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

In re: LISA M. SIMON

} Docket No. 2021-96

Participating Board Members:
Deborah Swartz, RN,
Jennifer Laurent, APRN
Luana Tredwell, LPN
Kelly Sinclair, LNA
Krystal Bernier, LPN
Wendy Thurston, RN
William White, Jr., Public Member
Douglas Sutton, RN
William "Jamie" Floyd, RN

Appearances:
Prosecutor: Jennifer B. Colin, Esq.
Respondent: Appeared and represented herself

Hearing Officer: George K. Belcher

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 electronically on September 13, 2021, with the parties, the witnesses, and the Board, all participating by telephone or via electronic means pursuant to the Office of Professional Regulation Emergency Rules for Remote Hearings. Before the hearing began, the Presiding Officer acted upon a request which was filed on September 10, 2021. by the Respondent seeking to continue the hearing so that she might be represented. The Motion for Continuance was denied, and the hearing went forward.

Findings of Fact

Based on a review of the pleadings and the file, and on the evidence presented at the hearing, the Vermont Nursing Board finds as follows:

1. Respondent is licensed as a Licensed Practical Nurse in the State of Connecticut.

2. Pursuant to Act 6 of the 2021 Session Laws of the State of Vermont, the Respondent was authorized to practice nursing in Vermont based upon the Connecticut license. That section of Act 6 provides, in part, as follows:

> HEALTH CARE PROFESSIONALS
> (a) Notwithstanding any provision of Vermont's professional licensure statutes or rules to the contrary, through March 31, 2022, a health care professional, including a mental health professional, who holds a valid license, certificate, or registration to provide health care services in any other U.S. jurisdiction shall be deemed to be licensed, certified, or registered to provide health care services, including mental health services, to a patient located in Vermont using telehealth, as a volunteer member of the Medical Reserve Corps, or as part of the staff of a licensed facility or federally qualified health center, provided the health care professional:
> (1) is licensed, certified, or registered in good standing in the other U.S. jurisdiction or jurisdictions in which the health care professional holds a license, certificate, or registration.
> (2) is not subject to any professional disciplinary proceedings in any other U.S. jurisdiction; and
> (3) is not affirmatively barred from practice in Vermont for reasons of fraud or abuse, patient care, or public safety.
> (b) A health care professional who plans to provide health care services in Vermont as a volunteer member of the Medical Reserve Corps or as part of the staff of a licensed facility or federally qualified health center shall submit or have submitted on the individual's behalf the individual's name, contact information, and the location or locations at which the individual will be practicing to:
> (1) the Board of Medical Practice for medical doctors, physician assistants, and podiatrists; or
> (2) the Office of Professional Regulation for all other health care professions.
> (c) A health care professional who delivers health care services in Vermont pursuant to subsection (a) of this section shall be subject to the imputed jurisdiction of the Board of Medical Practice or the Office of Professional Regulation, as applicable based on the health care professional's profession, in accordance with Sec. 19 of this act.
> (d)(1) This section shall remain in effect through March 31, 2022, provided the health care professional remains licensed, certified, or registered in good standing...
> Act 6, SB 0117 (Vermont Session Laws (2021))

3. The Respondent is subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 26 V.S.A. Chapter 28, 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.
4. The prosecutor has filed a "Request for Summary Suspension." A copy of the Request is attached to this Decision and Order. The Respondent was sent a notice of the hearing and a copy of the Request for Summary Suspension on September 2, 2021, to the Respondent's address which is on file with the Office of Professional Regulation by regular and certified mail and email. There were no objections to notice.
5. The Respondent participated in the hearing.
6. Between April and June of 2021, the Respondent was contracted as a License Practical Nurse at the Wake Robin Care Home in Shelburne, Vermont.
7. In early May 2021 the family of a 91-year-old resident complained that his credit card was being used without authorization.
8. After investigation, video surveillance footage showed that the Respondent was the person who was using the credit card in various locations in Vermont in a variety of

stores for a variety of items.

9. The initial investigation showed that at least $3,000.00 of charges were made, but after a more thorough investigation, the total exceeded $5,000.00 worth of charges upon the credit card.
10. As the Shelburne Police Department investigated the complaint, they attempted to meet with the Respondent at her place of employment, but she failed to show for her shift in May of 2021 and did not return to work, even though she was contracted for employment through June of 2021.
11. During a telephone interview between the Respondent and the OPR Investigator, Dennis Menard, the Respondent admitted using the credit card to make purchases for herself and another person.
12. The Respondent testified that she used the credit card that was given to her (by another employee, "Emma") who shared in the proceeds of the card and that the card was without a name and had been "glued back together". She testified that she was using the card as a favor to "Emma" and that "Emma" unexpectedly disappeared.
13. The charges on the card included groceries, sporting equipment, clothing, and gift cards.
14. At one point, the Respondent testified that the Respondent had "paid for that card" which she could not clearly explain.
15. The Respondent asked that her ability to practice nursing not be suspended because it would jeopardize her license in Connecticut.
16. When asked whether she had other records (Venmo, cash transfers, etc.) showing that the proceeds of the card were given to "Emma", the Respondent became vague and unclear. She was unpersuasive on her ability to show that she was innocently duped into using a stolen credit card.

Conclusions of Law

1. The evidence established that the Respondent violated: 26 VSA Sec. 1582(a)(3) [Engaging in conduct of a character likely to harm the public]; 3 VSA Sec. 129a(a)(15) [Failing to exercise independent judgment necessary to avoid actions repugnant to the profession]; and 3 VSA Sec. 129a(b)(2) [Failure to practice competently including performance of unsafe or unacceptable patient care and failure to conform to the essential standards of practice]; and 3 VSA Sec. 129a(a)(12) [Taking improper advantage of a person using professional services or promoting the sale of services or goods in a manner that exploits a person for financial gain of the practitioner or a third party] .The evidence presented show facts which imperatively require emergency action for the public health, safety, and welfare. Specifically, summary suspension is necessary to prevent patient harm, and to protect the public.
2. The 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). The Findings of Fact and Conclusions of Law herein are for purposes of this Order only.
3. The Prosecutor's Request for a Summary Suspension is supported by the evidence presented. For purposes of this Summary Suspension Hearing, the Findings of Fact above do support Summary Suspension of Respondent's ability to practice in Vermont. There is an imperative need to take emergency action. 3 V.S.A. § 814(c).

4. 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. The 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 authority to practice nursing in Vermont is **Summarily Suspended** and shall not be subject renewal or reinstatement during the period of Summary Suspension without Board approval pending proceedings. These proceedings shall be promptly instituted and determined. 3 V.S.A. § 814(c).

SO ORDERED.

Vermont Board of Nursing

By: Jennifer Laurent Digitally signed by Jennifer Laurent Date: 2021.09.15 10:14:49 -04'00'

Jennifer Laurent, APRN
Chair

Date: _____, 2021

OFFICE OF PROFESSIONAL REGULATION
DATE OF ENTRY: 9/16/21

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Nursing or Director of the Office of Professional Regulation. A party aggrieved by a final decision of a board or hearing authority 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.