

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

**In re: MEGAN L. SLACK
License No. 025.0134377**

Docket No. 2020-13

DECISION AND ORDER

Board of Nursing:

Ellen Watson, APRN, Chair
Krystal Bernier, LPN
Daniel Coane, public member
Virginia Hudson, RN
Jennifer Laurent, APRN
Douglas Sutton, RN
Wendy Thurston, RN
Luana Tredwell, LPN
William White, Jr., public member

Appearances: Jennifer B. Colin, Esq., Prosecuting Attorney
Megan L. Slack, Respondent, appeared for herself

Administrative Law Officer, Michael S. Kupersmith

**DECISION ON PETITION FOR
SUMMARY SUSPENSION ORDER**

FINDING OF FACT, CONCLUSIONS OF LAW, AND ORDER

Introduction

This matter came before the Board of Nursing on the State's Request for Summary Suspension. The hearing was held on February 10, 2020, at the Office of Professional Regulation, 89 main Street, Montpelier, Vermont. Jennifer B. Colin, Esq. represented the Office of Professional Regulation (OPR). Respondent Megan L. Slack appeared by telephone. The Board of Nursing has authority to summarily suspend a license pending further action if the Board determines that public health, safety or welfare imperatively requires emergency action. See 3 V.S.A. § 814(c).

Findings of Fact

1. The Respondent, Megan L. Slack, is licensed by the State of Vermont as a Licensed Practical Nurse (LPN) under license no. 025.0134377. This license was originally issued on July 23, 2018, and expires on January 31, 2022.

2. Respondent was previously licensed by the State of Vermont as a Licensed Nursing Assistant (LNA) under license no. 075.0015790. Respondent's LNA license was originally issued on February 9, 2006, and lapsed on November 30, 2006.
3. While employed by Visiting Nurses Association of Vermont and New Hampshire (VNA) in 2006, it was discovered that the Respondent falsified timesheets and patient day sheets for two of the patients under her care. Based upon Respondent's conduct, a Specification of Charges was filed. See *In re Megan L. Slack*, docket no. NA13-1006. The charges resulted in a Stipulation and Consent Order agreed upon by the parties and signed by both the Respondent and her attorney. The Board of Nursing adopted the stipulation and issued its order on April 14, 2008. See State's exhibit #1.
4. Pursuant to the Stipulation, the order issued by the Board suspended the Respondent's LNA license for a period of one year. The order further provided that should the Respondent apply for reinstatement following the one-year suspension period, her license would be conditioned for a period of two years. Fifteen conditions were set forth in the order.
5. The Respondent did not seek to reinstate her LNA license and has not complied with the terms of the order.
6. In 2017 and 2018, the Respondent was enrolled in a nursing program at Vermont Technical College so that she could become an LPN.
7. On July 5, 2018, the Respondent filed an application with the Office of Professional Regulation for licensure as an LPN. See State's exhibit #2. In the application, the Respondent answered "no" to the following question,

Has Vermont or any other state, federal authority, or other jurisdiction taken any DISCIPLINARY ACTION against (e.g., warned, reprimanded, fines restricted, conditioned, suspended, revoked) a license, certificate, or registration that you hold or have held in any profession or occupation?

8. The application contained the following attestation:

I certify, under the pains and penalties of perjury, that all information I have provided in this application is true and accurate. I understand that furnishing false information may constitute unprofessional conduct and result in the denial of my application or further disciplinary action.

9. In July, 2018, Respondent was granted an LPN license after having failed to disclose the 2008 discipline against her LNA license.
10. On January 30, 2020, OPR investigator John Lewis interviewed the Respondent by telephone. See State's exhibit #6. Mr. Lewis reported that the Respondent

acknowledged the stipulation agreement and suspension, and she acknowledged the requirement of fulfilling conditions. She advised she did not undertake efforts to fulfill those conditions... .

Exhibit #6, ¶ 9.

11. Mr. Lewis further reported that he reviewed the 2018 LPN application (exhibit #2) with the Respondent and that she acknowledged that she had answered “no” to the question referenced in paragraph 7 above. See exhibit #6 at ¶ 11. Ultimately, the Respondent admitted to Mr. Lewis that she knew what the question was asking and did not disclose the prior discipline because she wanted to get her LPN license. See advised that she had used “bad judgment.” See exhibit #6 at ¶ 12.
12. As of January 30, 2020, Respondent was working as Assistant Director of Nursing at a facility called The Village in White River Junction, Vermont.

Conclusions of Law

The Findings of Fact and Conclusions of Law in this Summary Suspension Order 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.

In its Request for Summary Suspension, the State has alleged three violations of Vermont law which justify immediate suspension: (1) fraudulent or deceptive procurement or use of a license in violation of 3 V.S.A. § 129a(a)(5); (2) Engaging in conduct of a character likely to deceive, defraud or harm the public in violation of 26 V.S.A. § 1582(a)(3); and (3) Failing to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession in violation of 3 V.S.A. § 129a(a)(15).

The Prosecutor’s Request for Summary Suspension on the first two violations is sufficiently supported by the evidence presented. The State established by a preponderance of the evidence that the Respondent fraudulently and deceptively procured her license as an LPN when she intentionally failed to disclose that her earlier license as an LNA had been suspended by the Board of Nursing. The evidence also supported the State’s allegation that Respondent’s conduct was of a character that deceived and harmed the public. By falsifying the LPN application, Respondent was able to obtain a license for which she was not eligible because of her prior suspension.

Respondent’s fraudulent and deceptive conduct creates an imperative need to take emergency action because the health, safety, and welfare of the public so require. Generally, when the Board of Nursing places conditions on a professional license, it does so for the protection of the public. In the Respondent’s prior disciplinary proceeding (docket no. NA13-

1006), the Respondent admitted to falsifying timesheets and patient day sheets. In an effort to prevent further incidents, the Board conditioned the Respondent's LNA license and required that the Respondent complete an approved documentation course; that she notify employers and any nursing program she might attend of the existence of the Board's Order; and that she submit performance reports from any employer or nursing program. The Board also required that the Respondent practice only under direct supervision. In addition, the Board specifically prohibited the Respondent from working in a supervisory role.

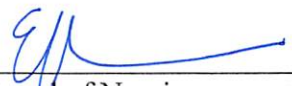
The Respondent circumvented the protections to the public created by the Board's order by again utilizing fraudulent and deceptive means. She falsified her LPN application by failing to disclose the prior disciplinary proceeding. The evidence established that Respondent is again practicing nursing, albeit as an LPN, without meeting any of the conditions of the 2008 order. Since the Board determined that the health, safety and welfare of the public required that the Respondent fulfill the conditions set forth in the order, it necessarily follows that the Board cannot permit the Respondent to continue practicing nursing at this time.

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 the summary suspension phase 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 license is hereby summarily suspended pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. 3 V.S.A. § 814(c).

It is SO ORDERED this 18th day of February, 2020



Board of Nursing
By: Ellen Watson, Chair

Date of Entry: 2.24.2020

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

IN RE:)
Megan L. Slack) Docket No. 2020- 13
License No. 025.0134377)

REQUEST FOR SUMMARY SUSPENSION

NOW COMES the State of Vermont and hereby requests summary suspension of the license of Respondent Megan L. Slack as follows:

Board Authority

1. The Vermont State Board of Nursing (the "Board") has authority to issue warnings or reprimands; suspend, revoke, limit, or condition current licenses; or prevent the renewal of lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. §129(a); 3 V.S.A. §129a; 3 V.S.A. §814(d); 26 V.S.A. Chapter 28; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation ("OPR").
2. The Board of Nursing is authorized by 3 V.S.A. §814 to summarily suspend the license of a registered nurse when it finds the public health, safety, or welfare imperatively requires emergency action.

Statement of Facts

3. Megan L. Slack (the "Respondent") of White River Junction, Vermont is licensed by the State of Vermont as a Licensed Practical Nurse ("LPN") under license number 025.0134377. This license was originally issued on July 23, 2018 and expires on January 31, 2022.
4. Respondent was previously licensed by the State of Vermont as a Licensed Nursing Assistant ("LNA") under license number 075.0015790. Respondent's LNA license was originally issued on February 9, 2006 and lapsed on November 30, 2006.
5. While licensed as an LNA, Respondent was employed by the Visiting Nurses Association of Vermont and New Hampshire ("VNA"). The VNA terminated Respondent's employment in October 2006.
6. The VNA terminated Respondent's employment because while working for the VNA in September 2006, Respondent falsified patient day sheets, purposely providing false information to the VNA that she had visited various patients and provided services at times/dates when she had not, in fact, done so. Respondent

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admitted this conduct to her supervisor at the VNA as well as to the OPR Investigator who interviewed her in 2006.

7. As the result of a complaint arising from the above-described conduct, a Specification of Charges was filed against Respondent. In 2008, the OPR Enforcement case was resolved through a Stipulation and Consent Order that was signed by Respondent and her counsel and entered as an Order of the Board of Nursing on April 15, 2008 ("2008 Order").
8. In the 2008 Order, Respondent agreed and the Board found that Respondent engaged in the following unprofessional conduct: willfully making or filing false reports in the practice of the profession (3 V.S.A. §129a(a)(7); being unfit or incompetent to function as an LNA by reason of any cause (26 V.S.A. §1595(5)) [repealed] for engaging in conduct likely to deceive, defraud, or harm the public; failing to practice competently by failure to conform to the essential standards of acceptable and prevailing practice (3 V.S.A. §129a(b)(2)); and failing to comply with provisions of federal or state statutes or rules governing the practice of the profession (3 V.S.A. §129a(a)(3).
9. The 2008 Order, agreed to by Respondent, suspended Respondent's LNA license for a period of one (1) year and provided that Respondent would be subject to numerous conditions for a minimum of two (2) years, should she reinstate her LNA license thereafter, including: taking a course on documentation; providing notification to employers/nursing school during the conditioned period; obtaining monthly employer reports; practicing under supervision; and refraining from working in a travel assignment or for a nurse registry or home health agency or as a PCA during the effective period of the Order.
10. Respondent did not seek to reinstate her LNA license and did not comply with the terms of the 2008 Order.
11. Respondent worked as a personal care attendant ("PCA") for TLC Nursing, a company that provides homecare nursing and attendants, for approximately four years between 2013 and 2018.
12. In 2017 and 2018, Respondent attend a nursing program at Vermont Technical College so that she could become an LPN.
13. In July 2018, Respondent submitted an application to OPR, under the pains and penalties of perjury, to become an LPN in Vermont ("2018 Application").
14. In the 2018 Application, Respondent answered "No" to the following question:

Has Vermont or any other state, federal authority, or other jurisdiction taken any DISCIPLINARY ACTION against (e.g., warned, reprimanded, fined, restricted, conditioned, suspended, revoked) a license, certificate, or registration that you hold or have held in any profession or jurisdiction?

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15. In the 2018 Application, Respondent answered “No” to the following question:

Have you ever SURRENDERED a license, certificate, or registration to a licensing authority while under investigation, or prosecution, or in lieu of discipline?
16. In July 2018, Respondent was granted an LPN license after having failed to disclose the 2008 discipline against her LNA license for fraudulent conduct.
17. In September 2018, Respondent was granted an LPN license in New Hampshire.
18. In January 2020, Respondent submitted a Renewal Application for her Vermont LPN license (“2020 Renewal”).
19. As part of her 2020 Renewal Application, Respondent answered “Yes” to the following question and provided information concerning a pending investigation in New Hampshire which has not yet been adjudicated:

Are you currently UNDER INVESTIGATION or PENDING CHARGES for a professional, occupational, or professional services license, certificate, or registration in any licensing jurisdiction?

20. In the review process for Respondent’s 2020 Renewal Application, OPR discovered that Respondent had been previously licensed as an LNA, had been suspended as an LNA, and had not disclosed the previous suspension/discipline on her 2018 LPN Application.
21. On January 28, 2020, Respondent provided a written explanation of her failure in 2018 to disclose the previous discipline, stating that she “answered incorrectly” because she did not realize the question applied to her LNA license. Respondent also stated that she did “surrender” her LNA license.
22. After submitting her written explanation to OPR, Respondent admitted to OPR Investigator John Lewis on January 30, 2020 that when she answered the questions for her LPN license in 2018, she understood her LNA license had been disciplined but that she said “no” on the questions knowing they did apply to her LNA license and admitting that she used bad judgment.
23. Respondent currently works as an LPN at The Village in White River Junction, Vermont, an assisted living facility. Respondent is the Assistant Director of Nursing and has worked there almost a year.

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Violation One: 3 V.S.A. §129a(a)(1) Fraudulent or deceptive procurement or use of a license.

24. The State re-alleges and incorporates Paragraphs 3 through 23 above.
25. Vermont law provides that fraudulent or deceptive procurement or use of a license constitutes unprofessional conduct.
26. Paragraphs 3 through 23 above demonstrate that Respondent fraudulently or deceptively procured her LPN license from the State of Vermont in 2018.
27. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent is practicing as a licensed practical nurse in Vermont under a Vermont license that was fraudulently procured in violation of 3 V.S.A. §129a(a)(1).

Violation Two: 26 V.S.A. §1582(a)(3) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

28. The State re-alleges and incorporates Paragraphs 3 through 23 above.
29. As an LPN, Respondent is required to refrain from engaging in conduct of a character likely to deceive, defraud, or harm the public.
30. Paragraphs 3 through 23 demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public by failing to disclose to OPR in her 2018 LPN Application discipline on her previous LNA license for fraudulent, deceptive and harmful conduct and filing false reports in the practice of the profession.
31. Paragraphs 3 through 23 demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public when she misrepresented to OPR in her 2020 Renewal Application that she surrendered her LNA license and inadvertently provided an incorrect answer in her 2018 Application.
32. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent committed unprofessional conduct of a character likely to deceive, defraud, or harm the public in violation of 26 V.S.A. §1582(a)(3).

Violation Three: 3 V.S.A. §129a(a)(15) Failing to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.

33. The State re-alleges and incorporates Paragraphs 3 through 23 above.
34. As an LPN, Respondent is required to exercise her own independent professional judgment in the performance of licensed activities when that

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judgment is necessary to avoid action repugnant to the obligations of the profession.

35. Paragraphs 3 through 23 above demonstrate that Respondent failed to exercise independent professional judgment by fraudulently procuring a Vermont LPN license and misrepresenting to the licensing authority in 2020 the circumstances regarding the fraudulent procurement.
36. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent committed unprofessional conduct by failing to exercise independent professional judgment in the performance of licensed activities when that judgment was necessary to avoid action repugnant to the obligations of the profession.

Relief Requested

37. Members of the public, patients, and potential patients have no way of learning of Respondent's fraudulent procurement of her LPN license and will remain unprotected during the pendency of these proceedings. The facts as set forth above establish that in order to protect the public health, safety, and/or welfare of the people of the State of Vermont, emergency action is imperative.

WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. §814(c), Respondent's Licensed Practical Nurse license, number 025.0134377, be summarily suspended, pending hearing on the merits.

DATED at Montpelier, Vermont this 31st day of January, 2020.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

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