

**STATE OF VERMONT
BOARD OF NURSING**

In re: Suzanne M. Sylvester
License No. 025-2611

}
} Docket No. 2013-2(LPN)
}

**Decision on
UNPROFESSIONAL CONDUCT CHARGE**

Participating Board Members:

Jeanine Carr, RN, Chair
Ellen Watson, APRN, Vice Chair
John Todd, APRN
Alan Weiss, Public Member
William G. White, Jr., Public Member
Deborah Swartz, RN
Douglas Sutton, RN
Sheila Davis, LPN
Luana Tredwell, LPN
Stephen Morse, LNA

Appearances:

Prosecuting the case: Gabriel Gilman
for Respondent: pro se

Presiding Officer: Larry S. Novins

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

The Vermont Board of Nursing held a hearing in the above matter on December 9, 2013 at the Office of Professional Regulation conference room at the City Center in Montpelier, Vermont.

The prosecution has the burden of proof in this matter. To prevail on any unprofessional conduct charge, it must prove the charge by a preponderance of the evidence.

Background

The Specification of Charges alleges that Ms. Sylvester, in violation of Vermont Statutes, practiced outside her permitted scope of practice while lacking clinical skills when she performed venipuncture in a patient's neck.

Findings of Fact

Based on the evidence presented, the Board finds as follows:

1. Ms. Sylvester is a licensed practical nurse and is therefore subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 26 V.S.A. § 1582(a), the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.
2. Ms. Sylvester has been a nurse for forty-three years. She has worked as a public health/home health nurse.
3. While employed as an LPN at the Springfield Health and Rehabilitation Center, Ms. Sylvester drew blood from the left side of patient #1's neck. She had never drawn blood from a patient's neck before.
4. There was no harm to the patient.
5. Ms. Sylvester had no previous training to perform venipuncture. She had had a two-day intravenous therapy training. The venipuncture in this case was the first and only time she had attempted it.
6. The prosecution alleges that venipuncture of the neck is outside the scope of practice of an LPN. Ms. Sylvester admitted that it was outside her scope of practice, but was confident that she could do it safely. She did assure the Board that, presented with a similar situation, she would not perform the procedure again. Her choice to do the venipuncture showed very poor judgment.
7. The essential standards of acceptable and prevailing practice do not permit an LPN to perform venipuncture of the neck. The procedure is beyond the scope of practice for an LPN. It is beyond Ms. Sylvester's education and training.
8. By performing venipuncture, Ms. Sylvester performed unacceptable patient care and failed to conform to the essential standards of acceptable and prevailing LPN practice.

Conclusions of Law

Based on the evidence presented and Facts found above we conclude as follows:

1. **Re: Alleged Violation of 3 V.S.A. § 129a(a)(13):** The Prosecution has proved by a preponderance of the evidence that Ms. Sylvester provided a service which she was not qualified to perform and which was beyond the scope of her education, training, capabilities, experience, and scope of practice. This is unprofessional conduct.
2. **Re: Alleged Violation of 3 V.S.A. § 129a(b)(1) and (2):** The Prosecution has proved by a preponderance of the evidence that Ms. Sylvester failed to practice competently. We find that Ms. Sylvester's conduct as found above constituted (1) performance of unsafe or unacceptable patient or client care, 3 V.S.A. § 129a(b)(1) and (2) is a failure to conform to the essential standards of acceptable and prevailing practice. This is unprofessional conduct.

Order

For the violations above, to protect the public, health, safety and welfare, the following sanction is necessary.

Ms. Sylvester's license shall receive a **reprimand**, effective the date of this decision. In addition, the following **condition** is imposed:

Should Ms. Sylvester resume practice, she shall practice only in a setting where she has "direct supervision" for the entire shift by a licensed registered nurse in good standing.

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.

To request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Nursing

By:

Jeanine Carr
Jeanine Carr, RN, Chair

Date: December 9, 2013

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 12/9/13