

SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

In re: TYLER SUDBERRY	}	
License No. 075.0143604 PROV	}	Docket No. 2024-95
	}	

Appearances:

Prosecutor: George Hasselback, Esq.

Respondent: Did not appear

Hearing Officer: George K. Belcher

DEFAULT ORDER

Findings of Fact

1. The Respondent is licensed in Vermont as a Licensed Nursing Assistant (LNA) under a provisional license.
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 August 15, 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 25 June 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 June 25, 2024, by certified mail, regular mail, and email. The certified mail green card was returned on September 11, 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 accurately answer questions in his application for a nursing assistant license and violently assaulted a co-worker at the facility in which the Respondent worked.
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 26 VSA Sec. 1582(a)(1)[Making a false statement or representation in procuring a license] and 3 VSA Sec. 129a(a)(28) [Engaging in conduct of a character likely to deceive, defraud or harm the public].

The State recommended that the Respondent's license be REVOKED.

Proposed Order

1. The License of the Respondent is REVOKED.

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.

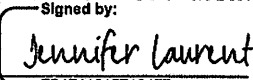

George K. Belcher
Hearing Officer of the Vermont Board of Nursing

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 October 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

Signed by:
By: 
Vermont Board of Nursing
EB1741915719477

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
sos.vermont.gov

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

August 15, 2024

Tyler Sudberry
7766 Newfound Gap Road
Memphis, TN 38125

Case: In Re Tyler Sudberry
License: License # 075.0143604PROV
Docket No.:

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
George Hasselback, Esq., Prosecuting Attorney
Kristin Donnelly, Case Manager
Tyler Sudberry, Respondent, First Class Mail, Certified Mail, Email



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

IN RE:	)	
Tyler Sudberry	)	Docket No. 2024-95
License No. 075.0143604PROV	)	

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 Tyler Sudberry (“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 June 25, 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 June 25, 2024. *See* ARPOPR 3.2. Respondent’s answer was due on or before July 14, 2024. *See* ARPOPR 3.4. As of this date, Respondent has failed to submit an answer.

STATE OF VERMONT



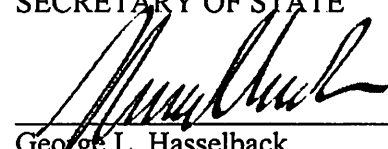
Prosecuting Attorney
Office of
Professional
Regulation 89 Main
Street
3rd Floor
Montpelier,

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 13th day of August 2024.

STATE OF VERMONT
SECRETARY OF STATE

By: _____


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

STATE OF VERMONT



Prosecuting Attorney
Office of
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Street
3rd Floor
Montpelier,



State of Vermont
Office of the Secretary of State
Office of Professional Regulation
89 Main Street, 3rd Floor
Montpelier, VT 05620-3402
sos.vermont.gov

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

June 25, 2024

Tyler Sudberry
7766 Newfound Gap Road
Memphis, TN 38125

Case: RE: Tyler Sudberry
Credential: License # 075.0143604PROV
Docket No: 2024-95

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: George Hasselback, Esq., Prosecuting Attorney
Kristin Donnelly, Case Manager
Tyler Sudberry, Respondent, First Class Mail, Certified Mail & Email



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

IN RE:)
Tyler Sudberry) **Docket No. 2024-95**
License #075.0143604PROV)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and hereby makes the following charges against Respondent Tyler Sudberry:

Board Authority

1. The Vermont State Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by licensed nursing assistants ("LNAs") 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. Tyler Sudberry ("Respondent") of Brandon, VT was licensed as an LNA under provisional license #075.013604PROV. This license was originally issued on November 22, 2023, and was rescinded on January 9, 2024.

False Statements:

3. On or about November 13, 2023, Respondent applied for a provisional license to practice as an LNA in Vermont.
4. As part of that application, Respondent was asked, "Are you currently under INVESTIGATION or PENDING CHARGES in Vermont or ANY other state, federal authority, or other jurisdiction?"
5. Respondent answered "no" to this question.
6. As part of that application, Respondent was also asked, "Are any criminal charges pending against you in Vermont or ANY other state, federal authority, or other jurisdiction?"
7. Respondent answered "no" to this question as well.
8. As part of the application, Respondent signed the application with the following admonitions and certifications in the Attestation:

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402

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.

9. The answers to these both of those questions were false, because at the time the application was signed, the admonitions given, and Respondent's attestation given, Respondent was under active investigation for an alleged assault committed in Garland, Texas in August of 2022 against a live-in girlfriend where criminal charges had been filed, a citation been issued, and an active arrest warrant been in force.

Assaulting a Coworker:

10. On or about January 5, 2024, Respondent was employed as a LNA at a skilled nursing facility located in Rutland, Vermont ("the Facility").

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Prosecuting Attorney
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11. On that date, Respondent violently attacked a co-worker in the parking lot of the Facility.
12. This co-worker was also in an intimate relationship with Respondent at the time of the attack.
13. During the attack, Respondent was witnessed by two other employees of the Facility slapping, punching, and throwing this person to the ground before pulling her by the hair into a vehicle and leaving the scene.
14. An employee of the Facility contacted emergency services and the Rutland Police Department responded to the call.
15. Respondent was stopped by Rutland Police Department near the Facility.
16. The victim of the assault was sent to the hospital for her injuries.
17. Later that day, Respondent was arrested for his role in the assault.
18. Later that day, the Facility terminated Respondent and secured a no-trespass order for the Respondent to prevent him from returning to the Facility.

Violation One: 26 V.S.A. § 1582(a)(1): Making a false statement or representation in procuring a license.

19. The State re-alleges and incorporates Paragraphs 2 through 9 above.
20. Anyone seeking a license to practice nursing in the State of Vermont is prohibited from making a false statement in the process of procuring that license.
21. Paragraphs 2 through 9 demonstrate that Respondent made a false statement on his application for a provisional LPN license when he answered “no” to questions asking if he had any pending criminal charges and/or was under criminal investigation when he was, in fact, under active investigation for allegedly assaulting a live-in girlfriend and had related criminal charges pending.
22. 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)(1).

Violation Two: 3 V.S.A. § 129a(a)(28) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

23. The State re-alleges and incorporates Paragraphs 10 through 18 above.
24. As a provisionally licensed LNA, practicing in the State of Vermont, Respondent is required to refrain from engaging in conduct of a character likely to deceive, defraud, or harm the public.

STATE OF VERMONT



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25. Paragraphs 10 through 18 demonstrate that Respondent engaged in conduct of a character likely to harm the public in that he violently assaulted a co-worker at the Facility while in the parking lot of the Facility.
26. 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)(28).

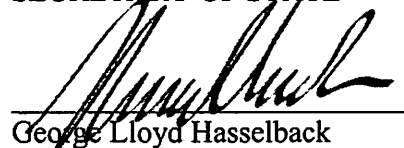
Relief Requested

WHEREFORE, the State of Vermont respectfully requests that pursuant to 26 V.S.A. § 1647c(d) the Board discipline Respondent's multistate licensure privilege to practice nursing in the State of Vermont.

DATED at Montpelier, Vermont this 25th day of June, 2024.

STATE OF VERMONT
SECRETARY OF STATE

By: _____


George Lloyd Hasselback
Prosecuting Attorney
(802)828-0350
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STATE OF VERMONT



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