

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

<i>In re</i>	Elizabeth Vozzella	}
License No.	026-0039900	}
Docket No.	NU14-0708	}

**FINDINGS OF FACT
CONCLUSIONS OF LAW & ORDER**

Background:

On Monday 10 November 2008, the Vermont Board of Nursing (Board) heard this contested case of alleged unprofessional conduct. The State of Vermont brought a Specification of Charges (the "Charges") against the Respondent Elizabeth Vozzella alleging unprofessional conduct while practicing the profession of nursing in New Hampshire. Board members Kenneth W. Bush, Ellen W. Leff (Vice Chairperson),¹ Donarae Metcalf, Sandra J. Norton, Deborah Robinson, Alan H. Weiss, DeAnn Welch and William White were present and participated in the hearing.

The Respondent did not appear. Edward G. Adrian represented the State of Vermont. Board counsel Kevin F. Leahy presided.

Summary:

This matter arises out of allegations of unprofessional conduct as a result of disciplinary action taken against the Respondent in the State of New Hampshire. The New Hampshire Board found that the Respondent had engaged in multiple medication errors, and the discipline it imposed included an order that the Respondent submit to random toxicology screening.

After a review of the evidentiary record, the Board found that the State proved its case of unprofessional conduct under the applicable Vermont statute. 3 V.S.A. §129a(a).

The Board found that public safety requires a suspension of the Respondent's ability to renew her license and conditions placed upon Respondent's right to petition for reinstatement of her registered nursing license.

**Findings of Fact &
Conclusions of Law:**

1. The Respondent held a Board issued State of Vermont registered nursing license.

¹ Now Chairperson.

2. The Board may exercise disciplinary authority upon a finding of licensee unprofessional conduct. *See*, 26 V.S.A. Chapter 28; 3 V.S.A. § 129(a); the Admin. Rules for the Bd. of Nursing ("Nursing Rules") and the Admin. Rules for the Office of Prof. Reg. ("OPR Rules").
3. The material factual allegation charged by the State of Vermont is straightforward. Vermont alleges that the New Hampshire Board of Nursing found that Respondent was responsible for "a series of medication administration and documentation errors between the dates of September 9, 2007 and September 11, 2007." *See* Charges at ¶ 3 (factual allegations); *see also*, *In re Vozzella*, Dk't 08-0627-0179 (21 July 2008 New Hampshire Board of Nursing).
4. In a disciplinary hearing, the state has the burden of proof. To satisfy its evidentiary burden, it must "show by a preponderance of the evidence that [a licensee] has engaged in unprofessional conduct." 3 V.S.A. § 129a(c).
5. The Respondent does not dispute the factual allegations. The State therefore meets its statutory burden of proof. *Id.*
6. The State seeks a finding of unprofessional conduct based on the New Hampshire findings (*see In re Vozzella*, Dk't 08-0627-0179 at ¶¶ 1-5) and pursuant to 3 V.S.A. §129a (a) (Vermont licensee responsible for unprofessional conduct occurring within or outside the State of Vermont).
7. The Board adopts the findings of the New Hampshire Board of Nursing; and this Board finds the Respondent's conduct in New Hampshire constitutes unprofessional conduct in Vermont, pursuant to 3 V.S.A. §129a.
8. The Board notes that the Respondent did not appear for the hearing, and her Vermont license is currently suspended.
9. The New Hampshire order found the Respondent responsible for medication errors and placed her on probation for eleven months. The New Hampshire Order also requires toxicology screening of the Respondent.
10. It is not clear from the New Hampshire Order why the Respondent is required to undergo toxicology screens, and this Board did not receive evidence to explain the reasoning behind the New Hampshire disposition.
11. Due to the failure of the Respondent to appear and the lack of context or evidence of the circumstances surrounding the medication errors referenced in the New Hampshire Order, this Board's order will therefore require an independent drug and alcohol consultation and evaluation.
12. The Respondent shall not be eligible to petition for reinstatement until completion of the independent drug and alcohol evaluation. The Board will review the independent evaluation, and any other relevant evidence, to determine whether the Respondent is safe to practice in Vermont and to determine whether to apply additional conditions to protect the public, if the Respondent's license is reinstated.

13. The Respondent's license shall remain suspended pending a demonstration of the ability to practice safely.

ORDER

Based on the findings of fact and conclusions of law set forth above, the Board of Nursing ORDERS that the Respondent's privilege to renew her Vermont registered nursing license is SUSPENDED INDEFINITELY; and

The Board ORDERS that the Respondent may NOT PETITION FOR REINSTATEMENT of her Vermont license until (1) the completion of an independent drug and alcohol evaluation by an evaluator approved by this Board or its designee; and (2) Petitioner demonstrates an ability to practice safely; and

If the Respondent petitions for reinstatement, the Board will consider whether any other conditions are necessary to protect the public safety.

- END -

(signature page to follow)

Vermont Board of Nursing:

By: Ellen W. Leff
Ellen W. Leff, RN
Board Chairperson

Date: 5.22.09

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 5/26/09

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 the decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Secretary of State's Office, National Life Building, FL2, 1 National Life Drive, Montpelier, Vermont 05602-3402 within 30 days of the entry of the order.

For more information about the procedure for filing an appeal, please see the Administrative Rules for the Office of Professional Regulation, which you can find at: <http://www.vtprofessionals.org/opr1/opr/admnrule.pdf> and the Rules are also available at the Office of Professional Regulation.

If you file an appeal, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The appellate officer will review the record (the tape recording, exhibits etc.) created before the board during the hearing of your case. In cases of alleged irregularities in procedure before the board, not shown in the record, proof related to that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.