

**STATE OF VERMONT
BOARD OF NURSING**

In re: Robin Dufault
License No. 025-8835

}
} Docket No. 2014-32(LPN)
}

**Decision on
UNPROFESSIONAL CONDUCT CHARGE**

Participating Board Members:

Jeanine Carr, RN, Chair
Ellen Watson, APRN, Vice Chair
Alan Weiss, Public Member
William G. White, Jr., Public Member
Deborah Swartz, RN
Sheila Davis, LPN
Luana Tredwell, LPN
Jennifer Laurent, APRN
Kelly Sinclair, LNA

Appearances:

Prosecuting the case: S. Lauren Hibbert
for Ms. Dufault: pro se

Presiding Officer: Colin Benjamin

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

The Vermont Board of Nursing held a hearing in the above matter on December 8, 2014 at the Office of Professional Regulation Conference Room at the City Center in Montpelier, Vermont.

The prosecution has the burden of proof in this matter. To prevail on any unprofessional conduct charge, it must prove the charge by a preponderance of the evidence.

Background

The Specification of Charges alleges that Ms. Dufault, in violation of Vermont Statutes, worked as an LPN between August, 2013 and November, 2013 while her license was suspended.

Findings of Fact

Based on the evidence presented, the Board finds as follows:

1. Ms. Dufault holds a licensed practical nurse license. At her request it was placed on "inactive" status. She remains subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 814(d), 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 August 13, 2013 Ms. Dufault's license was suspended after a default hearing.
3. Notice of the Board's decision suspending her license was sent to Ms. Dufault at her last known address.
4. At the time, Ms. Dufault was employed as an LPN at the Northlands Job Corps in Vergennes, Vermont.
5. Ms. Dufault continued to work until while her license was suspended.
6. Ms. Dufault's family moved from her "last known address" at the end of July, 2013. She did not send a change of address to the Board of Nursing. She did make arrangements to have any mail to her forwarded. She states that some letters did arrive, but that her husband who suffers from a brain injury signed for the letters and forgot to give them to her. The Default Order states that notice of the default hearing was sent to Ms. Dufault at her last known address, but that there was no signed receipt for them.
7. Ms. Dufault's failure to provide the Board with a proper address is the cause of her failure to receive the notice of the Default Hearing and the Notice of the Default Order.

Conclusions of Law

Based on the evidence presented and Facts found above we conclude as follows:

1. **Re: Alleged Violation of 3 V.S.A. § 129a(b)(1) and (2):** The Prosecution has proved by a preponderance of the evidence that Ms. Dufault failed to practice competently. This is unprofessional conduct.
2. **Re: Alleged Violation of 3 V.S.A. § 129a(a)(4):** The Prosecution has proved by a preponderance of the evidence that Ms. Dufault failed to comply with an order of the Board or violating any term or condition of a license restricted by the Board. This is unprofessional conduct.
3. **Re: Alleged Violation of 26 V.S.A. § 129a(a)(3):** 3 V.S.A. § 129a(a)(3) defines unprofessional conduct to include failing to comply with provisions of federal or state statutes or rules governing the practice of the profession. Any allegation of failure to comply with statutes or rules has been addressed above. This statute does not provide separate/additional grounds for discipline. There is no independent violation of this statute.

Order

The Board hereby sets aside its prior decisions to default and suspend Ms. Dufault's license. In order to protect the public, health, safety and welfare, however, and consistent with the above findings and conclusions, the following sanction is necessary. Ms. Dufault's inactive license is **WARNED effective the date of this decision.**

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, Office of Professional Regulation, 89 Main Street, Fl. 3, Montpelier, Vermont 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: Jeanine Carr
Jeanine Carr, RN, Chair

Date: 12/8/14

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 12/16/14