

**STATE OF VERMONT
BOARD OF NURSING**

In re: Candy Ruth Ballou
License No. 025-9620

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Docket No. NU57-1108

Appearances:

Petitioner, State of Vermont: Betsy A. Wrask
Respondent: Did not appear

Presiding Officer: Larry S. Novins

DEFAULT ORDER

The Board held a hearing on the above matter on May 11, 2009 at the National Life Building in Montpelier, Vermont. Ms. Ballou did not attend and was not represented by counsel.

Findings of Fact

1. Ms. Ballou is licensed as a practical nurse and is therefore subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 26 V.S.A. § 1582(a), the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.
2. On March 4, 2009 Ms. Ballou was sent notice of Charges in this matter by certified mail to her last known address. A copy of the Specification of Charges is attached to this Default Order.
3. OPR Rule 3.3 requires that an Answer be filed within 20 days of the date on which the notice of charges was mailed by the Director.
4. Licensees are required to notify the Board of any change of address within 30 days. 3 V.S.A. § 129a(a)(14).
5. Stamps on the envelope indicate the notice of charges was "unclaimed."
6. Ms. Ballou has not filed an answer to the charges.
7. On April 27, 2009 Notice of the default hearing scheduled for May 11, 2009 was mailed to Ms. Ballou at that same address by certified mail. The file shows that the notice was returned as "moved, left no address."
8. Ms. Ballou has still not answered the charges.
9. Upon hearing the State's presentation and taking notice of its own file, the Board finds Ms. Ballou to be in Default. The allegations contained in the State's Specification of Charges are therefore treated as the facts on which the Board's Order is based. OPR Rule 3.4, 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

Conclusions of Law

Ms. Ballou has received adequate or constructive notice of the charges in this matter as

indicated by the Board's file and the State's presentation. Because Ms. Ballou has failed to answer the charges, the State's factual allegations are treated as if proved. O.P.R. Rule 3.4. Accordingly, the Board finds, in this Default Hearing held pursuant to 3 V.S.A. §809(d), that Ms. Ballou has engaged in the unprofessional conduct alleged in the State's Specification of Charges.

Order

In accordance with the above Findings of Fact and Conclusions of Law, Ms. Ballou's license is hereby **Suspended Indefinitely** effective as of the date of the hearing.

Appeal Rights

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

A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, National Life Bldg., North, FL2, 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.

To request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Nursing

By: Ellen Leff
Ellen Leff, R.N., Chair

Date: May 11, 2009

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 5/14/09

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

IN RE:

CANDY RUTH BALLOU

License No. 025-0009620

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Docket No. NU57-1108

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Candy Ruth Ballou, LPN:

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. § 1582; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Candy Ruth Ballou (the "Respondent") of Keene, New Hampshire is a licensed practical nurse holding license number 025-0009620, issued by the State of Vermont. This license was originally issued on or about September 20, 2008 and is set to expire on January 31, 2010.
3. During all relevant times, the Respondent was practicing as a licensed practical nurse at Thompson House (the "Facility") in Brattleboro, Vermont.
4. On or about November 4, 2008, the Respondent's residence was searched pursuant to a search warrant and marijuana plants were discovered along with Morphine, Clonazepam, Hydrocodone, and Celebrex.
5. A review of the Facility's Medication Administration Records indicate that the Respondent signed out Clonazepam for resident N.L. on November 1 and 2, 2008; signed out Hydrocodone for resident E.M. on November 1, 2008, resident E.K. on November 1 and 2, 2008, and resident N.S. on November 2, 2008; signed out Morphine for resident M.C. on November 1 and 2, 2008; and signed out Celebrex for residents E.S. and N.S. on November 1 and 2, 2008.
6. On or about November 6, 2008, the Respondent spoke with L.K., the Facility Director of Nursing Services, and indicated that the Morphine found in her home belonged to a friend that had a prescription for it. Regarding the other medications that were found in her home, Respondent stated that she had taken the medications home from the

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Facility by accident because, after Respondent could not find the patients who were to receive the medications, Respondent put the medications in her pocket with the intent of giving them to the patients at a later time, but must have forgotten the medications were there.

7. New Hampshire criminal complaints were served on the Respondent on or about November 19, 2008 for the felony offense of marijuana cultivation; the felony offense of possession of Morphine; the class A misdemeanor offense of marijuana possession; and the violation of possession of drug paraphernalia with intent to use.
8. On or about November 19, 2008, the Respondent was given a personal recognizance bond of \$10,000 and had several conditions of bail placed on her in respect to the above referenced matters.
9. On or about February 9, 2009, the Board summarily suspended Respondent's license.

Charges

10. 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:
 - a. 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause);
 - b. ARBN Chapter 4, Rule IV(II)(B)(1) and (2) ("Inability to practice nursing competently" includes: (1) performance of unsafe or unacceptable patient care; and (2) failure to conform to the essential standards of acceptable and prevailing nursing practice);
 - c. ARBN Chapter 4, Rule IV(II)(C) ("Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs, narcotics, chemicals or any other type of materials);
 - d. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud or harm the public) which includes diverting supplies, equipment, or drugs for personal or other unauthorized use pursuant to ARBN Chapter 4, Rule IV(II)(D)(4);
 - e. 3 V.S.A. § 129a(b)(1) and (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: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and

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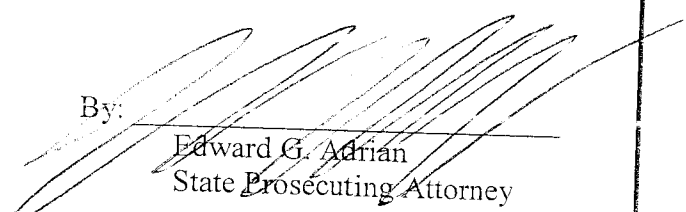
- f. 3 V.S.A. § 129a(a)(3) (Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession).

Relief Requested

WHEREFORE, the license of Candy Ruth Ballou should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 20th day of February, 2009.

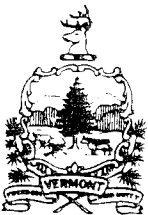
STATE OF VERMONT
SECRETARY OF STATE

By: 

Edward G. Adrian
State Prosecuting Attorney

nu.ballou.soc

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