

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

**In re: Alexander J. Shinosky
License no. 026.0112256**

Docket no. 2016-507

DECISION AND ORDER

Douglas Sutton, RN

Appearances:

Prosecuting the case: Rachel Allen, Esq.
Douglas Sutton, RN (IT)

Respondent: Ernest M. Allen, Esq.

Board of Nursing:

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

Presiding Officer: Michael S. Kupersmith, Administrative Law Officer

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This matter came before the Board of Nursing for hearing on Specification of Charges filed by the Office of Professional Regulation. The hearing was held on November 13, 2017 at the Office of Professional Regulation (OPR) Conference Room, 89 Main Street, 3rd floor, Montpelier, Vermont. Rachel Allen, Esq. represented the Office of Professional Regulation. Ernest M. Allen, Esq. appeared for the Respondent, who was present.

OPR alleged that Respondent was guilty of professional misconduct in connection with the administration of a Schedule II substance, namely fentanyl, in the course of his employment at the University of Vermont Medical Center (UVMMC) from May through August, 2016. The essence of the Specification may be summarized as follows:

1. Very high rate of administration of fentanyl to Respondent's patients.
2. Administration of fentanyl for improper purposes, to wit, sedation and "breathing issues".
3. Multiple errors in the documentation of the administration of fentanyl.

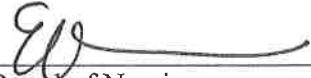
Evidence was offered by OPR in support of the allegations. There was also evidence that Respondent's administration of fentanyl was always within the scope of physicians' prescriptions. Despite the relatively high volume of the medication utilized by Respondent, there was no evidence that he diverted any fentanyl for his own use or purposes. There was no evidence that any patient was harmed by Respondent's choice of medication to administer.

The Board of Nursing deliberated briefly, but intensely after the close of the evidence. The Board was closely divided, but a majority concluded that, under the totality of the circumstances, OPR had failed to prove by a preponderance of the evidence that the Respondent was guilty of unprofessional conduct.

ORDER

The Office of Professional Regulation failed to prove either of the allegations set forth in the Specification of Charges. Accordingly, the Specification of Charges is *dismissed*.

It is SO ORDERED this 29 day of November, 2017


Board of Nursing
By: Ellen C. Watson, Chair

Date of Entry: 11/29/17

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, 89 Main Street, Fl. 3, 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.