

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

**IN RE: EDEN NETELKOS
 LICENSE NO. 026.0123136**

DOCKET NO. 2023-98

Appearances:

Prosecutor: Ultan Doyle, 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 Eden Netelkos ("Respondent"), was licensed in Vermont as a Registered Nursing, license number 026.0123136.
2. I held a Default Hearing in the above matter on October 23, 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 September 6, 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 July 27, 2023. Julie Bowen, the Docket Clerk for the Office of Professional Regulation, testified that she sent the Specification of Charges to Respondent on July 28, 2023 by regular mail, certified mail, and e-mail. The first class mailing was not returned as undeliverable. The certified mailing receipt was returned on September 13, 2023, noted as "refused" by Respondent. I find that notice of the Specification of Charges was proper.
5. Ms. Bowen testified that she sent the Notice of Default Hearing to the Respondent on September 26, 2023 by regular mail, certified mail, and e-mail. None of these were returned as undeliverable; the Certified Mail Return Receipt was returned confirming delivery. 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 two violations, having violated 26 V.S.A. §1582(a)(3) (Engaging in conduct of a character likely to deceive, defraud, or harm the public) and 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).
11. The State recommended the following sanctions:

Indefinite Suspension. Respondent must petition for reinstatement. No sooner than forty-five (45) days prior to requesting reinstatement, Respondent must, at her own cost:

- a. Obtain an independent evaluation report by a licensed professional specializing in substance abuse treatment ("Independent Evaluator") who has been pre-approved by OPR's Case Manager, and who has verified receipt and review of the Board's Order, Specification of Charges, and Respondent's Answer to the Specification of Charges in the above-referenced docket number. The results of the Independent Evaluation must indicate that Respondent does not present a risk to the safety, health or welfare of Respondent's potential patients. If Respondent is currently in treatment, the independent evaluator should also reflect details of that in the evaluation. The evaluation shall meet all Independent Evaluation Requirements and shall include any recommendations that would ensure Respondent is safe to practice. The evaluation must be submitted to the Enforcement Unit Case Manager.
- b. Submit to the Enforcement Unit Case Manager the results of a minimum of three (3) random drug and alcohol screens:
 - i. When Respondent is ready to petition for reinstatement, Respondent shall contact the Enforcement Unit Case Manager to set-up the drug and alcohol screen process and receive instructions. Once registered with the pre-approved person or entity, Respondent will have 45 days to submit a

minimum of three (3) random drug and alcohol screens. The process by which Respondent learns whether she is selected to submit to a test on any given day will be governed by the policy of the pre-approved person or entity conducting the testing at that time.

- ii. The drug and alcohol screens must be collected in an observed setting; administered by a pre-approved person or entity; and analyzed by a pre-approved lab qualified to analyze samples for forensic purposes, the results of which shall be negative.
- iii. Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a drug and alcohol screen in any way shall cause that screen to be presumed positive; and
- c. If recommended by an Independent Evaluator, enter into a treating professional agreement and substance abuse treatment plan with a pre-approved treating professional(s) and follow all recommendations. If treatment is recommended, Respondent must submit a treating professional agreement to the Enforcement Unit Case Manager before a reinstatement request will be considered.
- d. If reinstated, Respondent's license **SHALL BE CONDITIONED** pursuant to whatever terms are reasonable at the time of Respondent's reinstatement request, taking into account the independent evaluation, drug screen results, and any other relevant factors at that time.

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 be **SUSPENDED INDEFINITELY**, and that Respondent must petition for reinstatement. Within forty-five (45) days of requesting reinstatement, Respondent must, at her own cost:

- a. Obtain an independent evaluation report by a licensed professional specializing in substance abuse treatment ("Independent Evaluator") who has been pre-approved by OPR's Case Manager, and who has verified receipt and review of the Board's Order, Specification of Charges, and Respondent's Answer to the Specification of Charges in the above-referenced docket number. The results of the Independent Evaluation must indicate that Respondent does not present a risk to the safety, health or welfare of Respondent's potential patients. If Respondent is currently in treatment, the independent evaluator should also reflect details of that in the evaluation. The evaluation shall meet all Independent Evaluation Requirements and shall include any recommendations that would ensure Respondent is safe to practice. The evaluation must be submitted to the Enforcement Unit Case Manager.
- b. Submit to the Enforcement Unit Case Manager the results of a minimum of three (3) random drug and alcohol screens:
 - i. When Respondent is ready to petition for reinstatement, Respondent shall contact the Enforcement Unit Case Manager to set-up the drug and alcohol screen process and receive instructions. Once registered with the pre-approved person or entity, Respondent will have 45 days to submit a minimum of three (3) random drug and alcohol screens. The process by which Respondent learns whether she is selected to submit to a test on any given day will be governed by the policy of the pre-approved person or entity conducting the testing at that time.
 - ii. The drug and alcohol screens must be collected in an observed setting; administered by a pre-approved person or entity; and analyzed by a pre-approved lab qualified to analyze samples for forensic purposes, the results of which shall be negative.
 - iii. Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a drug and alcohol screen in anyway shall cause that screen to be presumed positive; and
- c. If recommended by an Independent Evaluator, enter into a treating professional agreement and substance abuse treatment plan with a pre-approved treating professional(s) and follow all recommendations. If treatment is recommended, Respondent must submit a treating professional agreement to the Enforcement Unit Case Manager before a reinstatement request will be considered.

- d. If reinstated, Respondent's license **SHALL BE CONDITIONED** pursuant to whatever terms are reasonable at the time of Respondent's reinstatement request, taking into account the independent evaluation, drug screen results, and any other relevant factors at that time.

DATED at Montpelier, Vermont this 24th day of October 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 November 13, 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: 11/13/2023

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:	)	
Eden Netelkos	)	Docket No. 2023-98
License No. 026.0123136	)	

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 Eden Netelkos (“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 July 27, 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 July 28, 2023. *See* ARPOPR 3.2. Respondent’s answer was due on or before August 17, 2023. *See* ARPOPR 3.4. As of this date, Respondent has failed to submit an answer.

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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 6th day of September, 2023.

STATE OF VERMONT
SECRETARY OF STATE

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

Cc: Respondent, Eden Netelkos via Email and Regular Mail.

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IN RE:)
Eden Netelkos) **Docket No. 2023-98**
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SPECIFICATION OF CHARGES

NOW COMES the State of Vermont (the "State") and brings the following charges against Respondent Eden Netelkos as follows:

Board Authority

1. The Vermont State Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by Registered Nurses pursuant to 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").

Statement of Facts

2. Eden Netelkos ("Respondent") of Brandon, Vermont was licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0123136. This license was originally issued on August 19, 2016 and expired on March 31, 2023.
3. After a hearing on the State's Request for Summary Suspension, the Board suspended Respondent's license on July 17, 2023.
4. On or about March 9, 2023, an individual who had been visiting Respondent at her residence called Brandon Police to report that she believed that Respondent was driving while intoxicated.
5. Shortly thereafter, a Brandon Police Officer observed Respondent driving a vehicle that failed to maintain its lane of travel and pulled her over.
6. After administering field sobriety tests, the officer believed that Respondent was under the influence of drugs and arrested her.
7. A subsequent blood analysis of Respondent's blood revealed the presence of Fentanyl, Norfentanyl and Benzoylcegonine.
8. On or about May 15, 2023, Respondent was charged in Vermont Superior Court Rutland Criminal Division with one misdemeanor count of Driving Under the Influence of Drugs other than Alcohol in violation of 13 V.S.A. § 1201(a)(3).

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9. Respondent pleaded not guilty and, as of the date of this filing, Respondent's Driving Under the Influence charge remains pending.
10. On or about May 2, 2023, Respondent tried to stab her boyfriend with a screwdriver and struck him in the forehead with a pan.
11. A short time later, Respondent was taken into custody and then immediately released on court-imposed conditions of release, which included a condition that she not have contact with her boyfriend.
12. Within hours of being released, Respondent tried to stab her boyfriend and his friend with a knife and also damaged her boyfriend's repair shop and several vehicles that were parked there.
13. On or about May 2, 2023, Respondent was charged in Vermont Superior Court Rutland Criminal Division with two felony counts of First-Degree Aggravated Assault in violation of 13 V.S.A. § 1043(a)(1); one felony count of Second-Degree Domestic Assault in violation of 13 V.S.A. § 1044(a)(1)(A); one felony count of Aggravated Assault in violation of 13 V.S.A. § 1024(a)(1); one felony count of Unlawful Mischief in violation of 13 V.S.A. § 3701(a); and two misdemeanor counts of Violations of Conditions of Release in violation of 13 V.S.A. § 7559(e).
14. On or about May 22, 2023, Respondent pleaded guilty in Vermont Superior Court Rutland Criminal Division to one felony count of Aggravated Assault; two misdemeanor counts of Domestic Assault; and two misdemeanor counts of Violations of Conditions of Release.
15. Respondent received a three-year deferred sentence on the aggravated assault charge, a suspended prison sentence of 9 months to 4 years on the remaining charges, and was thereafter placed on probation.

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

16. The State re-alleges and incorporates Paragraphs 2 through 15 above.
17. As an RN, Respondent is required to refrain from engaging in conduct of a character likely to deceive, defraud, or harm the public.
18. Paragraphs 2 through 15 demonstrate that Respondent engaged in conduct of a character likely to harm the public by driving while under the influence of drugs; and by attempting to stab her boyfriend and her boyfriend's friend.
19. 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).

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Violation Two: 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.

20. The State re-alleges and incorporates Paragraphs 2 through 15 above.
21. Vermont law provides that 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, shall constitute unprofessional conduct.
22. Paragraphs 10 through 15 above demonstrate that Respondent was convicted of one felony count of aggravated assault.
23. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct by being convicted of a felony, whether or not related to the practice of the profession, in violation of 3 V.S.A. §129a(a)(10).

Relief Requested

Wherefore, the State of Vermont respectfully requests that the Board revoke, suspend, condition, or otherwise discipline Respondent's RN License.

DATED at Vermont, this 27th day of July, 2023.

STATE OF VERMONT
SECRETARY OF STATE

By: Ultan Doyle
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