

SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

In re: BOBBI DAVIS	}	
License No. 026.0091147	}	Docket No. 2024-77
	}	

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 a Registered Nurse.
2. The Hearing Officer held a hearing in the above matter on September 23, 2024, pursuant to 3 VSA Sec. 129(f). The hearing was held electronically pursuant to the Notice of Hearing. 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 September 5, 2024, by regular mail, email and by certified mail. Neither paper notice was returned as of the date of the hearing.
3. The Specification of Charges was filed in this case on or about 23 May 2024. 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 May 24, 2024, by certified mail, regular mail, and email. The certified mail green card was returned on June 7, 2024. None of the other notifications were returned.
4. No answer has been filed.
5. Under the Administrative Rules of the Officer of Professional Regulation, Rule 3.4, a default may be entered when an answer is not filed within the required time period.
6. It is specifically found that the Respondent failed to follow an order of the Vermont Board of Nursing by failure to comply with the terms of an Alternative Program Agreement.
7. 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 3 VSA Sec. 129a(a)(4) [Failing to comply with an order of the Board]

The State recommended that the Respondent's license be indefinitely suspended, and that reinstatement would be conditioned upon compliance with the standard drug and alcohol conditions. In accordance with the above Findings of Fact and Conclusions of Law, and

consistent with the recommendation by the State, the Hearing Officer does recommend to the Board that it ORDER that the Respondent's license be INDEFINELY SUSPENDED.

Proposed Order

1. The License of the Respondent is **Indefinitely Suspended** subject to the following Conditions.
2. 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 pre-approved licensed professional specializing in substance abuse treatment ("Independent Evaluator") who has verified receipt and review of the Board's Default Order, Specification of Charges, and any Summary Suspension Order 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. 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 tests:
 - i. When Respondent is ready to petition for reinstatement, Respondent shall contact the Enforcement Unit Case Manager to set-up the drug and alcohol testing 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 tests. The process by which Respondent learns whether Respondent 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 tests 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 sample for any test in anyway shall cause that test 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, the Default Order, and any other relevant factors at that time.

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 24th day of September, 2024.

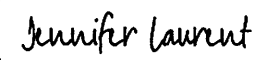

George K. Belcher
Hearing Officer of the Vermont Board of Nursing

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 10/14/2024.. 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.
- / X/ 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

By: 
Vermont Board of Nursing

Date: _____, 2024

OFFICE OF PROFESSIONAL REGULATION
DATE OF ENTRY: 10/20/24

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.



State of Vermont
Office of the Secretary of State
Office of Professional Regulation
89 Main Street, 3rd Floor
Montpelier, VT 05620-3402
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Sarah Copeland Hanzas, Secretary of State
S. Lauren Hibbert, Deputy Secretary
Kevin A. Rushing, Director

September 5, 2024

Bobbi Davis
33 Highland Ave
Randolph, VT 05060-1334

Case: In Re Bobbi Davis
License: 026.0091147
Docket No.: 2024-77

NOTICE OF HEARING FOR DEFAULT JUDGMENT

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

Date: September 23, 2024
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.

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: Michael Kupersmith, Esq., Hearing Officer
Ultan Doyle, Esq., Prosecuting Attorney
Kristin Donnelly, Case Manager
Bobbi Davis, Respondent, First Class Mail, Certified Mail, Email



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

IN RE:	)	
Bobbi Davis	)	Docket No. 2024-77
License No. 026.0091147	)	

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 Bobbi Davis (“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 23, 2024. 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 23, 2024. *See* ARPOPR 3.2. Respondent’s answer was due on or before June 13, 2024. *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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Street
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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 4th day of September, 2024.

STATE OF VERMONT
SECRETARY OF STATE

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

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State of Vermont
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Sarah Copeland Hanzas, Secretary of State
S. Lauren Hibbert, Deputy Secretary
Kevin A. Rushing, Director

May 24, 2024

Bobbi Davis
33 Highland Ave
Randolph, VT 05060-1334

Case: RE: Bobbi Davis
Credential: 026.0091147
Docket No: 2024-77

NOTICE OF SPECIFICATION OF CHARGES

The State Prosecuting Attorney has filed the enclosed *Specification of Charges* and has asked the Office of Professional Regulation to take disciplinary action against your license.

You or your attorney must file a written Answer to the charges **within 20 days** of the date of this notice. Enclosed is an Answer form as a suggested format for your response to the charges. Return your Answer to the Docket Clerk and Prosecuting Attorney at the addresses listed on the Answer form. Once your Answer has been received, a hearing will be scheduled.

If you fail to answer the charges **within 20 days**, disciplinary action may be taken against your license by default and without your input. The *Administrative Rules for the Office of Professional Regulation* are available online at <https://sos.vermont.gov/opr/>.

If you have an attorney who has filed a Notice of Appearance with this office, we will continue to send copies of all correspondence to both you and your attorney unless directed otherwise.

Sincerely,

/s/Julie Bowen
Docket Clerk

Enclosures: *Specification of Charges and Answer Form*

Cc: Ultan Doyle, Esq., Prosecuting Attorney
Kristin Donnelly, Case Manager
Bobbi Davis, Respondent, First Class Mail, Certified Mail & Email



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

IN RE:)
Bobbi J. Davis) **Docket No. 2024-77**
License No. 026.0091147)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against
Respondent, Bobbi J. Davis:

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(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.

Statement of Facts

2. Bobbi J. Davis ("Respondent") of Randolph, Vermont is licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0091147. This license was originally issued on October 30, 2012 and expires on March 31, 2025.
3. On May 13, 2024, the Board summarily suspended Respondent's license.
4. In July 2022, OPR received a complaint from a care facility in Berlin, Vermont (the "Facility") regarding suspected unprofessional conduct by a member of the Facility's nursing staff.
5. Respondent had worked at the Facility in its medical-surgical units in or around May of 2022.
6. In connection with the investigation referenced in Paragraph 3 above, Respondent agreed to be interviewed by OPR investigators. The interview took place on July 7, 2022 ("Interview").
7. In the Interview, Respondent disclosed to OPR investigators the following:
 - a. Respondent uses fentanyl "recreationally" and without a prescription;
 - b. When Respondent uses fentanyl, she snorts it;

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- c. Respondent used fentanyl in the week prior to the Interview at someone's house;
 - d. Respondent used fentanyl a couple of times close in time to the Interview;
 - e. She does not think her fentanyl use is a problem or that she is addicted;
 - f. Respondent occasionally takes Klonopin that was left over from a prescription of hers that expired over a year ago;
 - g. Respondent had a heroin addiction many years ago, during which she used multiple bags daily, which she distinguishes from her "recreational" use of fentanyl due in part to frequency of use and also because Respondent says she does not seek out fentanyl to use it.
8. When OPR investigators asked Respondent why she would get involved with using drugs now, Respondent stated, "because it's that addiction, I guess" and also stated using fentanyl reminded her of what it was like when she was young.
 9. Respondent told investigators she does not use fentanyl every day and does not use before going to work.
 10. Respondent's license is presently active and unrestricted.
 11. On April 27, 2023, based on the information Respondent provided to investigators, the State filed charges against Respondent's RN license in Docket Number 2023-75.
 12. While these charges were pending, Respondent voluntarily agreed to participate in the Vermont Board of Nursing Alternative Program to remediate the alleged unprofessional conduct.
 13. The Alternative Program protects the safety and welfare of Vermonters by permitting eligible individuals who have had professional practice deficiencies to voluntarily engage in practice remediation without being subject to formal discipline by OPR.
 14. To qualify for the Alternative Program, a licensee must agree to participate in the program and agree that a practice deficiency has occurred.
 15. On October 27, 2023, Respondent signed the Vermont Board of Nursing Alternative Program Contract ("AP Contract").
 16. In the AP Contract, Respondent admitted a practice deficiency relating to self-disclosed substance abuse during an investigation.
 17. With regard to violations of the AP Contract, the AP Contract provided as follows:

This Agreement shall have the force and effect of an Order of the Board. Material violation of the Agreement constitutes unprofessional conduct and may be a basis for the State to commence formal, public disciplinary proceedings. In such proceedings, proof of violation of the Agreement, in and of

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itself, shall be sufficient evidence of unprofessional conduct to warrant the imposition of discipline; the State need not prove the conduct described in the above Specification of Conduct.

18. On December 8, 2023, based upon Respondent's voluntary participation in and expected successful completion of the Alternative Program, the State dismissed the Specification of Charges filed in Docket Number 2023-75.
19. Within 90 days of entering into the AP Contract, Respondent was required to obtain an independent evaluation by a licensed professional specializing in substance abuse treatment ("Independent Evaluator") who had to be pre-approved by the Board.
20. Respondent failed to obtain a preapproved independent evaluation and submit it to the OPR Case Manager within 90 days of entering into the AP Contract.
21. Under the terms of the AP Contract, Respondent was required to submit to random drug and alcohol screenings and, within 14 days of entering into to the AP Contract, was required to designate a specimen collection person or entity to administer these screenings.
22. Respondent failed to designate a specimen collection person or entity to administer random drug and alcohol screenings, nor did she submit to such screenings.

Violation One: 3 V.S.A. §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.

23. The State re-alleges and incorporates Paragraphs 2 through 22 above.
24. As an RN, Respondent is required by law to comply with orders of the Board.
25. Paragraphs 2 through 22 above demonstrate that Respondent failed to comply with a Board Order by violating the AP Contract when she failed to obtain an independent evaluation within 90 days of the AP Contract; failed to submit to random drug and alcohol screenings; and, within 14 days of entering into to the AP Contract, failed to designate a specimen collection person or entity to administer these screenings.
26. 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(a)(4).

Relief Requested

WHEREFORE, the State of Vermont respectfully requests that the Board warn, reprimand, suspend, revoke, limit, condition, or otherwise discipline Respondent's Registered Nurse license.

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DATED at Vermont, this 23rd day of May, 2024.

STATE OF VERMONT
SECRETARY OF STATE

By: Ultan Doyle
Ultan Doyle
Prosecuting Attorney
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