of her unresolved endocrine disease, along with its attendant symptoms, caused her to provide unsafe and unacceptable patient care.
15. The Board finds that the evidence in this case proves that Respondent's conduct did rise to the level of a failure to practice competently in violation of 3 V.S.A. §129a (b)(1) as charged by the State at ¶8(ii) of the Charges.
16. The Board shall dismiss all other unprofessional conduct violations charged in ¶8 of the State's Charges.
17. The Respondent's license lapsed in January 2008.
18. The Respondent did not apply for renewal of her LPN license in January 2008.
19. Based on the evidence before the Board, it is unclear that Respondent is medically fit to resume her nursing duties.

20. The Board shall therefore suspend the Respondent's privileges to renew her license until she demonstrates, to the Board's satisfaction, that she is physically and psychologically safe to care for patients.

21. When the Respondent decides to renew her license, it shall therefore be the Respondent's obligation to demonstrate affirmatively that she is medically and psychologically fit to practice the profession.

22. The Board's order shall be based on its findings of unprofessional conduct in violation of 3 V.S.A. § 129a (b) as charged in ¶8 (ii) of the State's Specification of Charges.

ORDER

Based on the findings of fact set forth above, the Board of Nursing ORDERS that the Respondent's privileges, if any, to renew her practical nursing license are SUSPENDED; and

The Board further ORDERS that the Respondent's LPN license shall not be renewed until she submits proof to the Board that demonstrates an ability to practice the profession without physical or psychological impairment that will render her unsafe to practice; and

The Board further ORDERS that any request to renew Respondent's license shall consist of a renewal application and shall require a petition for reinstatement that shall include evidence consistent with the Respondent's burden to demonstrate that she is medically and psychologically fit to practice the profession; and

The Board DISMISSES the State's Charges contained in subparagraphs 8(i) and 8(iii)

- END -

(signature page to follow)

Vermont Board of Nursing:

By: Linda Rice APRN Date: 4-1-08
Linda M. Y. Rice, APRN
Board Chairperson

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 4/4/08

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 the decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Secretary of State's Office, National Life Building, FL2, 1 National Life Drive, Montpelier, Vermont 05602-3402 within 30 days of the entry of the order.

For more information about the procedure for filing an appeal, please see the Administrative Rules for the Office of Professional Regulation, which you can find at: <http://www.vtprofessionals.org/opr1/opr/admnrule.pdf> and the Rules are also available at the Office of Professional Regulation.

If you file an appeal, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The appellate officer will review the record (the tape recording, exhibits etc.) created before the board during the hearing of your case. In cases of alleged irregularities in procedure before the board, not shown in the record, proof related to that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.