

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

In re: RYAN WALSH	}	
License No. 025.0128433	}	Docket No. 2018-79 (LPN)
	}	

SUMMARY SUSPENSION ORDER

Participating Board Members:

Ellen Watson, APRN, Chair
Deborah Swartz, RN
Jennifer Laurent, APRN
Virginia Hudson, RN
Kelly Sinclair, LNA
Jill Duell, LPN
William G. White, Jr., Public Member

Appearances:

Prosecuting the case: Elizabeth A. St. James, Esq.
Respondent: was present and appeared *pro se*

Presiding Officer:

George K. Belcher

**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 August 13, 2018, 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 a Licensed Practical Nurse, licensed in Vermont. His license is set to expire on January 31, 2020. He 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 August 1, 2018 at the address on file with the Office of Professional Regulation. The Respondent received the notice of hearing and the copy of the Request for Summary Suspension about one week before the hearing.
3. Prior to the Summary Suspension hearing, the State and the Respondent discussed the matter. The Respondent contested some of the allegations in the Request for Summary Suspension but he did not contest the most significant allegations. The Respondent addressed the Board and did not ask the Board to deny the Request for Summary Suspension. In his presentation he admitted the most serious allegations under oath.
4. The Respondent did not agree with the particular allegations of paragraphs 5 (date of hire, position as Unit Manager and employer), paragraphs 6 and 7 (frequency of his responsibility for medication cart), and paragraph 9 (allegation that he spent entire shifts in the office rather than being on the floor). His view of the facts in those allegations were somewhat different from the allegations, but not in a significant way so as to deny the essential drug diversion while practicing his profession
5. The Respondent did admit to allegations 10-13 which alleged that he had diverted Tramedol from patients for his own use and that he had withdrawn and wasted both Tramedol and oxycodone without proper documentation and without proper witnesses to wasting.
6. The admitted facts establish that the Respondent violated 26 VSA Sec. 1582 (a)(2) [diverting drugs for unauthorized use]; 3 VSA Sec. 129a(b)(1) [performance of unsafe or unacceptable patient or client care]; 3 VSA Sec. 129a(a)(15) [failure to exercise independent professional judgment in performance of licensed activities]; and 3 VSA Sec. 129a(b)(2) [failure to practice competently and failure to conform to the essential standards of acceptable and prevailing practice].
7. The evidence presented shows 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 general integrity of the medical profession.

Conclusions of Law

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.

The Prosecutor's Request for a Summary Suspension is supported by the evidence presented. The Board concludes that the allegations in the Request for Summary Suspension have been established to the necessary degree. 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).

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: August 22 2018

DATE OF ENTRY: 8-30-18

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.

