

Montpelier, VT

**STATE OF VERMONT
BOARD OF NURSING**

In re: Robin Lee Dufault
License No. 025-8835

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Docket No. 2012-404(LPN)

Appearances:

Prosecuting the case: Gabriel Gilman
Respondent: Did not appear

Presiding Officer: Larry S. Novins

DEFAULT ORDER

The Board held a hearing on the above matter on August 12, 2013 at the Office of Professional Regulation conference room at the City Center in Montpelier, Vermont. Ms. Dufault did not attend and was not represented by counsel.

Findings of Fact

1. Ms. Dufault 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 June 21, 2013 Ms. Dufault was sent a 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. Dufault has not filed an answer to the charges.
7. On July 25, 2013 notice of the Default Hearing scheduled for this date was mailed to Ms. Dufault at that same address by certified mail. The file shows no return on this mailing.
8. Ms. Dufault has still not answered the charges.
9. Upon hearing the Prosecution's presentation and taking notice of its own file, the Board finds Ms. Dufault to be in Default. The allegations contained in the 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. Dufault has received adequate or constructive notice of the charges in this matter as

indicated by the Board's file and the Prosecution's presentation. Because Ms. Dufault has failed to answer the charges, the factual allegations in the Stipulation and Consent Order 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. Dufault has engaged in the unprofessional conduct alleged in the Specification of Charges.

Order

In accordance with the above Findings of Fact and Conclusions of Law, Ms. Dufault's license is hereby **Suspended Indefinitely**, effective as of the date of the hearing. Should Ms. Dufault apply for reinstatement, the Board at that time will determine whether any conditions can permit her to resume practice while protecting public health and safety.

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, 89 Main St., 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.

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

Vermont Board of Nursing

By:


Jeanine Carr, RN, Chair

Date: August 12, 2013

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY:

8/13/13

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

IN RE:
ROBIN LEE DUFAULT
License No. 025.0008835

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Docket No. 2012-404

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Robin Lee Dufault, 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. Robin Lee Dufault (the "Respondent") of Mineville, New York is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025.0008835. This license was originally issued on or about October 3, 2005 and expires on January 31, 2014.
3. At all times relevant, Respondent was employed as a Licensed Practical Nurse at Birchwood Terrace Healthcare (the "Facility") in Burlington, Vermont.
4. On or about May 31, 2012, Respondent was responsible for a patient on orders to remain NPO. J.J., the LPN coming on for the subsequent shift specifically asked if the patient had remained NPO. Respondent indicated, "Yes." Residents then reported that the patient had just received her morning pill. J.J. asked Respondent if this were true, and Respondent replied, "She was harassing me, what was I supposed to do?"
5. On or about June 26, 2012, Respondent was working the overnight shift. A patient Respondent was caring for, J.B., fell during the night. Respondent failed to document the fall or communicate to the day shift that J.B. had fallen. Respondent also did not immediately document an event assessment or care plan update in J.B.'s medical record. The unit manager had to contact Respondent at home to verify that the fall had occurred and to have late documentation of the event created.
6. On or about July 4 through 5, 2012, Respondent was working the overnight shift. Respondent failed to make nursing notes during the shift. At the end of her shift,

STATE OF VERMONT



Prosecuting Attorney
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National Life Building
Second Floor North
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Respondent reported to the day nurse that patient G.B. had low oxygen saturation during the night. Respondent had failed to document G.B.'s condition.

7. On the same shift, at 2330, Respondent signed out 20mg oxycontin for S.H. S.H. was prescribed 10mg every four hours and 10mg prn. Another LPN subsequently questioned Respondent, because S.H. was to receive a scheduled dose at 2030, making it impossible that 20mg would be an appropriate administration at 2330. Respondent first indicated that she gave the scheduled and PRN doses together, saying, "Yes, was I not supposed to do that?" Respondent later gave a different history, explaining that she gave the patient 10mg at 1330, followed by another 10mg at 0530. Respondent then changed the narcotic sheet to reflect two separate doses of 10mg oxycontin.
8. Respondent provided a written response to OPR Investigator Marie Beland relative to the above events and allegations. Respondent explained that the allegations were unfair because the facility was understaffed during her shift, leaving her to care for more patients than she could manage. Respondent reported that she repeatedly requested the assistance of an additional nurse on her shifts, but that she had been told to "tough it out."

Charges

9. 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. 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
 - b. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by any reason of any cause) which includes failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Rule 11.2(b)(2).

Relief Requested

WHEREFORE, the license of Robin Lee Dufault should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 21st day of June, 2013.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Gabriel M. Gilman
State Prosecuting Attorney



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