

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

In re: HEATHER McMANIGLE
License No. 025.0134910

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}
} Docket No. 2022-230
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Participating Board Members:

Jennifer Laurent, APRN, Chair
Ginger Gillette-Kent, APRN
Thomas Harvey, RN
Jennifer Lyon, RN
Matthew Choate, RN
Kelly Sinclair, LNA
Krystal Bernier, LPN
Luana Tredwell, LPN
Deborah Belcher, Public Member

Appearances:

Prosecutor: George L. Hasselback, Esq.
Respondent: Participated in the hearing *pro se*

Presiding Officer: George K. Belcher

Exhibits: Respondent Exhibit 1: Debit from Bank Account 10/10/21

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

This matter came before the Board of Nursing as a contested hearing on April 10, 2023. The hearing was held electronically with the Attorney for the State, the Respondent, the witnesses, and the Board members all participating by telephone or via electronic means pursuant to the Office of Professional Regulation Rules for Remote Hearings.

Based on the evidence presented at the hearing and the arguments of counsel, the Vermont Nursing Board finds as follows:

1. Respondent is licensed as a Licensed Practical Nurse (LPN) in the State of Vermont. Her license is currently suspended pursuant to a prior Stipulation and Order of the Board. The Respondent 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.

2. The prosecutor filed a Specification of Charges on or about October 27, 2022, alleging one Count of unprofessional conduct. The Respondent filed a three-page answer which admitted most of the allegations in the Specification of Charges.
3. The Respondent participated in the hearing, representing herself. There were no objections to notice.
4. On July 8, 2021, the State of Vermont and the Respondent signed a Stipulation and Consent Order which was approved by the Board on July 12, 2021. Under the terms of the Order, the Respondent was required to participate in Random Drug and Alcohol Testing with a "designated entity" (which would be a testing services to administer the tests and provide analysis of the test samples). The "designated entity" was identified as First Solutions, a testing service. This was a condition which was attached to the license of the Respondent.
5. Between August of 2021 and October of 2021, the Respondent and First Solutions had a dispute about whether the Respondent had paid billings for tests which had been administered. The dispute involved lost checks, debit charges, a replacement check, a rescinded debit charge, a closed bank account, and an ultimate "30% reinstatement fee".
6. First Solutions determined that the account of the Respondent was delinquent, and that the Respondent was indebted in the basic amount of \$259.00 plus collateral charges. In the Fall of 2021, the Respondent's account with First Solutions was "suspended" and she could no longer participate with them as her testing service. The Respondent attempted to resolve the account in the months of January through March of 2022 without success.
7. The Respondent's explanation for her inability to resolve the account varied between her concern about paying the bill twice, her inability to review her own bank records (because she closed her bank account), and questions about whether she issued multiple checks for the bill and then cancelled the checks as well as a specific debit payment. The Respondent offered no credible evidence that she had in fact paid the \$259.00 charge twice or even once.
8. As of the date of the hearing, the Respondent was not in compliance with the condition of her Stipulation and Consent Order in that she has not participated in Random Drug and Alcohol Testing as required by Condition #4 of her Order dated July 12, 2021.

Conclusions of Law

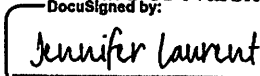
1. The evidence established that the Respondent violated: 3 VSA Sec. 129a(a)(4) [Failing to comply with an order of the Board or violating any term or condition of a license restricted by the Board.].
2. Because the license of the Respondent is already suspended and conditioned, it is not necessary for the Board to add any additional sanctions or conditions to the license of the Respondent.

Order

1. In accordance with the above Findings of Fact and Conclusions of Law, the Board does **ORDER** that all prior conditions and suspension of the Respondent's LPN license be continued according to the terms of the prior stipulations and orders.

SO ORDERED.

Vermont Board of Nursing

By: 
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Jennifer Laurent, APRN
Chair

Date: 4/12/2023

OFFICE OF PROFESSIONAL REGULATION
DATE OF ENTRY: 4/12/2023

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.