

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

**IN RE: JACQUELINE MCLAREN
 LICENSE NO. 0002093265**

DOCKET NOS. 2023-80 AND 2023-81

Appearances:

Prosecutor:	George L. Hasselbeck, Esq.
Respondent:	Did not appear

Hearing Officer: Wesley M. Lawrence

ORDER ON MOTION FOR DEFAULT

Based on the evidence before me, I find as follows:

1. At all relevant times, Respondent, Jacqueline McLaren, was licensed in Virginia as a Licensed Practical Nurse with a multistate license, license number 0002093265. She does not hold a Vermont license. This matter arises out of work that Respondent performed in Vermont, namely at Maple Ridge Memory Care in Essex Junction, Vermont. Therefore, the Board has jurisdiction over this matter.
2. I held a Default Hearing in the above matter on July 19, 2023 pursuant to 3 V.S.A. §129(f) and 3 V.S.A. §809(d). This public hearing was held electronically via Microsoft Teams pursuant to a Notice of Hearing.
3. On June 27, 2023, the State moved for Respondent to be found in default because she has not responded to the Specification of Charges in this matter.
4. The State filed the Specification of Charges in this matter on May 5, 2023. Julie Bowen, the Docket Clerk for the Office of Professional Regulation, testified that she sent the Specification of Charges to Respondent on May 8, 2023 by regular mail, certified mail, and e-mail. The first class mailing was not returned as undeliverable. The e-mailed version of the Specification of Charges was not returned as undeliverable. The certified mailing was returned, as "unclaimed." I find that notice of the Specification of Charges was proper.
5. Ms. Bowen testified that she sent the Notice of Hearing for Default Judgment to the Respondent on June 27, 2023 by regular mail, certified mail, and e-mail. None of these were returned as undeliverable. I find that notice of the Default Hearing was proper.

6. Respondent has not filed an answer, has not acknowledged in any way the Specification of Charges, and did not appear for the Default Hearing in this matter.
7. 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.
8. I find Respondent to be in default based on Ms. Bowen's testimony, the State's Motion for Default, Specification of Charges, presentation of evidence, and by taking official notice of the Office of Professional Regulation file. The allegations contained in the Specification of Charges are therefore treated as the facts upon which the Board of Nursing may issue an order of professional discipline. *See* OPR Rule 3.4, 3 V.S.A. §809(d), and 3 V.S.A. §814(c).
9. I shall treat the factual allegations in the Specification of Charges as proven. *See* O.P.R. Rule 3.4.
10. I find that Respondent committed five (5) violations, as follows:
 - Violation One: 26 V.S.A. §1582(a)(3) (Engaging in conduct of a character likely to deceive, defraud, or harm the public);
 - 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);
 - 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);
 - Violation Four: 3 V.S.A. §129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession); and
 - 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).
11. The State recommended an indefinite suspension of Respondent's license.
12. I find that this is an appropriate sanction.
13. Accordingly, the Board of Nursing may find, based on the finding of Respondent's default, that Respondent's license may be sanctioned consistent with the above.

PROPOSED ORDER

Consistent with the above, and the recommendation of the State, the Board of Nursing hereby **ORDERS** that the Respondent's license, with respect to practice in Vermont, be **SUSPENDED INDEFINITELY**, and that the relevant licensing authority in Virginia be notified of this Order so that authority can take whatever actions are deemed appropriate.

Such suspension shall continue until the Respondent petitions for reinstatement and the Board reinstates their license. Should Respondent be reinstated, such reinstatement may be subject to additional conditions deemed appropriate by the Board at that time.

I hereby forward the above Proposed Order to the Board of Nursing with the recommendation that the Board approve it.

DATED at Montpelier, Vermont this 24th day of July 2023.



Wesley M. Lawrence
Hearing Officer, Vermont Board of Nursing

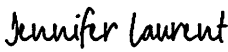
The Vermont Board of Nursing, or the Director of the Office of Professional Regulation, considered the Proposed Order and its basis, above, on August 14, 2023.

After considering the Proposed Order and its basis, above, the Board of Nursing takes the following action:

- ☐ Rejects the Hearing Officer's recommendation, and schedules the matter for hearing.
- ☐ Schedules the matter for additional evidence.
- ☒ Accepts the Hearing Officer's recommendation 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:

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Vermont Board of Nursing

OFFICE OF PROFESSIONAL REGULATION DATE OF ENTRY: 8/14/2023

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Nursing. 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, Floor 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.

**STATE OF VERMONT
SECRETARY OF STATE
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BOARD OF NURSING**

IN RE:	)	
Jacqueline McLaren	)	Docket Nos. 2023-80
License No. 026.0121276	)	2023-81

MOTION FOR DEFAULT

NOW COMES the State of Vermont, by and through Prosecuting Attorney George L. Hasselback, 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 Jacqueline McLaren (“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 May 5, 2023. 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 May 8, 2023. *See* ARPOPR 3.2. Respondent’s answer was due on or before May 28, 2023. *See* ARPOPR 3.4. As of this date, Respondent has failed to submit an answer.

STATE OF VERMONT



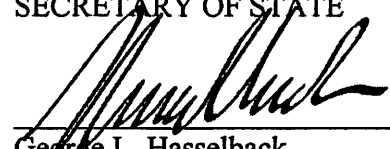
Prosecuting Attorney
Office of
Professional
Regulation 89 Main
Street
3rd Floor
Montpelier.

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 27th day of June, 2023.

STATE OF VERMONT
SECRETARY OF STATE

By: _____


George L. Hasselback
Prosecuting Attorney
George.hasselback@vermont.gov

STATE OF VERMONT



Prosecuting Attorney
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SPECIFICATION OF CHARGES

Board Authority

- ## Statement of Facts

- 1

9. The Facility initiated an investigation into whether Respondent administered medication properly as she was assigned to do.
10. As part of this investigation, employees of the Facility reviewed medication logs that indicated these patients were given their medication by Respondent on both the morning of November 16, 2022 and the morning of November 17, 2022.
11. Employees of the Facility also reviewed video surveillance recordings that showed Respondent did not withdraw these medications from the medication cart, nor enter patient rooms to administer these medications on either morning.
12. The Facility determined that Respondent did not administer medications to twenty-four (24) patients at the Facility at the morning med pass on November 16, 2022.
13. Despite this, Respondent falsified patient medical records to indicate that she had administered medication to those patients on the morning of November 16, 2022.
14. The Facility determined that Respondent did not administer medications to twenty-four (24) patients at the Facility at the morning med pass on November 17, 2022.
15. Despite this, Respondent falsified patient medical records to indicate that she had administered medication to those patients on the morning of November 17, 2022.
16. Respondent's contract with the Facility was terminated on or about November 17, 2022.

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

17. The State re-alleges and incorporates Paragraphs 2 through 16 above.
18. As an LPN, Respondent is required to refrain from engaging in conduct of a character likely to deceive, defraud, or harm the public.
19. Paragraphs 2 through 16 demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public when she did not dispense medication prescribed to patients as she was assigned to do, and falsified records to create the appearance that she had, in fact, dispensed that medication.
20. 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. § 1582(a)(3).

STATE OF VERMONT



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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.

21. The State re-alleges and incorporates Paragraphs 2 through 16 above.
22. As an LPN, Respondent must provide safe and acceptable patient care.
23. Paragraphs 2 through 16 above demonstrate that Respondent provided unsafe and unacceptable patient care by failing to administer medication to patients in conformance with the applicable prescriptions.
24. 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(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.

25. The State re-alleges and incorporates Paragraphs 2 through 16 above.
26. Under Vermont law, an LPN must practice competently by conforming to the essential standards of acceptable and prevailing practice.
27. As an LPN, Respondent is subject to the standards of acceptable care and prevailing practice, which require an LPN to keep accurate and up to date records of the distribution of medication to patients.
28. Paragraphs 2 through 16 above demonstrate that Respondent failed conform to the essential standards of acceptable and prevailing practice when Respondent failed to keep accurate and up to date records of the administration of medication to patients.
29. 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(b)(2).

Violation Four: 3 V.S.A. § 129a(a)(7) Willfully making or filing false reports or records in the practice of the profession.

30. The State re-alleges and incorporates Paragraphs 2 through 16 above.
31. Vermont law prohibits Respondent from filing false reports or records in her practice as an LPN.

STATE OF VERMONT



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32. Paragraphs 2 through 16 demonstrate that Respondent filed false reports or records in her practice as an LPN by filing medication records that indicated that patients at the Facility received medication, when, in fact, they had not.
33. 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)(7).

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.

34. The State re-alleges and incorporates Paragraphs 2 through 16 above.
35. As an LPN, Respondent is required to exercise her 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.
36. Paragraphs 2 through 16 demonstrate that Respondent failed to exercise independent professional judgment by failing to dispense medication prescribed to patients as she was assigned to do, and then falsifying records to create the appearance that she had, in fact, dispensed that medication.
37. 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).

Relief Requested

WHEREFORE, the State of Vermont respectfully requests that the Board take adverse action against Respondent's multistate licensure privilege, such as revocation, suspension, probation, or any other action that affects her authorization to practice under a multistate licensure privilege, including a cease-and-desist action.

DATED at Montpelier, Vermont this 5th day of May, 2022.

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