

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

**In re: MICHAEL R. MROZ
License No. 025.0069307**

}
}
} **Docket No. 2020-130**

Appearances:

Prosecutor: Rachel Heath, Esq.
Respondent: Did not appear

Hearing Officer: George K. Belcher

DEFAULT ORDER

Findings of Fact

1. The Respondent is licensed in Vermont as a Licensed Practical Nurse.
2. The Hearing Officer held a hearing in the above matter on February 16, 2022 pursuant to 3 VSA Sec. 129(f). The hearing was held electronically pursuant to the Notice of Hearing dated January 25, 2022. The State requested a Default because the Respondent had not responded to the charges in this case. A notice of the hearing on the default was sent to the Respondent on or about January 25, 2022, by regular mail, email, and by certified mail. As of the date of the hearing neither the email nor regular mail notices had been returned to the Office of Professional Regulation. The certified mail notice of the default hearing was returned and received at OPR on February 10, 2022 with a notation that the notice was received.
3. Specification of Charges were filed in this case on or about October 7, 2021. A copy of the Specification of Charges is attached to this order. The charges were sent to the Respondent at the address which is on file with the Office of Professional Regulation on October 7, 2021, by certified mail, email, and by regular mail.
4. No answer has been filed.
5. Under the Administrative Rules of the Officer of Professional Regulation, Rule 3.4, a default may be entered when an answer is not filed within the required time period.
6. Upon consideration of the Prosecution's presentation and taking notice of the OPR file, the Hearing Officer of the Board finds Respondent to be in Default. The allegations contained in the Specification of Charges are therefore treated as the facts on which the Board may issue an order of professional discipline. OPR Rule 3.4, 3 V.S.A. § 809(d), and 3 V.S.A. § 814(c).
7. It is specifically found that the Respondent practiced as a clinical nurse at the Battelle House which is a part of the United Counseling Service in Bennington, Vermont. During the night shift of September 2-3, 2020, and again on September 3-4, 2020, the Respondent appeared to be impaired and under the influence of substances. Although the Respondent told OPR investigators that he was "clean" of drugs since 2014, in January of 2020 the Respondent tested positive for cocaine twice in back-to-back

drug screens.

8. As indicated by the Board's file and the Prosecution's presentation, because Respondent has failed to answer the charges, the factual allegations in the Specification of Charges are treated as if proved. O.P.R. Rule 3.4. Accordingly, the Board may find, based up the finding of Default from this Default Hearing held pursuant to 3 V.S.A. §809(d), that Respondent has engaged in the unprofessional conduct alleged in the Specification of Charges. The Respondent committed unprofessional conduct by violating: 3 VSA Sec. 129a(a)(5) [Practicing the profession when medically or psychologically unfit to do so]; 3 VSA Sec. 129a(b)(1) [Failure to practice competently]; 26 VSA Sec. 1582(a)(3) [Engaging in conduct of a character likely to deceive or defraud the public]; and 3 VSA Sec. 129a(a)(15) [Failure to exercise independent judgment in the performance of licensed activities].

Proposed Order

In accordance with the above Findings of Fact and Conclusions of Law, and consistent with the recommendation by the State, the Board does ORDER that the Respondent's license be **INDEFINITELY SUSPENDED** with the following terms:

- a. Respondent must petition for reinstatement. No sooner than forty-five (45) days prior to requesting reinstatement, Respondent must, at his own cost:
- b. Obtain an independent evaluation report by a pre-approved licensed professional specializing in substance abuse treatment ("Independent Evaluator") who has verified receipt and review of the Board's Default Order, Specification of Charges, and Summary Suspension Order in the above-referenced docket number. The results of the Independent Evaluation must indicate that Respondent does not present a risk to the safety, health or welfare of Respondent's potential patients. The evaluation shall meet all Independent Evaluation Requirements and shall include any recommendations that would ensure Respondent is safe to practice. The evaluation must be submitted to the Enforcement Unit Case Manager.
- c. Submit to the Enforcement Unit Case Manager the results of a minimum of three (3) random drug and alcohol tests:
 - i. When Respondent is ready to petition for reinstatement, Respondent shall contact the Enforcement Unit Case Manager to set-up the drug and alcohol testing process and receive instructions. Once registered with the pre-approved person or entity, Respondent will have 45 days to submit a minimum of three (3) random drug and alcohol tests. The process by which Respondent learns whether he is selected to submit to a test on any given day will be governed by the policy of the pre-approved person or entity conducting the testing at that time.
 - ii. The drug and alcohol tests must be collected in an observed setting; administered by a pre-approved person or entity; and analyzed by a pre-approved lab qualified to analyze samples for forensic purposes, the results of which shall be negative.

- iii. Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any test in anyway shall cause that test to be presumed positive; and
- c. If recommended by an Independent Evaluator, enter into a treating professional agreement and substance abuse treatment plan with a pre-approved treating professional(s) and follow all recommendations. If treatment is recommended, Respondent must submit a treating professional agreement to the Enforcement Unit Case Manager before a reinstatement request will be considered.
- d. If reinstated, Respondent's license **SHALL BE CONDITIONED** pursuant to whatever terms are reasonable at the time of Respondent's reinstatement request, taking into account the independent evaluation, drug screen results, the Default Order, and any other relevant factors at that time.

Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.

The Hearing Officer reports the above findings of facts, conclusions of law, and the proposed order to the Board or Director with the recommendation that the Board or Director approve them and enter the Order as above.

Dated this 17th day of February, 2022.

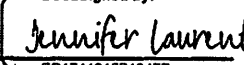

George K. Belcher
Hearing Officer of the Vermont Board of Nursing

The Vermont Board of Nursing, or the Director of the Office of Professional Regulation, considered the report of findings of fact and conclusions of law on May 9, 2022. After considering the report, the Hearing Authority takes the following action:

- / / Rejects the report and schedules the matter for hearing.
- / / Schedules the matter for additional evidence.
- / x/ Accepts the report, adopts the findings of fact and conclusions of law, and orders the recommended discipline as set forth in the proposed order above.

SO ORDERED.

Vermont Board of Nursing or Director of the Office of Professional Regulation

DocuSigned by:
By: 
Jennifer Laurent, APRN, Chair
Vermont Board of Nursing

Date: _____, 2022

OFFICE OF PROFESSIONAL REGULATION
DATE OF ENTRY: 6/16/2022

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Nursing or Director of the Office of Professional Regulation. A party aggrieved by a final decision of a board or hearing authority 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.