

**STATE OF VERMONT
BOARD OF NURSING**

In re: Dianne C. Tibbits
License No. 025-4076

}
} Docket No. 2013-177(LPN)
}

**Decision on
UNPROFESSIONAL CONDUCT CHARGE**

Participating Board Members:

Jeanine Carr, RN, Chair
Ellen Watson, APRN, Vice Chair
Alan Weiss, Public Member
Deborah Swartz, RN
Douglas Sutton, RN
Jennifer Laurent, APRN
Kelly Sinclair, LNA

Appearances:

Prosecuting the case: S. Lauren Hibbert
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 July 14, 2014 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. Tibbits, in violation of Vermont Statutes, practiced as a licensed practical nurse after her license had expired and before she renewed it.

Findings of Fact

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

1. Ms. Tibbits is a licensed practical nurse and is therefore subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 814(d), 26 V.S.A. § 1582(a), the

Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation. She first received her LNA license on November 30, 1976. She has no prior disciplinary history.

2. Ms. Tibbits's license expired on February 1, 2012. After its expiration she continued to practice as an LPN. She did so until April, 2013 when she submitted a renewal application. Ms. Tibbits is a school nurse. Because of the academic year schedule, Ms. Tibbits' unlicensed practice was less than one year. In her Answer Ms. Tibbits wrote, "The only defense I have is that I completely forgot to renew my Nursing licenses as I had for the past 37 years. It was human error. Nothing I say or do can justify my negligence. I continued to work because I had not idea I was practicing without a license. For that I am sorry."
3. Ms. Tibbits's unlicensed practice in this case involved noncompliance with a statute or rule relating to administrative duties not related to patient, client, or customer care.

Conclusions of Law

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

1. **Re: Alleged Violation of 26 V.S.A. § 129a(a)(3):** 3 V.S.A. § 129a(a)(3) defines unprofessional conduct to include failing to comply with provisions of federal or state statutes or rules governing the practice of the profession. Any allegation of failure to comply with statutes or rules is addressed below. This statute does not provide separate/additional grounds for discipline. There is no independent violation of this statute.
2. **Re: Alleged Violation of 26 V.S.A. § 1584(a)(3):** The Prosecution has proved by a preponderance of the evidence that Ms. Tibbits has (3) practiced nursing when not registered and currently licensed to do so under the provisions of Chapter 28 of Title 26. This is unprofessional conduct. 3 V.S.A. § 129a(a)(3).

Order

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

In a case such as this one which involves noncompliance with a statute or rule relating to administrative duties not related to patient, client, or customer care, the Board may determine that ordering a monetary civil penalty does not constitute a finding of unprofessional conduct. 3 V.S.A. § 129(a)(3). **Ms. Tibbits shall pay a monetary civil penalty in the amount of \$200. Ordering this monetary civil penalty does not constitute a finding of unprofessional conduct.** 3 V.S.A. § 129(a)(3).

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: July 14, 2014

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 7/15/14