



**State of Vermont
Office of the Secretary of State**

Office of Professional Regulation
89 Main Street, 3rd Floor
Montpelier, VT 05620-3402
sos.vermont.gov

**James C. Condos, Secretary of State
Christopher D. Winters, Deputy Secretary
S. Lauren Hibbert, Director**

September 13, 2022

Beverly Drake
18 Pinewood Road
Montpelier, VT 05602-2146

Case: In Re Beverly Drake
Credential: License # 075.0137055
Docket No.: 2021-82

Dear Ms. Drake:

Enclosed, please find a *Default Order* in the matter captioned above. This is a final administrative determination.

If you are aggrieved by this decision, you may begin the appeal process by filing a Notice of Appeal with the Office of Professional Regulation. The notice must be received no later than 30 days from the decision's date of entry (see last page of order). Send the appeal to:

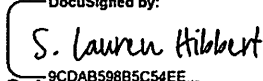
Office of Professional Regulation
Attn: S. Lauren Hibbert, Director
89 Main Street, 3rd Floor
Montpelier, VT 05620-3402

The appeal does not stop the disciplinary action from going into effect. If you wish to have the disciplinary action stayed during the appeals process, you must specifically request a stay in writing. Your request for a stay will be considered, and a decision to grant or deny your request will be issued. Please see the enclosed instructions.

If you have questions, please do not hesitate to contact the Office at (802) 828-2367.

Sincerely,

DocuSigned by:


9CDAB598B5C54EE...
S. Lauren Hibbert
Director

Enclosure: *Default Order*

cc: Michael Kupersmith, Hearing Officer
Jennifer Colin, Esq., Prosecuting Attorney
Kristin Donnelly, Case Manager
Beverly Drake, Respondent, First Class Mail, Certified Mail & Email

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

**In re: Beverly Drake
License No. 075.0137055**

Docket No. 2021-82

DEFAULT ORDER

Appearances:

Prosecuting Attorney: Jennifer B. Colin, Esq.

Respondent: Did not appear

Hearing Officer: Michael S. Kupersmith, Esq.

Introduction

The Hearing Officer conducted a default hearing in the above-entitled matter on September 6, 2022 pursuant to 3 V.S.A. § 129(f). The hearing was conducted remotely as provided in the Emergency Rules for Remote Hearings adopted by the Office of Professional Regulation (OPR). The State requested a default order because the Respondent had not responded to the Specification of Charges filed in this case. The State was represented by Jennifer B. Colin, Esq. The Respondent did not appear and was not represented by counsel.

Findings of Fact

1. The Respondent is licensed by the State of Vermont as a Registered Nurse and is therefore subject to the regulatory authority of the Board of Nursing. See 3 V.S.A. §§ 129 and 129a; 26 V.S.A. Chapter 28; the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.
2. A Specification of Charges was filed by the Prosecuting Attorney on or about July 31, 2021. On that date a copy of the Charges and Notice of Hearing was sent to the Respondent at the address which is on file with OPR by certified mail and first class mail.
3. By notice sent with the Charges, Respondent was advised that he was required to file an Answer within 20 days. See Administrative Rules of Practice 3.3. As of the default hearing, the Respondent had failed to submit an Answer.

4. On August 12, 2022, the State filed a Motion for Default. On that date the motion as well as a notice of the default hearing was sent via certified mail and first class mail to the Respondent at the address on file with OPR. As of the default hearing, no response to the Motion for Default had been received by either the Docket Clerk or the Prosecuting Attorney. Furthermore, no communication has been received by either office since the filing of the Specification of Charges.
5. Upon consideration of the State's presentation, and taking judicial notice of the OPR file in this matter, the Hearing Officer finds the Respondent to be in default. Pursuant to the Administrative Rules of Practice 3.4, the allegations made in the Specification of Charges are treated as proven and the Board may take disciplinary action based on its findings. See also 3 V.S.A. §§ 809(d) and 814(c). A copy of the Specification of Charges is appended to this Order.
6. It is specifically found that in October 2017 the Respondent was licensed as a Licensed Nursing Assistant (LNA) under the name Beverly Bouffard. On October 9, 2017, the Board approved and entered a Stipulation and Consent Order that indefinitely suspended the Respondent's LNA license for unprofessional conduct. In December 2020, OPR charged the Respondent with applying for a professional position and falsely claiming, using the name Beverly Bouffard, that she was licensed as a Licensed Practical Nurse and as a Registered Nurse. In March 2021, a default order was issued in that proceeding by the Board which revoked the Respondent's LNA license. On December 22, 2020, Respondent applied for licensure as an LNA under the name Beverly Drake. On the application the Respondent falsely denied that any disciplinary action had been taken against her professionally. Respondent also supplied a false date of birth and false social security number on the application.
7. The Prosecuting Attorney recommended that in consideration of the Respondent's history of misconduct that the Respondent's license be revoked. However, the Hearing Officer notes that this is third charge of professional misconduct filed against the Respondent and that the facts of the present charges are quite egregious. In light of the two previous orders issued by the Board, the Respondent was not entitled to be licensed as an LNA when she made application. The Hearing Officer therefore recommends that in addition to license revocation, the Board issue a civil penalty against Respondent in the amount of \$1000.00.

Conclusions of Law

Respondent has received adequate actual and/or constructive notice of the Charges in this matter as indicated by the Board's file and the Prosecutor's presentation. Because the Respondent has failed to file an Answer, the factual allegations contained in the Specification of Charge are taken as proven. Accordingly, the Board may conclude that the Respondent engaged in unprofessional conduct as alleged, to wit: (1) fraudulent procurement and use of a license, in violation of 3 V.S.A. § 129a(a)(1); (2) making a false and fraudulent statement in procurement of a license, in violation of 26 V.S.A. § 1582(a)(1); (3) willfully filing a false report in the practice of the profession, in violation of 3 V.S.A. § 192a(a)(7); fraudulent and deceitful submission of any information to the Board, in violation of 26 V.S.A. § 1582(a)(5); and (6) engaging in conduct of a character likely to deceive, defraud or harm the public in violation of 26 V.S.A. § 1582.

PROPOSED ORDER

In accordance with the Findings of Fact and Conclusions of Law set forth above, and consistent with the recommendations of the Prosecuting Attorney, the Board orders that the Respondent's license be **REVOKED**. The Board further imposes a **CIVIL PENALTY** in the amount of **\$1000.00**.

The Hearing Officer reports the above facts, conclusions of law, and finding of default to the Board with the recommendation that the Board approve them and enter the Order as above.

Dated this 8th day of September, 2022



Michael S. Kupersmith
Hearing Officer

The Board of Nursing considered the report of findings of fact and conclusions of law at its meeting on September 12, 2022. After considering the report, the Board 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,

DocuSigned by:
Jennifer Laurent
EB1741915719477
Board of Nursing
By: Jennifer Laurent, Chair

Date of Entry: 9/13/22

Appeal Rights

This is a final administrative determination by the Board of Nursing. A party aggrieved by a final decision by the Board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, 89 Main Street, 3rd floor, Montpelier, VT 05620-3402, within 30 days of the date of 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 appeal shall be conducted based on the record created before the Board. In cases of alleged irregularities in procedure before the Board not shown on the record, proof of that issue may be taken by the Appellate Officer. 3 V.S.A. §§ 129(d) and 130a. A stay of this Order may also be requested.

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

IN RE:	)	
Beverly Drake	)	Docket No. 2021-82
License No. 075.0137055	)	

MOTION FOR DEFAULT

NOW COMES the State of Vermont, by and through Prosecuting Attorney Jennifer B. Colin, and pursuant to Rule 3.3 of the Administrative Rules of Practice for the Office of Professional Regulation (“ARPOPR”), hereby moves that the Board of Nursing (the “Board”) find Respondent Beverly Drake (“Respondent”) in default for the reasons stated in the following Memorandum of Law.

MEMORANDUM OF LAW

Rule 3.3 of ARPOPR requires a respondent to file an Answer to a Specification of Charges “within 20 days of the date on which the notice of charges was mailed by the Director.” Under the Rules, if a respondent fails to file a timely Answer, a default hearing shall be conducted. ARPOPR 3.4. At the default hearing, “the allegations of the charges will be treated as proven and disciplinary action will be taken.” *Id.*

In this matter, Respondent has failed to file an Answer to the charges and is, therefore, in default. The State filed the Specification of Charges against Respondent on July 30, 2021. Respondent was notified of the charges by letter from the Docket Clerk of the Office of Professional Regulation, sent by both certified and first-class mail, on July 30, 2021. *See* ARPOPR 3.2. Respondent’s Answer was due on or before August 19, 2021. *See* ARPOPR 3.4. As of this date, Respondent has failed to submit an Answer.

WHEREFORE, in accordance with ARPOPR 3.3, et seq., the State respectfully requests that the Board schedule a default hearing and find Respondent in default.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402

DATED at Montpelier, Vermont this 11th day of August, 2022.

STATE OF VERMONT
SECRETARY OF STATE

By: _____
Jennifer B. Colin
Prosecuting Attorney
Jennifer.colin@vermont.gov
802-828-1218

STATE OF VERMONT
SECRETARY OF STATE

By: /s/
Jennifer B. Colin
Prosecuting Attorney
Jennifer.colin@vermont.gov
802-828-1218

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402

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

IN RE:	)	
BEVERLY DRAKE	)	
a.k.a. BEVERLY BOUFFARD	)	Docket No. 2021-82
License No. 075.0137055	)	

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont (the “State”) and makes the following charges against of Licensed Nursing Assistant Beverly Drake a.k.a Beverly Bouffard:

Board Authority

1. The Board has authority to issue warnings or reprimands; suspend, revoke, limit, or condition current licenses; or prevent the renewal of lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. § 129(a); 3 V.S.A. § 129a; 3 V.S.A. § 814(d); 26 V.S.A. Chapter 28; the Administrative Rules of the Board of Nursing (the “ARBN”); and the Rules of the Office of Professional Regulation (“OPR Rules”).

Statement of Facts

2. Beverly Drake a.k.a. Beverly Bouffard (“Respondent”) of Montpelier, Vermont is licensed by the State as a Licensed Nursing Assistant (“LNA”) under license number 075.0137055. This license was issued on January 7, 2021 and will expire on November 3, 2022.
3. Respondent previously held a Vermont LNA license under the name of Beverly Bouffard, license number 075.009561.
4. On April 27, 2017, in Case Number 3-1-17 Cncr, Respondent was convicted of unauthorized nursing practice, a misdemeanor violation of 3 V.S.A. § 127(c), at the Vermont Superior Court, Criminal Division, Chittenden Unit (a true and accurate copy of the case’s disposition is attached hereto as “Exhibit 1”).
5. On October 9, 2017, the Board approved and entered a Stipulation and Consent Order that indefinitely suspended Respondent’s LNA license, issued under the name of Beverly Bouffard, for unprofessional conduct involving the use of fraudulent Licensed Practical Nurse (“LPN”) and Registered Nurse (“RN”) credentials (a true and accurate copy of the Stipulation and Consent Order is attached hereto as “Exhibit 2”).
6. On or about December 9, 2020, the Vermont Office of Professional Regulation (“OPR”) charged Respondent, as Beverly Bouffard, with unprofessional conduct concerning

allegations that Respondent falsely claimed licensure as an LPN and RN under the name “Beverly Drake.”

7. As a result of the allegations outlined in Paragraph 6 above, the Board revoked Respondent’s LNA license on March 11, 2021 (a true and accurate copy of the Board Order is attached hereto as “Exhibit 3”).
8. On December 22, 2020, Respondent applied for licensure as an LNA under the name of “Beverly Drake” (hereinafter referred to as the “Application”).
9. Within the Application, Respondent answered “NO” to the question: “Has Vermont or any other state, federal authority, or other jurisdiction taken any DISCIPLINARY ACTION against (e.g., warned, reprimanded, fined, restricted, conditioned, suspended, revoked) a license, certificate, or registration that you hold or have held in any profession, occupation, or professional service?”
10. Respondent’s answer to the question outlined in Paragraph 10 above was false because Respondent’s LNA license was indefinitely suspended by the Board prior to submitting the Application. See Exhibit 2 at 6.
11. Within the Application, Respondent answered “NO” to the question: “Are you currently under INVESTIGATION or PENDING CHARGES for a professional occupational, or professional services license, certificate, or registration in any licensing jurisdiction?”
12. Respondent’s answer to the question outlined in Paragraph 11 above was false because she had pending charges with OPR prior to submitting the Application. See Exhibit 2 at 1, ¶ 2.
13. Within the Application, Respondent answered “NO” to the question: “Have you EVER been convicted of a crime other than a minor traffic violation?”
14. Respondent’s answer to the question outlined in Paragraph 4 was false because she pled guilty to misdemeanor unauthorized practice prior to submitting the Application. See Exhibit 1 at 1.
15. On the Application, Respondent also claimed that she had no unpaid judgment issued by the Criminal Division of the Vermont Superior Court for fines or penalties for a violation or criminal offense.
16. Respondent currently owes a fine of \$722.00 for the unauthorized practice conviction outlined in Paragraph 4 above. See Exhibit 1 at 2.
17. Within the Application, Respondent provided a false date of birth.
18. Respondent also inputted a false social security number when she submitted the Application.

19. As a result of the false information provided in the Application, Respondent was granted an LNA license under the name of Beverly Drake on January 7, 2021.
20. Respondent applied for a position that involved LNA duties at Mayo Healthcare, Inc., located at Northfield, Vermont (the “Facility”).
21. On January 16, 2021, Respondent started performing LNA work at the Facility.

Violation One: 3 V.S.A. § 129a(a)(1) – Fraudulent or Deceptive Procurement or Use of a License.

22. The State re-alleges and incorporates Paragraphs 2 through 21 above.
23. Under Vermont law, Respondent is prohibited from engaging in the fraudulent or deceptive procurement of a license.
24. Paragraphs 2 through 21 above demonstrate that Respondent engaged in the fraudulent or deceptive procurement or use of an LNA licensed under the name of Beverly Drake because Respondent provided false information and false answers to obtain LNA licensure and used such licensure to obtain employment at the Facility.
25. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 3 V.S.A. § 129a(a)(1).

Violation Two: 26 V.S.A. § 1582(a)(1) – Making or Causing to be Made a False, Fraudulent, or Forged Statement or Representation in Procuring or Attempting to Procure Registration or Renew a License.

26. The State re-alleges and incorporates Paragraphs 2 through 21 above.
27. Under Vermont law, Respondent is prohibited from making a false or fraudulent statement or representation in procuring registration.
28. Paragraphs 2 through 19 above demonstrate that Respondent made a false or fraudulent statement or representation in procurement of an LNA license under the name of Beverly Drake by providing a false birthdate, a false social security number, and false answers to questions within the Application.
29. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 26 V.S.A. § 1582(a)(1).

Violation Three: 3 V.S.A. § 129a(a)(7) – Willfully Making or Filing False Reports or Records in the Practice of the Profession, Willfully Impeding or Obstructing the Proper Making or Filing of Reports or Records, or Willfully Failing to File the Proper Reports or Records.

- 30. The State re-alleges and incorporates Paragraphs 2 through 21 above.
- 31. Under Vermont law, Respondent is prohibited from willfully making or filing false records in the practice of the profession
- 32. Paragraphs 2 through 21 above demonstrate that Respondent willfully made and filed false records to procure licensure as an LNA and to obtain employment at the Facility.
- 33. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 3 V.S.A. § 129a(a)(7).

Violation Four: 26 V.S.A. § 1582(a)(5) – Fraudulent or Deceitful Submission of Any Information or Records to the Board.

- 34. The State re-alleges and incorporates Paragraphs 2 through 21 above.
- 35. Under Vermont law, Respondent is prohibited from submitting fraudulent or deceitful information or records to the Board.
- 36. Paragraphs 2 through 21 above demonstrate that Respondent submitted deceitful information to the Board by providing false information and false Application answers to obtain licensure as an LNA under the name of Beverly Drake.
- 37. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 26 V.S.A. § 1582(a)(5).

Violation Five: 26 V.S.A. § 1582(a)(3) – Engaging in Conduct of a Character Likely to Deceive, Defraud, or Harm the Public.

- 38. The State re-alleges and incorporates Paragraphs 2 through 21 above.
- 39. Under Vermont law, Respondent is prohibited from engaging in conduct of a character likely to deceive, defraud, or harm the public.
- 40. Paragraphs 2 through 21 above demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public because she (i) procured an LNA license under the name of Beverly Drake by providing a false information and false answers to questions when submitting the Application; and (ii) obtained employment at the Facility after submitting false information to acquire her LNA license.

41. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 26 V.S.A. § 1582(a)(3).

Violation Six: 3 V.S.A. § 129a(a)(10) – Conviction of a Crime Related to the Practice of the Profession or Conviction of a Felony, Whether or Not Related to the Practice of the Profession.

42. The State re-alleges and incorporates Paragraphs 2 through 21 above.
43. Under Vermont law, Respondent must not be convicted of a crime that is related to the practice of the profession.
44. Paragraphs 4, 13, 14, and 16 above demonstrate that Respondent was convicted of a crime related to the practice of the profession because she pled guilty to unauthorized nursing practice.
45. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 3 V.S.A. § 129a(a)(10).

WHEREFORE, the State of Vermont respectfully requests that the Board revoke, suspend, condition, or otherwise discipline Beverly Drake's (a.k.a. Beverly Bouffard's) Licensed Nursing Assistant license.

DATED at Richmond, Vermont this 30th day of July, 2021.

STATE OF VERMONT
SECRETARY OF STATE

By: /s/ Benjamin E. Novogroski
Benjamin E. Novogroski
State Prosecuting Attorney
Office of Professional Regulation
802.828.1217
benjamin.novogroski@vermont.gov