

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

In re: TINA SUMNER	}	
License No. 026.0138228	}	Docket No. 2020-18 (RN)
	}	

SUMMARY SUSPENSION ORDER

Participating Board Members:

Ellen Watson, APRN
Deborah Swartz, RN,
Jennifer Laurent, APRN
Luana Tredwell, LPN
Douglas Sutton, RN
Virginia Hudson, RN
Krystal Bernier, LPN
Daniel Coane, Public Member
Kelly Sinclair, LNA

Appearances:

Prosecuting the case: Benjamin Novogroski, Esq.
Respondent: was not present and was not represented

Presiding Officer:

George K. Belcher

Exhibits:

State Exhibit 1: Docket Sheet Missouri, Jefferson County; Case No 19 JE-CR00764-01
State Exhibit 2: Respondent Nursing Application, Vermont 2/20/19

**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 on March 9, 2020, at the Office of Professional Regulation in Montpelier, Vermont.

Findings of Fact

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

1. Respondent is licensed as a Registered Nurse in the State of Vermont. The Respondent's license is set to expire on March 31, 2021. 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.
2. 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 on March 2, 2020 to the Respondent's address on file with the Office of Professional Regulation.
3. The Respondent was licensed as a Registered Nurse by the State of Vermont on February 21, 2019 following her application dated February 20, 2019.
4. In the Respondent's application for Vermont Licensure she stated "No" to the question: Are any criminal charges pending against you in any jurisdiction? If "Yes" you must provide a detailed written explanation and attach a copy of the charging documents.
5. In fact, the Respondent had pending charges against her. On August 24, 2015 the Respondent was charged with two counts of Statutory Rape – 2d Degree (Mo. Rev. Stat. Sec. 566.034 (2015), Class C Felony) for having sex with a child who was approximately 15 years old on at least eight occasions. The subject child was a student where the Respondent worked as a school nurse.
6. On February 17, 2017 the Respondent was charged with one count of Tamper or Attempt to Tamper with a Victim in a Felony Prosecution (Mo. Rev. Stat. Sec. 566.270 (2015) Class D. Felony).
7. On August 9, 2019 the Respondent was convicted of the three above-cited felonies. The Respondent failed to notify the Vermont Office of Professional Regulation of the convictions.
8. In her license application the Respondent failed to list nursing licenses in Alaska, Ohio, and Washington State, despite having (or having had) licenses in these jurisdictions at the time of her Vermont Application.

Conclusions of Law

1. The evidence established that the Respondent violated 3 VSA Sec. 129a(a)(1) [Fraudulent or Deceptive Procurement of a License]; 26 VSA Sec. 1582(a)(1) [Making or Causing to be Made a False, Fraudulent or Forged Statement or Representation in Procuring a License]; 3 VSA Sec. 129a(a)(10) Conviction of a Crime Related to the Practice of the Profession or Conviction of a Felony, Whether or Not related to the Practice of the Profession]; 3 VSA Sec. 129a(a)(26) [Sexually harassing or Exploiting a Patient]; and 3 VSA Sec. 129a(a)(11) [Failing to Report a Conviction of any Felony in a

Court outside Vermont within 30 days]. 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. Our 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). Our 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 license. 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. Our 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 license is **Summarily Suspended** pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. 3 V.S.A. § 814(c).

Vermont Board of Nursing

By: 
Ellen Watson, APRN, Chair

Date: March 10, 2020

DATE OF ENTRY: _____

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, 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.

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BOARD OF NURSING**

IN RE:	)	
TINA SUMNER	)	Docket No. 2020-18
License No. 026.0138228	)	

REQUEST FOR SUMMARY SUSPENSION

NOW COMES the State of Vermont (the "State"), by and through State Prosecuting Attorney Benjamin E. Novogroski, and petitions the Board of Nursing to summarily suspend the license of Registered Nurse Tina Sumner. In support of such petition, the State alleges the following:

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 Rules").
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. Tina Sumner ("Respondent") of De Soto, Missouri is licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0138228. This license was originally issued on February 21, 2019 and expires on March 31, 2021.
4. On February 20, 2019, Respondent applied for licensure as an RN in Vermont. Within the application, a question (the "Question") asked the following:

Are any criminal charges pending against you in any jurisdiction? If "Yes," you must provide a detailed written explanation and attach a copy of the charging documents.

5. In response to the Question, Respondent answered "No."

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6. Notably, in her licensure application of February 20, 2019, Respondent attested to the truth and accuracy of the information provided therein by signing the attestation statement stating:

“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. The maximum penalty for perjury is fifteen years in prison and/or a \$10,000 fine. (13 V.S.A. § 2901)”

7. However, on August 24, 2015, Respondent was charged with two counts of Statutory Rape – 2d Degree (MO. REV. STAT. § 566.034 (2015), Class C Felony) for having sex with a child, who was approximately 15 years old, on at least eight occasions.
8. Respondent was the school nurse at the child victim’s school, and the sexual contact occurred in the nurse’s office at the school on at least one occasion.
9. On February 17, 2017, Respondent was also charged with a count of Tamper or Attempt to Tamper with a Victim in a Felony Prosecution (MO. REV. STAT. § 566.270 (2015), Class D Felony) for contacting the victim during the felony prosecution of the two counts of statutory rape.
10. Respondent failed to disclose the above-mentioned felony charges on her Vermont RN license application, dated February 20, 2019.
11. Respondent was convicted of the three above-mentioned felonies on August 9, 2019.
12. Respondent failed to disclose these felony convictions to Office of Professional Regulation (“OPR”) within 30 days of conviction.
13. Additionally, in her Vermont RN licensure application, Respondent only disclosed RN licenses in the jurisdictions of Alabama, Missouri, and New York.
14. However, Respondent also holds, or held, licenses in Alaska, under license number 143930; Ohio, under license number 460232; and Washington State, under license number RN60931504.

Violation One: 3 V.S.A. § 129a(a)(1) – Fraudulent or Deceptive Procurement or Use of a License.

15. The State re-alleges and incorporates Paragraphs 3 through 14 above.

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16. As an RN, Respondent is prohibited from engaging in the fraudulent or deceptive procurement of a license.
17. Paragraphs 3 through 7, 9 through 10, and 13 through 14 above demonstrate that Respondent engaged in the fraudulent or deceptive procurement of a license by failing to answer the Question truthfully or accurately and by failing to disclose all foreign RN licenses held.
18. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent committed unprofessional conduct by engaging in the fraudulent or deceptive procurement of a license in violation of 3 V.S.A. § 129a(a)(1).

Violation Two: 26 V.S.A. § 1582(a)(1) – Making or Causing to be Made a False, Fraudulent, or Forged Statement or Representation in Procuring or Attempting to Procure Registration or Renew a License.

19. The State re-alleges and incorporates Paragraphs 3 through 14 above.
20. As an RN, Respondent is prohibited from making a false representation in procuring registration as a RN.
21. Paragraphs 3 through 7, 9 through 10, and 13 through 14 above demonstrate that Respondent made a false representation in procuring Vermont registration as an RN by failing to answer the Question truthfully or accurately and by failing to disclose all foreign RN licenses held.
22. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent engaged in making a false or fraudulent statement in procuring her Vermont registration as an RN in violation of 26 V.S.A. § 1582(a)(1).

Violation Three: 3 V.S.A. § 129a(a)(11) – Failing to Report to the Office a Conviction of Any Felony in a Vermont District Court, a Vermont Superior Court, a Federal Court, or a Court Outside of Vermont Within 30 Days.

23. The State re-alleges and incorporates Paragraphs 3 through 14 above.
24. As an RN, Respondent is mandated to report to OPR any conviction in a court outside of Vermont within 30 days of such conviction.
25. Paragraphs 3 through 7, 9, and 11 through 12 above demonstrate that Respondent failed to report her felony convictions in Missouri state court within 30 days of her conviction, which occurred on August 9, 2019.

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26. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent engaged in unprofessional conduct by failing to report to OPR her three felony convictions from a Missouri state court in violation of 3 V.S.A. § 129a(a)(11).

Violation Four: 3 V.S.A. § 129a(a)(10) – Conviction of a Crime Related to the Practice of the Profession or Conviction of a Felony, Whether or Not Related to the Practice of the Profession.

27. The State re-alleges and incorporates Paragraphs 3 through 14 above.
28. As an RN, Respondent must neither be convicted of a crime related to the practice of the profession nor be convicted of a felony.
29. Paragraphs 3 through 9 and 11 above demonstrate that Respondent was convicted of three felonies wherein some of the sexual misconduct occurred in Respondent's capacity as a school nurse.
30. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent engaged in unprofessional conduct by committing three felonies related to the practice of the profession in violation of 3 V.S.A. § 129a(a)(10).

Violation Five: 3 V.S.A. § 129a(a)(26) – Sexually Harassing or Exploiting a Patient, Client, or Consumer, or Doing So to a Coworker in a Manner that Threatens the Health, Safety, or Welfare of Patients, Clients, or Consumer's Reasonable Expectation of Privacy.

31. The State re-alleges and incorporates Paragraphs 3 through 14 above.
32. As an RN, Respondent must refrain from sexually exploiting a patient or consumer.
33. Paragraphs 3 through 9 and 11 above demonstrate that Respondent sexually exploited a 15-year-old child while in her nursing office at the school where she was employed.
34. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent committed unprofessional conduct by sexually exploiting a child-patient in violation of 3 V.S.A. § 129a(a)(26).

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Violation Six: 26 V.S.A. § 1582(a)(11) – Sexual Misconduct That Exploits the Provider-Patient Relationship, Including Sexual Contact with a Patient, Surrogates, or Key Third Parties.

- 35. The State re-alleges and incorporates Paragraphs 3 through 14 above.
- 36. As an RN, Respondent must refrain from engaging in sexual contact with a patient.
- 37. Paragraphs 3 through 9 and 11 above demonstrate that Respondent engaged in sexual misconduct by making sexual contact with a 15-year-old child while in her nursing office at the school where she was employed.
- 38. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent engaged in unprofessional conduct by sexually exploiting a child-patient in violation of 26 V.S.A. § 1582(a)(11).

Violation Seven: 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 Profession.

- 39. The State re-alleges and incorporates Paragraphs 3 through 14 above.
- 40. As an RN, Respondent must exercise independent professional judgment in the performance of licensed activities.
- 41. Paragraphs 3 through 9 and 11 above demonstrate that Respondent failed to exercise independent professional judgment in the performance of licensed activities when such judgment is necessary to avoid action repugnant to the profession.
- 42. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent committed unprofessional conduct by engaging in sexual contact with a child in her nursing office at the child's school in violation of 3 V.S.A. § 129a(a)(15).

Violation Eight: 26 V.S.A. § 1582(a)(3) – Engaging in Conduct Likely to Deceive, Defraud, or Harm the Public.

- 43. The State re-alleges and incorporates Paragraphs 3 through 14 above.
- 44. As an RN, Respondent is prohibited from engaging in conduct of a character likely to deceive, defraud, or harm the public.

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45. Paragraphs 3 through 14 above demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public.
46. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent committed unprofessional conduct in violation of 26 V.S.A. § 1582(a)(3).

Relief Requested

47. Members of the public, patients, and potential patients have no way of learning of Respondent's dangerous behavior 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), the Respondent's Registered Nurse license, number 026.0138228, be summarily suspended, pending a hearing on the merits.

DATED at Montpelier, Vermont this 28th day of February 2020.

STATE OF VERMONT
SECRETARY OF STATE

By: _____



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