

New Hampshire Supreme Court
Professional Conduct Committee

a committee of the attorney discipline system

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Taylor, Evelyn C. advs. Attorney Discipline Office # 09-062

SIX MONTH SUSPENSION

On April 19, 2011, the Professional Conduct Committee deliberated the above captioned matter. Members present included: Margaret H. Nelson, Chair, Benette Pizzimenti, Vice Chair, Toni M. Gray, Vice Chair, Susan R. Chollet, David N. Cole, Thomas P. Connair, Alan J. Cronheim, Gerald A. Daley, Richard H. Darling, James R. Martin and Lawrence A. Vogelman.

On February 22, 2011, the Court suspended the Respondent for failure to file her annual trust account compliance certificate for 2010. On April 12, 2011, the Court suspended the Respondent for failure to file her certificate of compliance with the New Hampshire Minimum Continuing Legal Education Board for 2010.

I. FINDINGS OF FACT

The Respondent and Disciplinary Counsel have stipulated, and the Committee accepts the Stipulation as to the facts of this matter. Accordingly, the facts described below as set forth in the Stipulation are established by clear and convincing evidence:

1. Evelyn C. Taylor, Esq., is a New Hampshire attorney who was admitted to the New Hampshire Bar on June 3, 2008. At all times material to this proceeding, Ms. Taylor operated a law office at One Court Street, Lebanon, New Hampshire.
2. The subject disciplinary proceeding was initiated by a referral dated December 9, 2009, when a representative of the Lebanon Police

Department notified the Attorney Discipline Office that the Lebanon Police had arrested Ms. Taylor on November 25, 2009, for Driving While Intoxicated and three counts of possession of controlled drugs.

3. The details of the arrest, charges and circumstances surrounding Ms. Taylor's history and state of mind at the time of the arrest are set out in two police reports by the arresting officers and Ms. Taylor's sentencing memorandum, submitted by her attorney in the matters, George Ostler, Esq., attached to the Stipulation as Exhibits A and B.
4. On February 8, 2010, Ms. Taylor pleaded guilty in Lebanon District Court to the charge of Driving While Intoxicated, a class B misdemeanor. The complaint and disposition are attached to the Stipulation as Exhibit C.
5. On January 5, 2011, Ms. Taylor pleaded guilty to two class A misdemeanor charges of Possession of Prescription Drugs. The sentencing orders (Returns) are attached to the Stipulation as Exhibit D.
6. For the Class A misdemeanors, Ms. Taylor was sentenced to 60 days in the House of Corrections, all suspended for one year upon good behavior. Until January 5, 2012, she will be subject to serving 60 days in jail if she violates the good behavior condition of her suspended sentence.
7. Ms. Taylor has a diagnosed mental illness and was attempting to self-medicate at the time of the incident because she could not get an appointment with her doctor soon enough to obtain a valid prescription. She ordered the medication online from a foreign country.
8. Ms. Taylor now has a valid prescription for all medication and receives treatment for her mental illness. She is managing her mental illness responsibly.

Stipulation as to Facts, Violations, and Recommended Sanction at 1-2.

II. RULINGS OF LAW

The Respondent and Disciplinary Counsel have stipulated, and the Committee accepts the Stipulation, as to the Rules of Professional Conduct that were violated. The Stipulation establishes these violations by clear and convincing evidence:

Rule 8.4(b): Fitness as a Lawyer

1. Factual findings set forth above are incorporated by reference.

2. Ms. Taylor had a duty not to commit a criminal act that reflects adversely on her fitness as a lawyer.
3. Ms. Taylor breached said duty by failing to obtain prescription medication for herself through proper and legal channels, and by driving while impaired by that prescription medication.
4. By committing the aforesaid criminal acts, Ms. Taylor endangered her own safety and the safety of the community in which she operated her vehicle under the influence of drugs.
5. Ms. Taylor's poor judgment and resulting criminal conduct reflects adversely on her fitness as a lawyer. The fact that she would circumvent normal channels to obtain prescription medication and drive while impaired demonstrates a lack of judgment and a willingness to disobey the law for self-serving purposes.

Rule 8.4(a): General Rule

6. Having found the foregoing violation, there is clear and convincing evidence that Ms. Taylor's conduct, as described herein, violated N.H. R. Prof. Conduct 8.4(a).

Stipulation as to Facts, Violations and Recommended Sanction at 2-3.

III. ANALYSIS

The Committee considered the *American Bar Association's Standards for Imposing Lawyer Sanctions* (2005) ("Standards") support the Committee's conclusion. Although the Court has not adopted the *Standards* it looks to them for guidance. *Conner's Case*, 158 N.H. 299, 303 (2009). The *Standards* set forth a four part analysis for courts to consider in imposing sanctions: (a) the duty violated; (b) the lawyer's mental state; (c) the potential or actual injury caused by the lawyer's misconduct; and (d) the existence of aggravating or mitigating factors." *Id.* (quoting *Douglas' Case*, 155 N.H. 613, 621 (2007)); *Standards* § 3.0. After the baseline sanction is determined, the Court then looks to the existence of any aggravating or mitigating factors and whether they affect the baseline sanction. *Id.*

Under the first prong of the analysis, Ms. Taylor violated her duty to maintain personal

integrity. *Standard 5.12*¹. Under the second prong, Ms. Taylor's mental state was one of knowing possession of unprescribed controlled drugs, and her knowing operation of a motor vehicle on a public way while impaired. She knew or should have known that her driving while impaired put herself and others at risk. Under the third prong of the analysis, Ms. Taylor's criminal conduct reflects adversely on her fitness to practice law because she obtained prescription medication for herself through improper and illegal channels. Ms. Taylor's actions put herself and the safety of the community at risk.

The Committee considered several mitigating factors including the fact that Ms. Taylor had no prior misconduct. She lacked a dishonest or selfish motive, had personal problems, had full and free disclosure to disciplinary counsel and a cooperative attitude toward the proceedings. Ms. Taylor also suffers from chemical dependency and is under active treatment for same, and has demonstrated a meaningful and sustained period of successful rehabilitation. There are no aggravating factors

IV. SANCTION

The Respondent is suspended from the practice of law for six months. As a condition of reinstatement, Respondent shall provide an affidavit from a qualified health care provider in the successful management of the medical issues from which Respondent is currently being treated. Said affidavit shall address the status of Respondent's condition, and what further treatment or monitoring is recommended. See also Sup. Ct. R. 37(14)(f).

V. COSTS

The Respondent and Disciplinary Counsel have stipulated, and the Committee accepts the Stipulation that Ms. Taylor will pay all costs associated with the investigation and prosecution of this matter.

¹ 5.12: Suspension is generally appropriate when a lawyer knowingly engaged in criminal conduct which does not contain the elements listed in *Standard 5.11* and that seriously adversely reflects on the lawyer's fitness to practice.

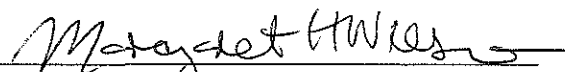
VI. CONCLUSION

For the above reasons, the Committee issues a Six Month Suspension to Evelyn C. Taylor for violating N.H. R. Prof. Conduct 8.4(b): Fitness as a Lawyer, and 8.4(a): Misconduct.

VII. RIGHT TO APPEAL

Pursuant to Supreme Court Rule 37(A)(III)(d)(2)(D)(4)(A), the parties have the right to appeal this decision to the New Hampshire Supreme Court. *See also* Supreme Court Rule 37(3)(c).

May 4, 2011


Margaret H. Nelson
Chair

Distribution:

Jennifer B. Sargent, Disciplinary Counsel
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