



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

December 14, 2022

Elizabeth Hernandez
17121 SW 281 St. Street
Homestead, FL 33030-1905

Case: In Re Elizabeth Hernandez
Credential: License # 026.0141501 + 101.0134479
Docket No.: 2022-218 & 219

Dear Ms. Hernandez:

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:

S. Lauren Hibbert

9CDAB598B5C54EE

S. Lauren Hibbert
Director

Enclosure: *Default Order*

cc: George Belcher, Hearing Officer
Ultan Doyle, Esq., Prosecuting Attorney
Kristin Donnelly, Case Manager
Elizabeth Hernandez, Respondent, First Class Mail, Certified Mail & Email

 VERMONT

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

In re: ELIZABETH HERNANDEZ
License Nos. 101.0134479
026.0141501

}
}
} Docket Nos. 2022-218
} 2022-219

Appearances:

Prosecutor: Ultan Doyle, Esq.
Respondent: Did not appear

Hearing Officer: George K. Belcher

DEFAULT ORDER

Findings of Fact

1. The Respondent is licensed in Vermont as an Advanced Practice Nurse and as a Registered Nurse.
2. The Hearing Officer held a hearing in the above matter on December 7, 2022 pursuant to 3 VSA Sec. 129(f). The hearing was held electronically pursuant to the Notice of Hearing dated November 16, 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 November 16, 2022, by regular mail, email, and by certified mail. None of the notices were returned as of the date of the hearing.
3. Specification of Charges were filed in this case on or about October 12, 2022. 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 12, 2022, by certified mail, email, and by regular mail. The Certified mail notice was signed by the Respondent and was received by the Office of Professional Regulation on October 24, 2022. The other notices were not returned to the OPR office.
4. No answer has been filed.
5. Under the Administrative Rules of the Office 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 ordered Durable Medical Equipment for patients without having performed adequate assessments. The Respondent also ordered genetic testing for patients which was not medically necessary. The false,

fraudulent, and unsupported claims were submitted to Medicare. In addition, the Respondent received kickbacks and bribes from the telemedicine companies related to the false and unsupported claims.

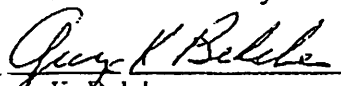
8. As indicated by the Board's file and the Prosecution's presentation, because Respondent has failed to answer the charges, the factual allegations in the Specification of Charges are treated as if proved. O.P.R. Rule 3.4. Accordingly, the Board may find, based up the finding of Default from this Default 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: 26 VSA Sec. 1615 (6) [Prescribing in response to a communication when the licensee fails to take proper action establish and maintain a proper provider-patient relationship; 3 VSA Sec. 129a(b)(1) [Failure to practice competently by performance of unacceptable patient care]; 3 VSA Sec. 129a(b)(2) [Failure to practice competently by reason of failure to conform to the essential standards of acceptable and prevailing practice]; 26 VSA Sec. 1615(a)(12) [Misrepresentation in treatments]; 3 VSA Sec. 129a(a)(15) [Failure to exercise independent professional judgment in the performance of licensed activities]; and 26 VSA Sec. 1582(a)(3) [Engaging in conduct of a character likely to deceive, defraud, or harm the public].
9. The State recommended that the Respondent's license be REVOKED.

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 REVOKED.

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 8th day of December, 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 12/12/2022. 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.
- / ☒ 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: Krystal Bernier
Krystal Bernier, APRN, Chair
Vermont Board of Nursing

Date: , 2022

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 12/14/2022

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.



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

November 16, 2022

Elizabeth Hernandez
17121 SW 281 St. Street
Homestead, FL 33030-1905

Case: In Re Elizabeth Hernandez
License: 026.0141501
Docket No.: 2022-218 & 219

NOTICE OF HEARING FOR DEFAULT JUDGMENT

The Tribunal has scheduled a hearing for default judgment to be held on:

Date: December 7, 2022
Time: 9:30 a.m.

You have received notice of the charges and have failed to answer them within 20 days as required by law. Pursuant to 3 V.S.A. Section 809(d), the tribunal is authorized to enter a default judgment, meaning the allegations will be assumed to be true, and an appropriate sanction may be issued.

This hearing will take place remotely. You can participate either online or by telephone. Please do not come to our office as it is currently closed.

To join online, go to the OPR public calendar (<https://sos.vermont.gov/opr-event-calendar>) and select the blue meeting link on the date of your hearing. Then select "Click here to join the meeting". Please see the attached Microsoft Teams Meetings Instructions for additional information about how to join your hearing remotely from the OPR public calendar.

If you wish to contest the charges you must contact the office immediately at (802) 828-2367 and show good cause for failing to answer the charges against you.

Sincerely,

/s/Julie Bowen
Docket Clerk

Enclosures: *States Request for Default & OPR Calendar Remote Hearing Participation Instructions*

cc: George Belcher, Esq., Hearing Officer
Ultan Doyle, Esq., Prosecuting Attorney
Kristin Donnelly, Case Manager
Elizabeth Hernandez, Respondent, First Class Mail, Certified Mail, Email

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

IN RE:	)	
Elizabeth Hernandez	)	Docket Nos. 2022-218
License No. 101.0134479	)	2022-219
License No. 026.0141501	)	

MOTION FOR DEFAULT

NOW COMES the State of Vermont, by and through Deputy Chief Prosecuting Attorney Ultan Doyle, 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 Elizabeth Hernandez ("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 a response to the charges and is, therefore, in default. The State filed the Specification of Charges against Respondent on October 12, 2022. 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 October 12, 2022. *See* ARPOPR 3.2. Respondent's answer was due on or before November 1, 2022. *See* ARPOPR 3.4. As of this date, Respondent has failed to submit an answer.

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Office of
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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.

DATED at Montpelier, Vermont this 14th day of November, 2022.

STATE OF VERMONT
SECRETARY OF STATE

By: Ultan Doyle
Ultan Doyle
Deputy Chief Prosecuting Attorney
Ultan.Doyle@vermont.gov

STATE OF VERMONT



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Office of
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STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

IN RE:	)	
Elizabeth Hernandez	)	Docket Nos. 2022-218
License No. 101.0134479	)	2022-219
License No. 026.0141501	)	

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following charges against Respondent Elizabeth Hernandez:

Board Authority

1. The Vermont State Board of Nursing (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; 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").

Statement of Facts

2. Elizabeth Hernandez ("Respondent") of Homestead, Florida is licensed by the State of Vermont as an Advanced Practice Registered Nurse ("APRN") under license number 101.0134479. This license was originally issued on February 5, 2020 and expires on March 31, 2023.
3. Respondent is also licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0141501. This license was originally issued on January 24, 2020 and expires on March 31, 2023.
4. On September 30, 2020, Respondent was indicted in the United States District Court for the Southern District of Florida on one felony count of Conspiracy to Commit Health Care Fraud and Wire Fraud, in violation of 18 U.S.C. § 1349; six felony counts of Health Care Fraud, in violation of 18 U.S.C. § 1347; and three felony counts of False Statements Relating to Health Care Matters, in violation of 18 U.S.C. § 1035.
5. The charges were based on allegations that Respondent, while practicing as an APRN, worked with a nurse practitioner and various telemedicine and marketing companies and signed doctors' orders for durable medical equipment (DME) and genetic testing in order to submit false and fraudulent claims to Medicare.

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6. In signing the orders for the DME, Respondent did so based solely on a brief conversation with the Medicare beneficiary and sometimes with no conversation at all, and then certified that she had personally performed an assessment of the beneficiary and verified that the DME was medically necessary.
7. Respondent also ordered genetic testing that was not medically necessary, ineligible for Medicare reimbursement, and ordered in the absence of a pre-existing practitioner-beneficiary relationship, and did so without using the test results in the treatment of beneficiaries, and without a proper telemedicine visit.
8. In signing the genetic testing orders, Respondent falsely certified in many instances that she was the Medicare beneficiary's treating physician.
9. In return for the signing the orders for the DME and genetic testing, Respondent received kickbacks and bribes from the telemedicine companies.
10. In total, Respondent submitted false and fraudulent claims totaling approximately \$1.3 million.

Violation One: 26 V.S.A. §1615(6) Providing, prescribing, dispensing, or furnishing medical services or prescription medication or prescription-only devices to a person in response to any communication transmitted or received by computer or other electronic means when the licensee fails to take the following actions to establish and maintain a proper provider-patient relationship:

- (A) a reasonable effort to verify that the person requesting medication is in fact the patient and is in fact who the person claims to be;
- (B) establishment of documented diagnosis through the use of accepted medical practices; and
- (C) maintenance of a current medical record.

11. The State re-alleges and incorporates Paragraphs 2 through 10 above.
12. As a licensed APRN, for patients she treated remotely, Respondent was required to establish a documented diagnosis through the use of accepted medical practices.
13. Paragraphs 2 through 10 above demonstrate that Respondent provided remote medical services to patients, with whom she had no prior patient relationship, without the establishment of a documented diagnosis through the use of accepted medical practices, when she prescribed them DME or ordered genetic testing for them without first examining them; had only, at most, a brief telephonic conversation with them; and failed to determine whether DME and genetic testing were medically necessary or would benefit them.

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14. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of 26 V.S.A. §1615(6).

Violation Two: 3 V.S.A. §129a(b)(1) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) Performance of unsafe or unacceptable patient or client care.

15. The State re-alleges and incorporates Paragraphs 2 through 10 above.
16. Vermont law requires APRNs to practice competently by providing safe and acceptable patient care.
17. Paragraphs 2 through 10 above demonstrate that Respondent failed to provide safe and acceptable patient care to patients, with whom she had no prior patient relationship, when she prescribed them DME or ordered genetic testing for them without first examining them; had only, at most, a brief telephonic conversation with them; and failed to determine whether DME and genetic testing were medically necessary or would benefit them.
18. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(1).

Violation Three: 3 V.S.A. §129a(b)(2) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (2) failure to conform to the essential standards of acceptable and prevailing practice.

19. The State re-alleges and incorporates Paragraphs 2 through 10 above.
20. The essential standards of acceptable and prevailing practice require that APRNs treat patients in a professional manner and conform to the essential standards of acceptable and prevailing practice.
21. Paragraphs 2 through 10 above demonstrate that Respondent failed to conform to essential standards of acceptable and prevailing practice by failing to provide safe and acceptable patient care to patients, with whom she had no prior patient relationship, when she prescribed them DME or ordered genetic testing for them without first examining them; had only, at most, a brief telephonic conversation with them; and failed to determine whether DME and genetic testing were medically necessary or would benefit them.

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22. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(2).

Violation Four: 26 V.S.A. § 1615(a)(12) Willful Misrepresentation in treatments.

23. The State re-alleges and incorporates Paragraphs 2 through 10 above.
24. Vermont law requires APRNs to refrain from making willful misrepresentation in treatments.
25. Paragraphs 2 through 10 above demonstrate that Respondent made willful misrepresentations in treatment by falsely certifying on provider orders that she had personally performed an assessment of Medicare beneficiaries and verified that the DME she was prescribing to them or the genetic testing she was ordering for them were medically necessary.
26. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct in violation of 26 V.S.A. §1615(a)(12).

Violation Five: 3 V.S.A. §129a(a)(15) Failing to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.

27. The State re-alleges and incorporates Paragraphs 2 through 10 above.
28. Vermont law requires APRNs to exercise their own independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.
29. Paragraphs 2 through 10 above demonstrate that Respondent failed to exercise independent professional judgment that was necessary to avoid action repugnant to the obligations of the profession by having, at most, only a brief telephonic conversation with patients with whom she had no prior patient relationship; failing to examine them; ordering genetic testing or DME, regardless of medical necessity; and facilitating the submission of false Medicare claims in return kickbacks and bribes.
30. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(15).

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Violation Six: 26 V.S.A. §1582(a)(3) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

31. The State re-alleges and incorporates Paragraphs 2 through 10 above.
32. As an APRN, Respondent is required to refrain from engaging in conduct of a character likely to deceive, defraud, or harm the public.
33. Paragraphs 2 through 109 demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public by having, at most, only a brief telephonic conversation with patients with whom she had no prior patient relationship; failing to examine them; ordering genetic testing or DME, regardless of medical necessity; and facilitating the submission of false Medicare claims in return kickbacks and bribes.
34. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct of a character likely to deceive, defraud, or harm the public in violation of 26 V.S.A. §1582(a)(3).

Relief Requested

WHEREFORE, Respondent's APRN and RN licenses should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED this 12th day of October, 2022.

STATE OF VERMONT
SECRETARY OF STATE

By: Ultan Doyle
Ultan Doyle
Prosecuting Attorney
(802) 828-1217
ultan.doyle@vermont.gov

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