

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

**In re: Jason Russell
License No. 026.0149305**

Docket No. 2023-136/137

DEFAULT ORDER

Appearances:

Prosecuting Attorney: George L. Hasselback, 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 February 13, 2024 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 George L. Hasselback, Esq. The Respondent did not appear and was not represented by counsel.

Findings of Fact

Since the Respondent failed to file an Answer to the Specification of Charges, “the allegations of the [specification of] charges will be treated as proven and disciplinary action will be taken. . .” Rule 3.4, Vermont Administrative Rules of Practice. Accordingly, the following facts are deemed proven.

1. Jason Russell (“Respondent”) of Lyndonville, Vermont was licensed by the State of Vermont as a licensed Registered Nurse (“RN”) under license number 026.0149305. This license was originally issued on February 8, 2022 and expires on March 31, 2025.
2. On or about January 25, 2022, Respondent applied to the State of Vermont for an RN license (“the Application”).

3. As part of the Application, Respondent was asked, "Have you EVER been convicted of a criminal misdemeanor or felony in Vermont or ANY other state, federal authority, or other jurisdiction?"
4. Respondent answered "no" to this question.
5. This answer was false.
6. On or about December 15, 1995, Respondent was convicted of three (3) felonies and one (1) misdemeanor before the Leon County Court, in Leon County, Florida.
7. On or about March 5, 2019, Respondent was convicted of a misdemeanor before the Cherokee County State Court, in Cherokee County, Georgia.
8. On or about February 24, 2020, Respondent was convicted of a misdemeanor before the Cherokee County State Court, in Cherokee County, Georgia.
9. On or about November 22, 2021, Respondent was convicted of a misdemeanor before the Winder Municipal Court, in Winder, Georgia.
10. Respondent signed the Application with the following admonitions and certifications in the Attestation:

Caution to Applicant.

A false statement on this application may constitute unprofessional conduct and may be a basis for denial of a license application or discipline of a license, to include revocation. 3 V.S.A. § 129a. A person who declares, certifies, or verifies in a signed writing that a statement is true and is made under the pains and penalties of perjury, and who willfully makes a false statement in the declaration, certification, or verification, shall be guilty of perjury, a crime punishable by imprisonment not more than 15 years or a fine of not more than \$10,000.00, or both. 13 V.S.A. § 2901 & 2904(b).

Certification of Identity.

In the case of an application for individual licensure, I am the person in whose name this application is completed; or in the case of a corporate applicant, I am an authorized officer of the applicant corporation, having executive authority to complete this application and personal knowledge of and accountability for the representations herein.

Certification of Accuracy.

I understand that submission of this application represents that I have understood each question, that I have been candid and disclosed all relevant information, and that I have answered each question from sound personal knowledge, not a hunch, guess, or supposition. I understand that any failure to provide accurate information could result in a preliminary denial of my application or as a basis for unprofessional conduct charges against my license.

Certification of Truthfulness.

I hereby certify, under the pains and penalties of perjury, that the answers, entries, and representations herein are true and accurate.

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 Charges are taken as proven. Accordingly, the Board concludes that the Respondent engaged in unprofessional conduct as alleged, to wit: procured his license through fraudulent and deceptive means in violation of 3 V.S.A. § 129a(a)(1).

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 **SUSPENDED INDEFINITELY**, subject to the following conditions.

- A. Respondent must petition for reinstatement. No sooner than forty-five (45) days prior to requesting reinstatement, Respondent must, at their own cost:
1. Obtain an independent drug and alcohol [evaluation by a pre-approved licensed mental health/addiction professional with more than 10 years of relevant practice experience ("Independent Evaluator") who has verified receipt of this Order. The independent evaluator must verify that they have no personal or professional background or history with Respondent. The evaluation report shall meet the independent evaluation requirements posted on OPR's website. The results of the Independent Evaluation must indicate that Respondent is fit to practice and does not present a risk to the safety, health, or welfare of Respondent's potential patients/clients, as well as any recommendations that would ensure Respondent remains safe to practice. The evaluation must be submitted to the Enforcement Unit Case Manager.

2. If recommended by an Independent Evaluator, enter into a treating professional agreement and treatment plan with a pre-approved treating professional and follow all recommendations.
 3. Successfully complete (i.e., receive a passing score, if applicable) 12 hours of preapproved coursework on ethical reporting requirements. The coursework must be pre-approved by the Enforcement Case Manager. Respondent shall submit the certificates of completion, completed assignment book(s) and quiz results, if applicable, to the Enforcement Case Manager. The coursework may not be counted toward any continuing education requirement of licensure.
 4. Respondent's petition for reinstatement must include a detailed personal statement written by Respondent that reflects on the conduct that has given rise to the discipline, what Respondent has learned through the disciplinary process and the completed coursework, as well as a full accounting of why Respondent engaged in the conduct described above, the steps Respondent has taken to rehabilitate, why adhering to ethical practice is essential in nursing practice, and what steps and plan Respondent believes will ensure that they will not engage in such conduct in the future. Respondent shall also submit documentation and letters of support with the petition.
- B. If reinstated, Respondent's license SHALL BE CONDITIONED pursuant to whatever terms the Board finds reasonable at the time of Respondent's reinstatement request, taking into account the information in the petition for reinstatement, supporting documentation, the facts above, and any other factors else the Board deems relevant. Such conditions may include drug/alcohol testing and treatment, individual and/or group counseling, coursework, supervised practice, employer reports, limited practice setting/hours, and a restriction against holding supervisory positions.

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 13th day of February 2024

A handwritten signature in black ink, appearing to read "Michael S. Kupersmith", written over a horizontal line.

Michael S. Kupersmith
Hearing Officer

The Board of Nursing considered the report of findings of fact and conclusions of law at its meeting on March 11, 2024. 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 proposed discipline as set forth in the proposed order above.
/ / Accepts the report, adopts the findings of fact and conclusions of law, rejects the recommended sanction, and schedules the matter for additional hearing on sanctions.

SO ORDERED,

DocuSigned by:

EB1741915719477...
Board of Nursing
By: Jennifer Laurent, Chair

Date of Entry: 3/11/24

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.

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SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Jason Russell ("Respondent"):

Authority

1. The Vermont Board of Nursing ("the Board") has jurisdiction 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. Jason Russell ("Respondent") of Lyndonville, Vermont was licensed by the State of Vermont as a licensed Registered Nurse ("RN") under license number 026.0149305. This license was originally issued on February 8, 2022 and expires on March 31, 2025.
3. On or about January 25, 2022, Respondent applied to the State of Vermont for an RN license ("the Application").
4. As part of the Application, Respondent was asked, "Have you EVER been convicted of a criminal misdemeanor or felony in Vermont or ANY other state, federal authority, or other jurisdiction?"
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9. On or about February 24, 2020, Respondent was convicted of a misdemeanor before the Cherokee County State Court, in Cherokee County, Georgia.
10. On or about November 22, 2021, Respondent was convicted of a misdemeanor before the Winder Municipal Court, in Winder, Georgia.
11. Respondent signed the Application with the following admonitions and certifications in the Attestation:

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Violation One: 3 V.S.A. §129a(a)(1) Fraudulent or deceptive procurement of a license.

12. The State re-alleges and incorporates Paragraphs 2 through 11 above.
13. Vermont law prohibits fraudulent or deceptive acts in the procurement of professional licenses.
14. Paragraphs 2 through 11 demonstrate that Respondent fraudulently and/or deceptively procured a professional license by answering “no” when asked if he had ever been previously convicted of a crime, when, in fact, he had been convicted of several felonies and misdemeanor crimes in various jurisdictions at various times.
15. 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).

Relief Requested

WHEREFORE, the license of Respondent should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Vermont, this 29th day of September 2023.

STATE OF VERMONT
SECRETARY OF STATE

By:


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