

STATE OF VERMONT
BOARD OF NURSING

IN RE:

James H. Belluz

License No. 26-23940

)

)

)

Case File No. NU60-0598

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Introduction

The Vermont State Board of Nursing ("the Board") held a hearing in this case on Monday, January 10, 2000, at 81 River Street in Montpelier, Vermont. Board members Margaret Luce, Elayne Clift, Larry Kingsbury, Diane Dowgiewicz, Susan Farrell, Louise Lamphere, Linda Rice, Sue Cota and Louise Hamilton participated in the decision. Michael McShane, Assistant Attorney General, appeared for the State. Respondent James Belluz ("the Respondent") was not present.

The Respondent did file an answer in this case and did participate in a prehearing conference by phone. At the prehearing conference, the Respondent indicated a desire to appear by phone for the hearing before the Board. Prior to beginning the hearing, two telephone calls were made to the phone number he provided to the Office of Professional Regulation. There was no answer to either phone call. There were no messages left with the Docket Clerk or the Nursing Board regarding his failure to appear or be available by phone. The date of the hearing was determined at the prehearing conference with the consent of both parties and a notice of the hearing was mailed to the Respondent's last known address by certified mail. The hearing proceeded without the Respondent.

Findings of Fact

1. At all times relevant, Respondent was licensed as a registered nurse in the State of New York.
2. Respondent applied for licensure by endorsement in the State of Vermont on or about April 29, 1998.
3. Respondent was granted a license to practice as a registered nurse numbered 26-16989, issued by the State of Vermont.

4. On his application for licensure by endorsement, the Respondent answered "no" to the following question: Has any state or federal licensing authority restricted, suspended, revoked or taken any other disciplinary action against a license, certificate, or registration that you hold or held in any profession or occupation?
5. On or about April 24, 1996, the New York State Department of Education, Office of Professional Discipline, State Board of Nursing approved a consent order disciplining the Respondent for acts of professional misconduct.
6. As part of the consent order, the Respondent admitted guilt to one allegation of professional conduct charging that he was negligent on more than one occasion between September and December 1992.
7. As part of the consent order, Respondent agreed to pay a fine in the amount of \$500.00.
8. As part of the consent order, respondent was placed on probation for one year.
9. Respondent maintains, in his answer to the charges, that he is not now, nor was he at any time, under any fine, suspension or probation by any state board of nursing.
10. Respondent also maintains in his answer that he was unaware that the fine and probation in the state of New York would be part of his permanent record and that he had no intent to defraud.

Conclusions of Law

- A. The Board of Nursing may revoke, suspend, discipline or otherwise condition the license of a nurse who engages in unprofessional conduct upon due notice and an opportunity for a hearing if the licensee engages in unprofessional conduct as defined by 26 V.S.A. §1582.
- B. The Respondent has received due notice and an opportunity to be heard pursuant to the Administrative Procedure Act at 3 V.S.A. § 809.
- C. The question to which the false answer was given is clearly written in the past tense to include past actions, of any sort, against any state or federally granted authority to practice a profession in this country. The Board is not convinced that the Respondent made a mistake on his application in answering the question and/or did not understand what was being asked. It is disingenuous of the Respondent to claim ignorance and think that the Board would not have an interest in knowing about past discipline as a nurse in another state, especially if

that discipline took place only two years prior to his application to this State.

- D. Respondent, by engaging in the conduct described above, has engaged in unprofessional conduct by making a false statement or representation in procuring or attempting to procure a license to practice nursing, in violation of 26 V.S.A. § 1582(a)(1).

Order

In light of the above findings and conclusions, the Board hereby REPRIMANDS Respondent's license, effective as of the date of entry of this Order, below.

Appeal Rights

This is a final administrative determination by the Vermont State Board of Nursing. You may appeal by sending a notice of appeal in writing to the Director of the Office of Professional Regulation within 30 days of the date of entry of this order. If you wish to request a stay of the Board's decision, please refer to the attached stay instructions.

By: Susan Farrell
Susan Farrell, R.N.
Chair

Date: Jan. 14, 2000

OFFICE OF PROFESSIONAL REGULATION

Date of entry: 1-25-00