

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

In re: MATTHEW R. EVANS

License No. 025.0134180

}
}
}

Docket No. 2019-50

Appearances:

Prosecutor: Aaron Kisicki, Esq.

Respondent: Did not appear

Hearing Officer: George K. Belcher

DEFAULT ORDER

The Hearing Officer of the Vermont Board of Nursing held a hearing pursuant to 3 VSA Sec. 129(f) in the above matter on June 24, 2019 at the Office of Professional Regulation in Montpelier, Vermont. Respondent did not attend and was not represented by counsel.

Findings of Fact

1. Respondent is a Licensed Practical Nurse and is therefore subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 26 V.S.A. Chapter 28, and the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.
2. Charges were filed in this matter on April 29, 2019. The Respondent was sent a Notice of Charges in this matter by certified mail and first class mail to the address of the Respondent which was on file with the Office of Professional Regulation on April 30, 2019. The certified mail notice of charges was returned on June 7, 2019 with the notation "Return to sender Unclaimed; Unable to Forward". The ordinary mail notice was not returned. 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. On June 4, 2019 a notice was sent to the Respondent advising of the hearing before the Board to find a default and advising that, "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." This notice was mailed by certified mail and regular mail. Neither notice was returned as of the date of the hearing for default.
5. Respondent has not filed an answer to the charges, nor any communication concerning good cause for failure to answer. The Respondent did not appear at the hearing on default.
6. Upon consideration of the Prosecution's presentation and taking notice of the OPR file, the Hearing Officer of the Board finds Respondent to be in Default. The allegations

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

**In re: Matthew R. Evans
License No. 025.0134180**

Docket No. 2019-50

**DECISION ON REQUEST FOR
SUMMARY SUSPENSION ORDER**

Appearances:

Prosecuting Attorney: Aaron Kisicki, Esq.
Virginia Hudson, RN, IT member

Board of Nursing:

Ellen Watson, APRN, Chair
Krystal Bernier, LPN
Jennifer Laurent, APRN
Kelly Sinclair, LNA
Douglas Sutton, RN
Deborah Swartz, RN
Wendy Thurston, RN
Luana Tredwell, LPN

Presiding Officer: Michael S. Kupersmith, Administrative Law Officer

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This matter came before the Board of Nursing on the State's Request for Summary Suspension. The hearing was held on April 8, 2019 at the Office of the Vermont State Division of Fire Safety, 1311 U.S. Route 302, Barre, Vermont. Aaron Kisicki, Esq. represented the Office of Professional Regulation (OPR). Respondent Matthew R. Evans did not appear. The Board of Nursing has authority to summarily suspend a license pending further action if the Board determines that public health, safety or welfare imperatively requires emergency action. See 3 V.S.A. § 814(c).

Findings of Fact

Based upon the pleadings and file, and on evidence presented to the Board of Nursing at the hearing, the Board finds as follows:

1. Respondent Matthew R. Evans, who currently resides in Tunkhannock, Pennsylvania, is licensed by the State of Vermont as a Licensed Practical Nurse (LPN) under license number 025.0134180. The license first issued on February 20, 2018 and expires on

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

IN RE:)
MATTHEW R. EVANS) Docket No. 2019-50
License No. 025.0134180)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont, and makes the following charges against respondent Matthew R Evans.

Authority

1. The Vermont Board of Nursing ("Board") has authority to issue warnings or reprimands; suspend, revoke, limit, or condition current licenses; or prevent the renewal of lapsed licenses if, after preliminary hearing, the Board finds that the respondent has engaged in unprofessional conduct. 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28; the Administrative Rules of the Board of Nursing; and the Administrative Rules of Practice of the Office of Professional Regulation.

Statement of Facts

2. Matthew R. Evans ("Respondent"), of Tunkhannock, Pennsylvania, is licensed by the State of Vermont as a licensed practical nurse ("LPN") under license number 025.0134180. The license was first issued on February 20, 2018 and expires on January 31, 2020.
3. Respondent is licensed as an LPN in the State of Pennsylvania under license number PN297152.
4. On June 27, 2018, the Pennsylvania Board of Nursing ("Pennsylvania Board") issued a Memorandum Order against Respondent. *See* Memorandum Order, *Pennsylvania v. Matthew Russell Evans, LPN*, File No. 17-51-11923, Pennsylvania Board of Nursing, June 27, 2018, attached hereto as Attachment 1.

STATE OF VERMONT



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

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

IN RE:)
MATTHEW R. EVANS) Docket No. 2019 - 50
License No. 025.0134180)

REQUEST FOR SUMMARY SUSPENSION

NOW COMES the State of Vermont, by and through Prosecuting Attorney Aaron Kisicki, and petitions the Board of Nursing to summarily suspend the practical nursing license of Matthew R. Evans. In support of such petition, the State alleges the following:

Authority

1. The Vermont Board of Nursing ("Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28; the Administrative Rules of the Board of Nursing; and the Administrative Rules of Practice of the Office of Professional Regulation.
2. The Board is authorized to summarily suspend the license of a nurse when it finds that the public health, safety, or welfare imperatively requires emergency action pursuant to 3 V.S.A. § 814(c).

Statement of Facts

3. Matthew R. Evans ("Respondent") of Tunkhannock, Pennsylvania is licensed by the State of Vermont as a licensed practical nurse ("LPN") under license number 025.0134180. The license was first issued on February 20, 2018 and expires on January 31, 2020.
4. Respondent is licensed as an LPN in the State of Pennsylvania under license number PN297152.
5. On June 27, 2018, the Pennsylvania Board of Nursing ("Pennsylvania Board") issued a Memorandum Order against Respondent. *See* Memorandum Order, *Pennsylvania v. Matthew Russell Evans, LPN*, File No. 17-51-11923, Pennsylvania Board of Nursing, June 27, 2018, attached hereto as Attachment 1.

STATE OF VERMONT



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

6. The Memorandum Order includes the following findings:

On April 19, 2018, the Pennsylvania Board Probable Cause Screening Committee (“Committee”) received a petition alleging that probable cause exists that Respondent is addicted to alcohol or hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination.

On April 24, 2018, the Committee ordered Respondent to submit to a mental and physical examination.

Respondent failed to submit to the Committee-ordered mental and physical examination.

7. In the Memorandum Order, the Pennsylvania Board ordered Respondent’s license indefinitely suspended.
8. On March 5, 2019, the Pennsylvania Board issued a Notice and Order of Automatic Suspension (“Automatic Order”) against Respondent. *See* Notice and Order of Automatic Suspension, *In Re Russell Evans, LPN*, Case No. 17-51-013074, Pennsylvania Board of Nursing, March 5, 2019, attached hereto as Attachment 2.
9. The Automatic Order found that Respondent plead guilty to one misdemeanor count of possession of drug paraphernalia – a sealed cigarette wrapper containing three buprenorphine hydrochloride pills – on August 24, 2018 in the Wyoming County, Pennsylvania Court of Common Pleas (“Court”).
10. On November 7, 2018, the Court placed Respondent on probation for twelve months in response to Respondent’s guilty plea.
11. Pennsylvania law provides: “The appropriate licensing board in the Department of State shall automatically suspend, for a period not to exceed one year, the registration or license of any practitioner when the person has pleaded guilty or nolo contendere or has been convicted of a misdemeanor.” 35 P.S. §780-123(c).
12. In the Automatic Order, the Pennsylvania Board suspended Respondent’s license for one year in response to Respondent’s misdemeanor guilty plea.
13. To date, Respondent has not disclosed his conviction of his misdemeanor offense to the Office of Professional Regulation (“OPR”).
14. A Vermont professional board may “[d]iscipline any licensee or refuse to license any person who has had a license application denied or a license revoked, suspended, limited, conditioned, or otherwise disciplined by a licensing agency in another jurisdiction for conduct that would constitute unprofessional conduct in this State” pursuant to 3 V.S.A. § 129(a)(5).

STATE OF VERMONT



Prosecuting Attorney
Office of
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89 Main Street
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05620-3402

Violation One: 3 V.S.A. § 129a(a)(5) Practicing the profession when medically or psychologically unfit to do so.

15. The State re-alleges and incorporates Paragraphs 3 through 14 above.
16. As an LPN, Respondent is prohibited from practicing when medically or psychologically unfit to do so.
17. Paragraphs 3 through 14 demonstrate that Respondent practiced while probable cause existed that he was addicted alcohol or hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination, and he failed to submit to a Pennsylvania Board-ordered mental and physical examination.
18. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because Respondent has committed unprofessional conduct in violation of 3 V.S.A. § 129a(a)(5).

Violation Two: 26 V.S.A. §1582(a)(3) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

19. The State re-alleges and incorporates Paragraphs 3 through 14 above.
20. As an LPN, Respondent is required to refrain from engaging in conduct of a character likely to deceive, defraud, or harm the public.
21. Paragraphs 3 through 14 demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public.
22. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because the Respondent has committed unprofessional conduct in violation of 26 V.S.A. §1582(a)(3).

Violation Three: 3 V.S.A. §129a(a)(15) Failing to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.

23. The State re-alleges and incorporates Paragraphs 3 through 14 above.
24. As an LPN, Respondent is required to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.
25. Paragraphs 3 through 14 demonstrate that Respondent failed to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.

STATE OF VERMONT



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Office of
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05620-3402

26. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(15).

Violation Four: 3 V.S.A. §129a(a)(11) Failing to report to the Office a conviction of any felony or misdemeanor offense in a Vermont District Court, a Vermont Superior Court, a federal court, or a court outside Vermont within 30 days

27. The State re-alleges and incorporates Paragraphs 3 through 14 above.
28. Respondent is required to report a conviction of any felony or misdemeanor offense in court outside of Vermont to OPR within 30 days.
29. Paragraphs 3 through 14 above demonstrate that Respondent failed to report his conviction of a misdemeanor offense in Pennsylvania within 30 days of conviction.
30. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for summary suspension because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(11).

Relief Requested

31. Respondent is currently licensed and able to practice. Members of the public, patients, and potential patients have no way of learning of Respondent's dangerous behavior and will remain unprotected pending suspension of Respondent's license. The facts as set out above establish that in order to protect the public health, safety, or welfare of the people of the State of Vermont, emergency action is imperative.

WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. § 814(c), the Matthew R. Evans's license, number 025.0134180, be summarily suspended, pending a hearing on the merits.

DATED at Montpelier, Vermont this 2nd day of April, 2019.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Aaron Kisicki
State Prosecuting Attorney
(802) 828-1217
aaron.kisicki@sec.state.vt.us

STATE OF VERMONT



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

ATTACHMENT 1

COPY

RECEIVED

AUG 20 2018

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

Department of State

2018 JUN 27 AM 8:12

PROTHONOTARY

Commonwealth of Pennsylvania,
Bureau of Professional and
Occupational Affairs
v.
Matthew Russell Evans, LPN
Respondent

File No. 17-51-11923

MEMORANDUM ORDER

AND NOW, this 27th day of June, 2018, the State Board of Nursing (Board), upon consideration of the Motion to Enter Default and Deem Facts Admitted (Motion) filed by the Commonwealth on June 12, 2018, concerning the Commonwealth's Petition for Mental and Physical Examination (Petition) of Matthew Russell Evans, LPN (Respondent), license number PN297152, and pursuant to Section 16(a)(6) of the Practical Nurse Law (Act), Act of March 2, 1956 (P.L. 1211), as amended, 63 P.S. § 666(a)(6), and the holding of *Lencovich v. Bureau of Professional and Occupational Affairs*, 829 A.2d 1238 (Pa.Cmwlt. 2003), the Board finds that:

1. On April 19, 2018, the Commonwealth submitted a Petition to the Board's Probable Cause Screening Committee¹ (Committee) alleging that probable cause exists that Respondent is addicted to alcohol or hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination, so long as such dependence shall continue or has become mentally incompetent, and requesting that Respondent be ordered to submit to a mental and physical examination. (Paragraph 1, Motion and Exhibit A)

¹ The current members of the Board that participated on the Probable Cause Screening Committee for this matter were Suzanne M. Hendricks, BSN, RN, LPN, Sherri Luchs, RN, and Linda A. Kerns, Esquire. Other than making the initial determination to order the mental/physical examination, the members recused themselves from further consideration of this matter.

TRUE AND CORRECT COPY
CERTIFIED FROM THE RECORD
THIS 7th DAY OF Aug A.D. 2018

Linda L. O'Leary
PROTHONOTARY

2. On April 24, 2018, the Committee issued a Notice of Mental and Physical Examination (Notice) and Order compelling (Order) Respondent to submit to a mental and physical examination with M. Ralph Picciotto, MD (Dr. Picciotto), on May 31, 2018, at 5:00 p.m. (Paragraphs 2-3, Motion and Exhibit A)

3. The Commonwealth mailed the Petition, Order and Notice to Respondent via the United States Postal Service (USPS) by certified mail, return receipt requested, item # 9171 9690 0935 0158 6894 44, and by first class mail, postage prepaid, to Respondent's address on file with the Board: 227 Bridge Street, Tunkhannock, PA 18657. (Paragraph 5, Motion)

4. The certified mailing of the Petition, Order and Notice, item # 9171 9690 0935 0158 6894 44, was returned to the Commonwealth by the USPS as "unclaimed." (Paragraph 6, Motion and Exhibit B)

5. The Petition, Order and Notice mailed by first class mail to Respondent was not returned to the Commonwealth by the USPS. (Paragraph 6, Motion)

6. Respondent failed to submit to the ordered mental and physical examination with Dr. Picciotto on May 31, 2018 and has not explained his failure to attend or reschedule. (Paragraphs 8 and 10, Motion and Exhibit C)

7. The Commonwealth incurred \$350.00 in costs investigating this matter. (Paragraph 10, Motion and Exhibit C)

Accordingly, it appears that Respondent is in default for failing to submit to the examination, which authorizes the Board to **INDEFINITELY SUSPEND** Respondent's license to practice practical nursing subject to notice, hearing, adjudication and appeal. **The indefinite suspension will become effective unless Respondent files an Answer, specifically admitting or**

denying each allegation of each numbered paragraph of the petition/Motion to challenge the validity of the order compelling the examination or to contest the allegations of the Motion to Enter Default and Deem Facts Admitted, along with a request for a hearing, within twenty (20) days from the date of this order.

Respondent shall file his Answer and request for hearing with Prothonotary, Department of State, 2601 North Third Street, Harrisburg, PA 17110. A copy of the Answer and request for hearing shall be served on the prosecuting attorney identified below and mailed to the address set forth below. A hearing before a hearing examiner shall be scheduled within thirty (30) days of receipt of the request for a hearing and answer. Continuances will only be granted for good cause shown. If any future formal proceedings related to this matter occur, the record developed during the hearing described above may be introduced by the parties, subject to appropriate objections.

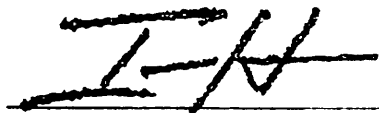
After the hearing and close of the record, the hearing examiner shall issue a proposed adjudication. Unless either party files a brief on exceptions under 1 Pa. Code § 35.211 (procedure to except to proposed report), the hearing examiner's proposed adjudication will become final under 1 Pa. Code § 35.226(3) (final orders include a proposed report upon the expiration of the time provided for an appeal to or review by the agency head without the appeal or review having been initiated). Nothing herein shall be construed as prohibiting the Commonwealth from bringing charges pursuant to provisions of the Act that the Commonwealth determines are warranted.

If a request for hearing and answer are not filed within the time period set forth above, Respondent's license will be **SUSPENDED INDEFINITELY July 17**, 2018, (20 days after the date of mailing of this order as indicated below) and Respondent will be responsible for

the costs of investigation, including those costs associated with failing to attend the mental and physical examination, and a final adjudication and order to that effect will be issued by the Board. If Respondent's license is indefinitely suspended for having failed to request a hearing and file an answer within this time frame, Respondent shall, at reasonable intervals, be afforded an opportunity to demonstrate that she can resume a competent practice of practical nursing with reasonable skill and safety to patients.

BY ORDER:

**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**



**IAN J. HARLOW
COMMISSIONER**

STATE BOARD OF NURSING



**LINDA L. KMETZ, PhD, RN
CHAIRPERSON**

Respondent:

Matthew Russell Evans, LPN
227 Bridge Street
Tunkhannock, PA 18657

Prosecuting attorney:

Jason Anderson, Esquire

Board counsel:

Megan E. Castor, Esquire

Date of Mailing:

June 27, 2018

ATTACHMENT 2

COPY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

RECEIVED

MAR 29 2019

Department of State

2019 MAR -5 AM 9:25

PROTHONOTARY

In the Matter of the Automatic
Suspension of the License to
Practice Practical Nursing of
Matthew Russell Evans, LPN
License No. PN297152

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:
:
:
:
:

Case No. 17-51-013074

NOTICE AND ORDER OF AUTOMATIC SUSPENSION

WHEREAS, the records of the State Board of Nursing (Board) reflect that Matthew Russell Evans, LPN (Respondent), is the holder of a license to practice practical nursing in the Commonwealth of Pennsylvania, license number PN297152; and

WHEREAS, the prosecuting attorney for the Commonwealth has filed a petition for automatic suspension (Attachment "A"), including copies of records certified by the Court of Common Pleas of Wyoming County, Pennsylvania, in the case of Commonwealth of Pennsylvania vs. Matthew Russell Evans, Docket No. CP-66-CR-0000104-2018, which relate that on August 24, 2018, Respondent pled guilty to one count of the possession of drug paraphernalia, namely, a sealed cigarette wrapper containing three (3) white pills, for the purpose of introducing into the human body a controlled substance, namely Buprenorphine Hydrochloride, a schedule III controlled substance, a misdemeanor, in violation of section 13(a)(32) of the Controlled Substance, Drug, Device and Cosmetic Act (Drug Act), Act of April 14, 1972, P.L. 233, No. 64, *as amended*, 35 P.S. §780-113(a)(32); and

WHEREAS, section 13(a)(32) of the Drug Act, 35 P.S. § 780-113(a)(32), provides:

(a) The following acts and the causing thereof within the Commonwealth are hereby prohibited:

(32) The use of, or possession with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing,

TRUE AND CORRECT COPY
CERTIFIED FROM THE RECORD
THIS 25th DAY OF March AD. 2019

Linda Ordson
PROTHONOTARY

processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this act.

WHEREAS, section 13(h) of the Drug Act, 35 P.S. § 780-113(h), classifies the violation of section 13(a)(32) of the Drug Act as a misdemeanor; and

WHEREAS, Section 23(c) of the Drug Act, 35 P.S. §780-123(c), provides:

(c) The appropriate licensing boards in the Department of State shall automatically suspend, for a period not to exceed one year, the registration or license of any practitioner when the person has pleaded guilty or nolo contendere or has been convicted of a misdemeanor under this act...

NOW THEREFORE, the Board concludes that the offense of which Respondent was convicted is a misdemeanor under the Drug Act, and that the license to practice practical nursing issued to Matthew Russell Evans, LPN license number PN297152, shall be **AUTOMATICALLY SUSPENDED** for a period of (1) one year, for the violation of Section 13(a)(32) of the Drug Act, 35 P.S. §§780-113(a)(32) effective immediately, under the authority of Section 23(c) of the Drug Act.

Should Respondent choose to file an answer to the petition and a request for a hearing, Respondent must do so by March 25, 2019, twenty days after the mailing date of this order. If Respondent files an answer and request for hearing, the suspension of Respondent's license shall remain in effect until a final order is issued addressing the issues raised in the answer.

Respondent may also petition for a stay of the suspension in accordance with the attached notice pertaining to personal use of controlled substances. A stay will be granted only if Respondent does not contest the fact of the conviction and meets the requirements set forth in the attached notice, as established in section 23(c) of the Drug Act, 35 P.S. §780-123(c). If Respondent files a request for a stay, Respondent's license will remain suspended.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING**

**Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs**

vs.

**Matthew Russell Evans, LPN,
Respondent**

File No.:

17-51-013074

Department of State

2019 MAR -5 AM 9:25

PROHIBITION

PETITION FOR AUTOMATIC SUSPENSION

AND NOW comes the Commonwealth of Pennsylvania, by and through its duly authorized Prosecuting Attorney, Jason Anderson, to file this Petition for Automatic Suspension and in support thereof avers the following:

1. At all times relevant and material hereto, **Matthew Russell Evans, LPN**, ("Respondent") held a license issued by the State Board of Nursing ("Board") to practice as a practical nurse in the Commonwealth of Pennsylvania, license number PN297152.
2. Respondent's license was active through June 30, 2020 and could have be renewed, reactivated or reinstated thereafter upon the filing of the appropriate documentation and payment of the necessary fees. However, pursuant to a June 27, 2018 Memorandum Order of the Board, Respondent's license was indefinitely suspended as of July 17, 2018.
3. Respondent's address on file with the Board is: 227 Bridge Street, Tunkhannock, PA 18657.
4. Respondent retains a property interest in his license until and unless it is revoked by the Board.

5. On or about January 22, 2018, a Criminal Complaint was filed in Wyoming County, PA, which charged the Respondent with one count each of: Intentional Possession of a Controlled Substance by a Person Not Registered (M), 35 P.S. § 780-113(a)(16), and Use/Possession of Drug Paraphernalia (M), 35 P.S. § 780-113(a)(32). Pursuant to the Criminal Complaint's Affidavit of Probable Cause, Respondent was arrested on October 21, 2017 for possession of three (3) Buprenorphine Hydrochloride (Suboxone) pills without a prescription. On March 27, 2018, the charges were held for court in the Wyoming County Court of Common Pleas. See Exhibit A.

6. On or about April 23, 2018, a Criminal Information was filed in which Respondent was charged with one count of Intentional Possession of a Controlled Substance by a Person Not Registered (M), 35 P.S. § 780-113(a)(16), and Use/Possession of Drug Paraphernalia (M), 35 P.S. § 780-113(a)(32), (CP-66-CR-0000104-2018). See Exhibit A.

7. Pursuant to an August 24, 2018 Guilty Plea, Respondent entered a guilty plea to one count of Use/Possession of Drug Paraphernalia (M), 35 P.S. § 780-113(a)(32). See Exhibit A.

8. Pursuant to a November 7, 2018 Order of Court, Respondent was sentenced to: 1) payment of costs, 2) payment of a \$500.00 fine, 3) a 12-month period of probation, and 4) payment of a monthly supervision fee of \$45.00 (CP-66-CR-0000104-2018). See Exhibit A.

9. A true and correct copy of the Criminal Complaint, Affidavit of Probable Cause, Criminal Information, Guilty Plea, Sentencing Order, and Criminal Docket for CP-66-CR-0000104-2018 are attached and incorporated as Exhibit "A".

10. The Controlled Substance at issue in Respondent's aforementioned criminal case was Buprenorphine Hydrochloride, which is a Schedule III Controlled Substance. In addition, the

Respondent concealed three of the Buprenorphine Hydrochloride pills in a sealed cigarette wrapper.

11. The Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act, Act of April 14, 1972, P.L. 233 as amended ("Drug Act"), 35 P.S. §§780-101 et seq., at 35 P.S. §780-113(a)(32), provides:

(a) The following acts and the causing thereof within the Commonwealth are hereby prohibited:

* * * *

(32) The use of, or possession with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this act.

35 P.S. §780-113(a)(32)

12. Therefore, the misdemeanor criminal offense of intentional possession of a controlled substance to which the Respondent entered a guilty plea and for which he was sentenced as referred to above, constitutes a prohibited act under the Controlled Substance, Drug, Device and Cosmetic Act ("Drug Act"). 35 P.S. §780-113(a)(32).

13. The Drug Act at 35 P.S. §780-123(c) provides, in pertinent part, as follows:

(c) The appropriate licensing boards in the Department of State shall automatically suspend, for a period not to exceed one year, the registration or license of any practitioner when the person has pleaded guilty or nolo contendere or has been convicted of a misdemeanor under this act....

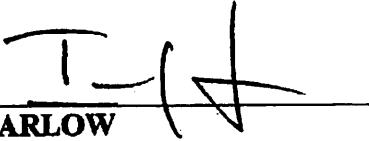
WHEREFORE, based upon the Respondent's entry of a guilty plea to misdemeanor Use/Possession of Drug Paraphernalia, 35 P.S. § 780-113(a)(32), under the Controlled Substance, Drug, Device and Cosmetic Act, the Commonwealth petitions the Board to notify Respondent that, pursuant to the Controlled Substance, Drug, Device and Cosmetics Act ("Drug

until the Board determines whether a stay of the suspension is appropriate.

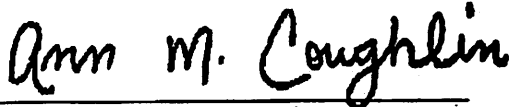
Answers to the petition, requests for hearing and petitions shall be filed with Prothonotary, Department of State, 2601 North Third Street, Harrisburg, PA 17110. A copy of any answer, request for hearing and petitions shall be served on the prosecuting attorney identified in the petition at the address set forth below.

Any hearing in connection with this matter shall be scheduled within 30 days of receipt of the request for a hearing. Continuances will only be granted for good cause.

**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**


IAN J. HARLOW
COMMISSIONER

**BY ORDER:
STATE BOARD OF NURSING**


ANN M. COUGHLIN, MBA, MSN, RN
CHAIR

Respondent's address:

Matthew Russell Evans, LPN
227 Bridge Street
Tunkhannock, PA 18657

Prosecuting attorney:

Jason Anderson, Esquire

Board counsel:

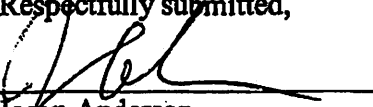
Megan E. Castor, Esquire

Date of Mailing:

March 5, 2019

Act"), an Act of April 14, 1972, P.L. 233, No. 64, as amended, 35 P.S. §780-123(c), his license to practice as a practical nurse in the Commonwealth of Pennsylvania shall be **AUTOMATICALLY SUSPENDED**, and it orders Respondent to **CEASE and DESIST** from practicing as a practical nurse in the Commonwealth of Pennsylvania and surrender his licensure documents to the Board, and for such other relief as the Board deems appropriate.

Respectfully submitted,



Jason Anderson
Prosecuting Attorney
Commonwealth of Pennsylvania
Department of State
Legal Division
2601 North Third Street
P.O. Box 69521
Harrisburg, PA 17106-9521

Dated: 07/04/19

IN THE COURT OF COMMON PLEAS OF THE 44TH JUDICIAL DISTRICT
WYOMING COUNTY BRANCH - CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

VS.

MATTHEW RUSSELL EVANS, Defendant

NO. CR-2018-104

ORDER OF COURT

AND NOW, this 7th day of November, 2018, in lieu of sentence, the Defendant, Matthew Russell Evans, is placed on probation under the supervision of the Probation Department of this Court for a period of twelve (12) months from and after this date on the following terms and conditions:

1. The Defendant shall behave himself well and abide by the rules and regulations pertaining to his conduct as shall be determined by the Probation Department.
2. The Defendant shall abstain from the use of alcohol, non-prescription controlled substances and mind-altering substances, and shall submit himself for random testing to determine the presence of such substances in his body, the same to be at the Defendant's own expense.
3. The Defendant shall not enter any establishment licensed to serve alcoholic beverages unless prior approval is obtained from the Probation Department of this Court.
4. The Defendant shall obtain a full drug and alcohol evaluation and shall follow any and all recommended treatment plans until satisfactorily discharged.

Certified from the records of the
Prothonotary in and for the
County of Wyoming, State of Pennsylvania

This 29 Day of

Nov 2019

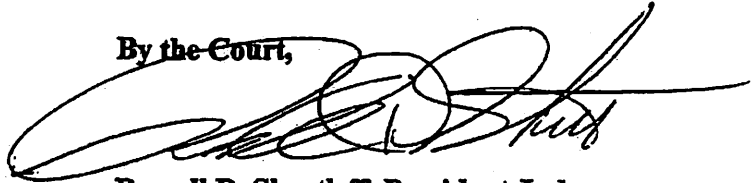
Prothonotary

2018 NOV -8 P 2:58

PROTHONOTARY
WYOMING COUNTY, PA

5. The Defendant shall pay the costs of prosecution, pay a fine in the amount of \$500.00 and a monthly supervision fee in the amount of \$45.00, the same to be in such installments as shall be deemed feasible by the Probation Department.

By the Court,

A handwritten signature in black ink, appearing to read 'Russell D. Shurtleff', written over a horizontal line.

Russell D. Shurtleff, President Judge

11-8-18 (SK)

District Attorney B
Timothy Michaels, Esquire B
Adult Probation B

ATTACHMENT A

IN THE COURT OF COMMON PLEAS OF THE 44TH JUDICIAL DISTRICT
WYOMING COUNTY - CRIMINAL BRANCH

COMMONWEALTH OF PENNSYLVANIA

vs

Matthew Evans,

DEFENDANT

No. CR-104-2018

GUILTY PLEA

AND NOW, August 24, 2018, comes the Defendant, being arraigned, and
pleads Guilty to:

Possession of Drug Paraphernalia 35 Pa. C.S.A. 113(a)32 M

The Defendant enters this plea knowingly, intelligently and voluntarily.


Defendant


Attorney for Defendant

5

INFORMATION

COMMONWEALTH OF PENNSYLVANIA

VS.

MATTHEW RUSSELL EVANS

Defendant

**: IN THE COURT OF COMMON PLEAS OF
: WYOMING COUNTY, PENNSYLVANIA
: CRIMINAL DIVISION**

: NO. CR-0104-2018

: OTN: X 135230-4

The District Attorney of Wyoming County, Commonwealth of Pennsylvania, by this Information, presents that on or about Saturday, the 21st day of October, 2017, in Wyoming County, the defendant, Matthew Russell Evans, did:

COUNT 1 - POSSESSION OF CONTROLLED SUBSTANCE - 35 Pa. C.S.A. 113(a)16 - (M)

knowingly and intentionally possess a controlled or counterfeit substance, while not registered, licensed, or authorized pursuant to the Controlled Substance, Drug, Device and Cosmetic Act, to wit, the defendant did knowingly and intentionally possess three (3) Buprenorphine Hydrochloride tablets while not being registered, licensed, or authorized by the appropriate State Board;

COUNT 2 - POSSESSION OF DRUG PARAPHERNALIA - 35 Pa. C.S.A. 113(a)32 - (M)

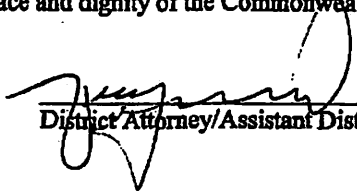
use, or possessed with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance in violation of the Controlled Substance, Drug, Device and Cosmetic Act, to wit, the defendant did possess a sealed cigarette wrapper containing three (3) while pills for the purpose of introducing into the human body a controlled substance, namely, Buprenorphine Hydrochloride;

Citation of Statute
and Section:

35 Pa. C.S.A. 113(a)16

35 Pa. C.S.A. 113(a)32

All of which is against the Act of Assembly and the peace and dignity of the Commonwealth of Pennsylvania.


District Attorney/Assistant District Attorney

FILED
PROTHONOTARY
WYOMING COUNTY, PA
2018 APR 23 A 11:01

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APR 02 2019
Secretary of State
Professional Regulation

5. The Memorandum Order includes the following findings:

On April 19, 2018, the Pennsylvania Board Probable Cause Screening Committee (“Committee”) received a petition alleging that probable cause exists that Respondent is addicted to alcohol or hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination.

On April 24, 2018, the Committee ordered Respondent to submit to a mental and physical examination.

Respondent failed to submit to the Committee-ordered mental and physical examination.

6. In the Memorandum Order, the Pennsylvania Board ordered Respondent’s license indefinitely suspended.
7. On March 5, 2019, the Pennsylvania Board issued a Notice and Order of Automatic Suspension (“Automatic Order”) against Respondent. *See* Notice and Order of Automatic Suspension, *In Re Russell Evans, LPN*, Case No. 17-51-013074, Pennsylvania Board of Nursing, March 5, 2019, attached hereto as Attachment 2.
8. The Automatic Order found that Respondent plead guilty to one misdemeanor count of possession of drug paraphernalia – a sealed cigarette wrapper containing three buprenorphine hydrochloride pills – on August 24, 2018 in the Wyoming County, Pennsylvania Court of Common Pleas (“Court”).
9. On November 7, 2018, the Court placed Respondent on probation for twelve months in response to Respondent’s guilty plea.
10. Respondent’s probation conditions include abstention from the use of alcohol, non-prescription controlled substances and mind-altering substances, and submission to random testing to determine the presence of such substances in his body.
11. Pennsylvania law provides: “The appropriate licensing board in the Department of State shall automatically suspend, for a period not to exceed one year, the registration or license of any practitioner when the person has pleaded guilty or nolo contendere or has been convicted of a misdemeanor.” 35 P.S. §780-123(c).
12. In the Automatic Order, the Pennsylvania Board suspended Respondent’s license for one year in response to Respondent’s misdemeanor guilty plea.
13. To date, Respondent has not disclosed his conviction of his misdemeanor offense to the Office of Professional Regulation (“OPR”).

STATE OF VERMONT



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

14. A Vermont professional board may “[d]iscipline any licensee or refuse to license any person who has had a license application denied or a license revoked, suspended, limited, conditioned, or otherwise disciplined by a licensing agency in another jurisdiction for conduct that would constitute unprofessional conduct in this State” pursuant to 3 V.S.A. § 129(a)(5).

15. On April 17, 2019, the Board entered an order summarily suspending Respondent’s license, finding that summary suspension was necessary to prevent patient harm and to protect the general integrity of the medical profession.

Violation One: 3 V.S.A. § 129a(a)(5) Practicing the profession when medically or psychologically unfit to do so.

16. The State re-alleges and incorporates Paragraphs 2 through 15 above.

17. Respondent is prohibited from practicing when medically or psychologically unfit to do so.

18. Paragraphs 2 through 15 demonstrate that Respondent practiced while probable cause existed that he was addicted alcohol or hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination, and he failed to submit to a Pennsylvania Board-ordered mental and physical examination.

19. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(5).

Violation Two: 26 V.S.A. §1582(a)(3) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

20. The State re-alleges and incorporates Paragraphs 2 through 15 above.

21. Respondent is required to refrain from engaging in conduct of a character likely to deceive, defraud, or harm the public.

22. Paragraphs 2 through 15 demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public.

23. 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 26 V.S.A. §1582(a)(3).

STATE OF VERMONT



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

Violation Three: 3 V.S.A. §129a(a)(15) Failing to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.

- 24. The State re-alleges and incorporates Paragraphs 2 through 15 above.
- 25. Respondent is required to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.
- 26. Paragraphs 2 through 15 demonstrate that Respondent failed to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.
- 27. 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 3 V.S.A. §129a(a)(15).

Violation Four: 3 V.S.A. §129a(a)(11) Failing to report to the Office a conviction of any felony or misdemeanor offense in a Vermont District Court, a Vermont Superior Court, a federal court, or a court outside Vermont within 30 days

- 28. The State re-alleges and incorporates Paragraphs 2 through 15 above.
- 29. Respondent is required to report a conviction of any felony or misdemeanor offense in court outside of Vermont to OPR within 30 days.
- 30. Paragraphs 2 through 15 above demonstrate that Respondent failed to report his conviction of a misdemeanor offense in Pennsylvania within 30 days of conviction.
- 31. 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 3 V.S.A. §129a(a)(11).

STATE OF VERMONT



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

Relief Requested

WHEREFORE, the license of Matthew R. Evans should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 29th day of April, 2019.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Aaron Kisicki
Prosecuting Attorney
(802) 828-1217
aaron.kisicki@sec.state.vt.us

STATE OF VERMONT



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

ATTACHMENT 1

COPY

RECEIVED

AUG 20 2018

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING

Department of State

2018 JUN 27 AM 8:12

PROTHONOTARY

Commonwealth of Pennsylvania,
Bureau of Professional and
Occupational Affairs

File No. 17-51-11923

v.
Matthew Russell Evans, LPN
Respondent

MEMORANDUM ORDER

AND NOW, this 27th day of June, 2018, the State Board of Nursing (Board), upon consideration of the Motion to Enter Default and Deem Facts Admitted (Motion) filed by the Commonwealth on June 12, 2018, concerning the Commonwealth's Petition for Mental and Physical Examination (Petition) of Matthew Russell Evans, LPN (Respondent), license number PN297152, and pursuant to Section 16(a)(6) of the Practical Nurse Law (Act), Act of March 2, 1956 (P.L. 1211), as amended, 63 P.S. § 666(a)(6), and the holding of *Lencovich v. Bureau of Professional and Occupational Affairs*, 829 A.2d 1238 (Pa.Cmwlt. 2003), the Board finds that:

1. On April 19, 2018, the Commonwealth submitted a Petition to the Board's Probable Cause Screening Committee¹ (Committee) alleging that probable cause exists that Respondent is addicted to alcohol or hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination, so long as such dependence shall continue or has become mentally incompetent, and requesting that Respondent be ordered to submit to a mental and physical examination. (Paragraph 1, Motion and Exhibit A)

¹ The current members of the Board that participated on the Probable Cause Screening Committee for this matter were Suzanne M. Hendricks, BSN, RN, LPN, Sherri Luchs, RN, and Linda A. Kerns, Esquire. Other than making the initial determination to order the mental/physical examination, the members recused themselves from further consideration of this matter.

TRUE AND CORRECT COPY
CERTIFIED FROM THE RECORD
THIS 7th DAY OF Aug A.D. 2018

Linda L. O'Donoghue
PROTHONOTARY 5

2. On April 24, 2018, the Committee issued a Notice of Mental and Physical Examination (Notice) and Order compelling (Order) Respondent to submit to a mental and physical examination with M. Ralph Picciotto, MD (Dr. Picciotto), on May 31, 2018, at 5:00 p.m. (Paragraphs 2-3, Motion and Exhibit A)

3. The Commonwealth mailed the Petition, Order and Notice to Respondent via the United States Postal Service (USPS) by certified mail, return receipt requested, item # 9171 9690 0935 0158 6894 44, and by first class mail, postage prepaid, to Respondent's address on file with the Board: 227 Bridge Street, Tunkhannock, PA 18657. (Paragraph 5, Motion)

4. The certified mailing of the Petition, Order and Notice, item # 9171 9690 0935 0158 6894 44, was returned to the Commonwealth by the USPS as "unclaimed." (Paragraph 6, Motion and Exhibit B)

5. The Petition, Order and Notice mailed by first class mail to Respondent was not returned to the Commonwealth by the USPS. (Paragraph 6, Motion)

6. Respondent failed to submit to the ordered mental and physical examination with Dr. Picciotto on May 31, 2018 and has not explained his failure to attend or reschedule. (Paragraphs 8 and 10, Motion and Exhibit C)

7. The Commonwealth incurred \$350.00 in costs investigating this matter. (Paragraph 10, Motion and Exhibit C)

Accordingly, it appears that Respondent is in default for failing to submit to the examination, which authorizes the Board to **INDEFINITELY SUSPEND** Respondent's license to practice practical nursing subject to notice, hearing, adjudication and appeal. The indefinite suspension will become effective unless Respondent files an Answer, specifically admitting or

denying each allegation of each numbered paragraph of the petition/Motion to challenge the validity of the order compelling the examination or to contest the allegations of the Motion to Enter Default and Deem Facts Admitted, along with a request for a hearing, within twenty (20) days from the date of this order.

Respondent shall file his Answer and request for hearing with Prothonotary, Department of State, 2601 North Third Street, Harrisburg, PA 17110. A copy of the Answer and request for hearing shall be served on the prosecuting attorney identified below and mailed to the address set forth below. A hearing before a hearing examiner shall be scheduled within thirty (30) days of receipt of the request for a hearing and answer. Continuances will only be granted for good cause shown. If any future formal proceedings related to this matter occur, the record developed during the hearing described above may be introduced by the parties, subject to appropriate objections.

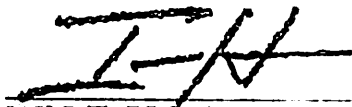
After the hearing and close of the record, the hearing examiner shall issue a proposed adjudication. Unless either party files a brief on exceptions under 1 Pa. Code § 35.211 (procedure to except to proposed report), the hearing examiner's proposed adjudication will become final under 1 Pa. Code § 35.226(3) (final orders include a proposed report upon the expiration of the time provided for an appeal to or review by the agency head without the appeal or review having been initiated). Nothing herein shall be construed as prohibiting the Commonwealth from bringing charges pursuant to provisions of the Act that the Commonwealth determines are warranted.

If a request for hearing and answer are not filed within the time period set forth above, Respondent's license will be **SUSPENDED INDEFINITELY July 17, 2018**, (20 days after the date of mailing of this order as indicated below) and Respondent will be responsible for

the costs of investigation, including those costs associated with failing to attend the mental and physical examination, and a final adjudication and order to that effect will be issued by the Board. If Respondent's license is indefinitely suspended for having failed to request a hearing and file an answer within this time frame, Respondent shall, at reasonable intervals, be afforded an opportunity to demonstrate that she can resume a competent practice of practical nursing with reasonable skill and safety to patients.

BY ORDER:

**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**



**IAN J. HARLOW
COMMISSIONER**

STATE BOARD OF NURSING



**LINDA L. KMETZ, PhD, RN
CHAIRPERSON**

Respondent:

Matthew Russell Evans, LPN
227 Bridge Street
Tunkhannock, PA 18657

Prosecuting attorney:

Jason Anderson, Esquire

Board counsel:

Megan E. Castor, Esquire

Date of Mailing:

June 27, 2018

ATTACHMENT 2

COPY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
PROFESSIONAL REGULATION
BEFORE THE STATE BOARD OF NURSING

RECEIVED

MAR 29 2019

DEPT. OF STATE

2019 MAR -5 AM 9:25

PROTHONOTARY

In the Matter of the Automatic
Suspension of the License to
Practice Practical Nursing of
Matthew Russell Evans, LPN
License No. PN297152

Case No. 17-51-013074

NOTICE AND ORDER OF AUTOMATIC SUSPENSION

WHEREAS, the records of the State Board of Nursing (Board) reflect that Matthew Russell Evans, LPN (Respondent), is the holder of a license to practice practical nursing in the Commonwealth of Pennsylvania, license number PN297152; and

WHEREAS, the prosecuting attorney for the Commonwealth has filed a petition for automatic suspension (Attachment "A"), including copies of records certified by the Court of Common Pleas of Wyoming County, Pennsylvania, in the case of Commonwealth of Pennsylvania vs. Matthew Russell Evans, Docket No. CP-66-CR-0000104-2018, which relate that on August 24, 2018, Respondent pled guilty to one count of the possession of drug paraphernalia, namely, a sealed cigarette wrapper containing three (3) white pills, for the purpose of introducing into the human body a controlled substance, namely Buprenorphine Hydrochloride, a schedule III controlled substance, a misdemeanor, in violation of section 13(a)(32) of the Controlled Substance, Drug, Device and Cosmetic Act (Drug Act), Act of April 14, 1972, P.L. 233, No. 64, *as amended*, 35 P.S. §780-113(a)(32); and

WHEREAS, section 13(a)(32) of the Drug Act, 35 P.S. § 780-113(a)(32), provides:

(a) The following acts and the causing thereof within the Commonwealth are hereby prohibited:

(32) The use of, or possession with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing,

TRUE AND CORRECT COPY
CERTIFIED FROM THE RECORD
THIS 25th DAY OF March AD. 2019

Linda Olson
PROTHONOTARY

processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this act.

WHEREAS, section 13(h) of the Drug Act, 35 P.S. § 780-113(h), classifies the violation of section 13(a)(32) of the Drug Act as a misdemeanor; and

WHEREAS, Section 23(c) of the Drug Act, 35 P.S. §780-123(c), provides:

(c) The appropriate licensing boards in the Department of State shall automatically suspend, for a period not to exceed one year, the registration or license of any practitioner when the person has pleaded guilty or nolo contendere or has been convicted of a misdemeanor under this act...

NOW THEREFORE, the Board concludes that the offense of which Respondent was convicted is a misdemeanor under the Drug Act, and that the license to practice practical nursing issued to Matthew Russell Evans, LPN license number PN297152, shall be **AUTOMATICALLY SUSPENDED for a period of (1) one year**, for the violation of Section 13(a)(32) of the Drug Act, 35 P.S. §§780-113(a)(32) effective immediately, under the authority of Section 23(c) of the Drug Act.

Should Respondent choose to file an answer to the petition and a request for a hearing, Respondent must do so by March 25, 2019, twenty days after the mailing date of this order. If Respondent files an answer and request for hearing, the suspension of Respondent's license shall remain in effect until a final order is issued addressing the issues raised in the answer.

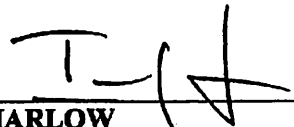
Respondent may also petition for a stay of the suspension in accordance with the attached notice pertaining to personal use of controlled substances. A stay will be granted only if Respondent does not contest the fact of the conviction and meets the requirements set forth in the attached notice, as established in section 23(c) of the Drug Act, 35 P.S. §780-123(c). If Respondent files a request for a stay, Respondent's license will remain suspended

until the Board determines whether a stay of the suspension is appropriate.

Answers to the petition, requests for hearing and petitions shall be filed with Prothonotary, Department of State, 2601 North Third Street, Harrisburg, PA 17110. A copy of any answer, request for hearing and petitions shall be served on the prosecuting attorney identified in the petition at the address set forth below.

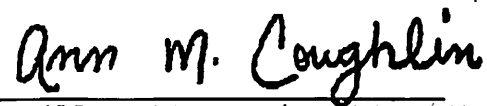
Any hearing in connection with this matter shall be scheduled within 30 days of receipt of the request for a hearing. Continuances will only be granted for good cause.

**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**



**IAN J. HARLOW
COMMISSIONER**

**BY ORDER:
STATE BOARD OF NURSING**



**ANN M. COUGHLIN, MBA, MSN, RN
CHAIR**

Respondent's address:

Matthew Russell Evans, LPN
227 Bridge Street
Tunkhannock, PA 18657

Prosecuting attorney:

Jason Anderson, Esquire

Board counsel:

Megan E. Castor, Esquire

Date of Mailing:

March 5, 2019

ATTACHMENT A

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF NURSING**

**Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs**

vs.

**Matthew Russell Evans, LPN,
Respondent**

File No.:

17-51-013074

Department of State

2019 MAR -5 AM 9:25

PROHIBITION

PETITION FOR AUTOMATIC SUSPENSION

AND NOW comes the Commonwealth of Pennsylvania, by and through its duly authorized Prosecuting Attorney, Jason Anderson, to file this Petition for Automatic Suspension and in support thereof avers the following:

1. At all times relevant and material hereto, **Matthew Russell Evans, LPN**, ("Respondent") held a license issued by the State Board of Nursing ("Board") to practice as a practical nurse in the Commonwealth of Pennsylvania, license number PN297152.
2. Respondent's license was active through June 30, 2020 and could have be renewed, reactivated or reinstated thereafter upon the filing of the appropriate documentation and payment of the necessary fees. However, pursuant to a June 27, 2018 Memorandum Order of the Board, Respondent's license was indefinitely suspended as of July 17, 2018.
3. Respondent's address on file with the Board is: 227 Bridge Street, Tunkhannock, PA 18657.
4. Respondent retains a property interest in his license until and unless it is revoked by the Board.

5. On or about January 22, 2018, a Criminal Complaint was filed in Wyoming County, PA, which charged the Respondent with one count each of: Intentional Possession of a Controlled Substance by a Person Not Registered (M), 35 P.S. § 780-113(a)(16), and Use/Possession of Drug Paraphernalia (M), 35 P.S. § 780-113(a)(32). Pursuant to the Criminal Complaint's Affidavit of Probable Cause, Respondent was arrested on October 21, 2017 for possession of three (3) Buprenorphine Hydrochloride (Suboxone) pills without a prescription. On March 27, 2018, the charges were held for court in the Wyoming County Court of Common Pleas. See Exhibit A.

6. On or about April 23, 2018, a Criminal Information was filed in which Respondent was charged with one count of Intentional Possession of a Controlled Substance by a Person Not Registered (M), 35 P.S. § 780-113(a)(16), and Use/Possession of Drug Paraphernalia (M), 35 P.S. § 780-113(a)(32), (CP-66-CR-0000104-2018). See Exhibit A.

7. Pursuant to an August 24, 2018 Guilty Plea, Respondent entered a guilty plea to one count of Use/Possession of Drug Paraphernalia (M), 35 P.S. § 780-113(a)(32). See Exhibit A.

8. Pursuant to a November 7, 2018 Order of Court, Respondent was sentenced to: 1) payment of costs, 2) payment of a \$500.00 fine, 3) a 12-month period of probation, and 4) payment of a monthly supervision fee of \$45.00 (CP-66-CR-0000104-2018). See Exhibit A.

9. A true and correct copy of the Criminal Complaint, Affidavit of Probable Cause, Criminal Information, Guilty Plea, Sentencing Order, and Criminal Docket for CP-66-CR-0000104-2018 are attached and incorporated as Exhibit "A".

10. The Controlled Substance at issue in Respondent's aforementioned criminal case was Buprenorphine Hydrochloride, which is a Schedule III Controlled Substance. In addition, the

Respondent concealed three of the Buprenorphine Hydrochloride pills in a sealed cigarette wrapper.

11. The Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act, Act of April 14, 1972, P.L. 233 as amended ("Drug Act"), 35 P.S. §§780-101 et seq., at 35 P.S. §780-113(a)(32), provides:

(a) The following acts and the causing thereof within the Commonwealth are hereby prohibited:

* * * *

(32) The use of, or possession with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this act.

35 P.S. §780-113(a)(32)

12. Therefore, the misdemeanor criminal offense of intentional possession of a controlled substance to which the Respondent entered a guilty plea and for which he was sentenced as referred to above, constitutes a prohibited act under the Controlled Substance, Drug, Device and Cosmetic Act ("Drug Act"). 35 P.S. §780-113(a)(32).

13. The Drug Act at 35 P.S. §780-123(c) provides, in pertinent part, as follows:

(c) The appropriate licensing boards in the Department of State shall automatically suspend, for a period not to exceed one year, the registration or license of any practitioner when the person has pleaded guilty or nolo contendere or has been convicted of a misdemeanor under this act....

WHEREFORE, based upon the Respondent's entry of a guilty plea to misdemeanor Use/Possession of Drug Paraphernalia, 35 P.S. § 780-113(a)(32), under the Controlled Substance, Drug, Device and Cosmetic Act, the Commonwealth petitions the Board to notify Respondent that, pursuant to the Controlled Substance, Drug, Device and Cosmetics Act ("Drug

Act"), an Act of April 14, 1972, P.L. 233, No. 64, as amended, 35 P.S. §780-123(c), his license to practice as a practical nurse in the Commonwealth of Pennsylvania shall be **AUTOMATICALLY SUSPENDED**, and it orders Respondent to **CEASE and DESIST** from practicing as a practical nurse in the Commonwealth of Pennsylvania and surrender his licensure documents to the Board, and for such other relief as the Board deems appropriate.

Respectfully submitted,


Jason Anderson
Prosecuting Attorney
Commonwealth of Pennsylvania
Department of State
Legal Division
2601 North Third Street
P.O. Box 69521
Harrisburg, PA 17106-9521

Dated: 02/04/19

IN THE COURT OF COMMON PLEAS OF THE 44TH JUDICIAL DISTRICT
WYOMING COUNTY BRANCH - CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

VS.

MATTHEW RUSSELL EVANS, Defendant

NO. CR-2018-104

ORDER OF COURT

AND NOW, this 7th day of November, 2018, in lieu of sentence, the Defendant,
Matthew Russell Evans, is placed on probation under the supervision of the Probation
Department of this Court for a period of twelve (12) months from and after this date on the
following terms and conditions:

1. The Defendant shall behave himself well and abide by the rules and regulations
pertaining to his conduct as shall be determined by the Probation Department.
2. The Defendant shall abstain from the use of alcohol, non-prescription controlled
substances and mind-altering substances, and shall submit himself for random
testing to determine the presence of such substances in his body, the same to be
at the Defendant's own expense.
3. The Defendant shall not enter any establishment licensed to serve alcoholic
beverages unless prior approval is obtained from the Probation Department of
this Court.
4. The Defendant shall obtain a full drug and alcohol evaluation and shall follow
any and all recommended treatment plans until satisfactorily discharged.

Certified from the records of the
Prothonotary in and for the

County of Wyoming, State of Pennsylvania

This 29th Day of Nov 20 19

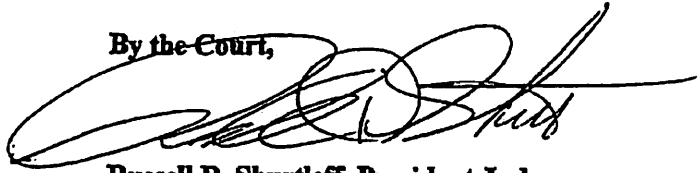
Prothonotary

2018 NOV - 8 P 2:58

PROTHONOTARY
WYOMING COUNTY, PA

5. The Defendant shall pay the costs of prosecution, pay a fine in the amount of \$500.00 and a monthly supervision fee in the amount of \$45.00, the same to be in such installments as shall be deemed feasible by the Probation Department.

By the Court,

A handwritten signature in black ink, appearing to read 'Russell D. Shurtleff', written over a horizontal line.

Russell D. Shurtleff, President Judge

11-8-18 (SK)

**District Attorney B
Timothy Michaels, Esquire B
Adult Probation B**

IN THE COURT OF COMMON PLEAS OF THE 44TH JUDICIAL DISTRICT
WYOMING COUNTY - CRIMINAL BRANCH

COMMONWEALTH OF PENNSYLVANIA

VS

Matthew Evans,

DEFENDANT

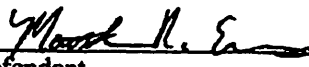
No. CR-104-2018

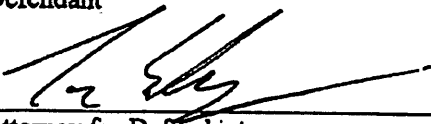
GUILTY PLEA

AND NOW, August 24, 2018, comes the Defendant, being arraigned, and
pleads Guilty to:

Possession of Drug Paraphernalia 35 Pa. C.S.A. 113(a)32 M

The Defendant enters this plea knowingly, intelligently and voluntarily.


Defendant


Attorney for Defendant

5

INFORMATION

COMMONWEALTH OF PENNSYLVANIA : **IN THE COURT OF COMMON PLEAS OF**
: **WYOMING COUNTY, PENNSYLVANIA**
VS. : **CRIMINAL DIVISION**
:
MATTHEW RUSSELL EVANS : **NO. CR-0104-2018**
Defendant : **OTN: X 135230-4**

The District Attorney of Wyoming County, Commonwealth of Pennsylvania, by this Information, presents that on or about Saturday, the 21st day of October, 2017, in Wyoming County, the defendant, Matthew Russell Evans, did:

COUNT 1 - POSSESSION OF CONTROLLED SUBSTANCE - 35 Pa. C.S.A. 113(a)16 - (M)

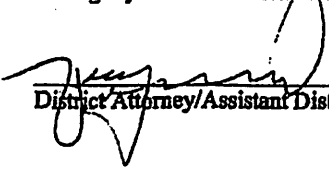
knowingly and intentionally possess a controlled or counterfeit substance, while not registered, licensed, or authorized pursuant to the Controlled Substance, Drug, Device and Cosmetic Act, to wit, the defendant did knowingly and intentionally possess three (3) Buprenorphine Hydrochloride tablets while not being registered, licensed, or authorized by the appropriate State Board;

COUNT 2 - POSSESSION OF DRUG PARAPHERNALIA - 35 Pa. C.S.A. 113(a)32 - (M)

use, or possessed with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance in violation of the Controlled Substance, Drug, Device and Cosmetic Act, to wit, the defendant did possess a sealed cigarette wrapper containing three (3) white pills for the purpose of introducing into the human body a controlled substance, namely, Buprenorphine Hydrochloride;

Citation of Statute
and Section: 35 Pa. C.S.A. 113(a)16
35 Pa. C.S.A. 113(a)32

All of which is against the Act of Assembly and the peace and dignity of the Commonwealth of Pennsylvania.


District Attorney/Assistant District Attorney

FILED
PROthonARY
WYOMING COUNTY, PA
2018 APR 23 A 11:01



January 31, 2020.

2. Respondent is licensed by the Commonwealth of Pennsylvania as an LPN under license number PN297152
3. On August 24, 2018, Respondent pleaded guilty to one count of possession of drug paraphernalia in the Court of Common Pleas of Wyoming County, Pennsylvania. Although the charge is characterized as possession of drug paraphernalia, according to the information, (i.e., the charging document,) the paraphernalia is described as "a sealed cigarette wrapper containing three (3) white pills for the purpose of introducing into the human body a controlled substance, namely, Buprenorphine Hydrochloride." See Exhibit #2, Attachment A, exhibit A. On November 7, 2018, Respondent was sentenced by the court to a twelve-month term of probation. *Id.*
4. Among the terms of probation, the Respondent was required to abstain from the use of alcohol and non-prescription controlled substances, and to submit to random drug testing. He was also required to obtain a full drug and alcohol evaluation and to follow all recommended treatment plans. *Id.*
5. As a consequence of the criminal proceedings, the Pennsylvania State Board of Nursing ordered the Respondent to submit to a mental and physical examination. When the Respondent failed to submit to the ordered examinations, on June 27, 2018, the Board indefinitely suspended his license to practice practical nursing, effective July 17, 2018. See Exhibit #1.
6. On March 5, 2019, the Prosecuting Attorney for the Commonwealth filed a Petition for Automatic Suspension before the State Board of Nursing which was based upon the aforesaid criminal conviction. Since the Respondent failed to file an answer to the petition and to request a hearing, the Pennsylvania State Board of Nursing suspended his license to practice practical nursing for a period of one year effective March 25, 2019.
7. To date, Respondent has not disclosed the Pennsylvania conviction to the Office of Professional Regulation.

Conclusions of Law

The Findings of Fact and Conclusions of Law in this Summary Suspension Order are for purposes of deciding whether *at this time* there is an imperative need to take emergency action. 3 V.S.A. § 814(c). The Findings of Fact and Conclusions of Law herein are for purposes of this Order only.

In its Request for Summary Suspension, the State alleged four violations of Vermont law which justify immediate suspension: (1) practicing the profession when medically or psychologically unfit to do so (3 V.S.A. §129a(a)(5)); (2) engaging in conduct of a character likely to deceive, defraud or harm the public (3 V.S.A. §1582(a)(3)); failure to exercise independent judgment in the performance of licensed activities (3 V.S.A. §129a(a)(15)); (4)

failing to report to OPR a conviction for any felony or misdemeanor in any Vermont court, federal court or court outside Vermont within 30 days (3 V.S.A. § 129a(a)(11)).

The Prosecutor's Request for a Summary Suspension is sufficiently supported by the evidence presented. The Board of Nursing concludes that the allegations made in the Request for Summary Suspension have been established by a preponderance of the evidence that the Respondent engaged in conduct of a character likely to harm the public and that the Respondent failed to report his Pennsylvania conviction to OPR within 30 days. (There was no evidence that the Respondent was actually engaged in the practice of nursing at or after the time of the criminal offense.)

For purposes of this summary suspension hearing, the Findings of Fact above do support summary suspension of Respondent's license. The Respondent was charged with and was found guilty of possession of drug paraphernalia in the Commonwealth of Pennsylvania. The "drug paraphernalia" which provided the basis of the criminal charge included actual possession of a controlled substance.

It is reasonable to infer from the criminal and administrative proceedings in Pennsylvania that the Respondent has a serious substance-abuse problem:

- The fact of possession of a controlled substance, namely Buprenorphine Hydrochloride.
- The conditions of probation imposed by the Pennsylvania court, namely that Respondent abstain from non-prescription use of controlled substances and that he participate in a drug-abuse assessment and, if recommended, drug-abuse treatment.
- The failure of the Respondent to submit to a mental and physical examination as directed by the Pennsylvania State Board of Nursing.

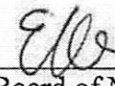
There is an imperative need to take emergency action because the health and safety of the public require that a Licensed Practical Nurse not abuse controlled substances. Although OPR did not produce evidence at the summary suspension hearing that the Respondent was under the influence of controlled substances when actually practicing nursing, it is self-evident that a licensed professional who is abusing drugs may well expose the public to drug-impaired practice.

Vermont law requires that unprofessional charges be filed promptly with Respondent being afforded a prompt hearing. At any merits hearing in this matter, the prosecutor will bear the burden of proving unprofessional conduct. The Findings and Conclusions in the summary suspension phase will not absolve the prosecution or Respondent from producing or challenging relevant evidence at a merits hearing. The Findings of Fact and Conclusions of Law at a contested hearing will be based exclusively on the evidence admitted at that hearing.

Order

The Request for Summary Suspension is **Granted**. Respondent's license is hereby summarily suspended pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. 3 V.S.A. § 814(c).

It is SO ORDERED this 12th day of April, 2019



Board of Nursing
By: Ellen Watson, Chair

Date of Entry: 4.17.19





contained in the Specification of Charges are therefore treated as the facts on which the Board may issue an order of professional discipline. OPR Rule 3.4, 3 V.S.A. § 809(d), and 3 V.S.A. § 814(c).

7. It is specifically found that in June of 2018 the Pennsylvania Board of Nursing entered a memorandum order indefinitely suspending his LPN license in that jurisdiction because of suspected substance abuse, failure to comply with ordered physical and mental examination, and an associated criminal conviction of possession of drug paraphernalia. The Respondent failed to report to the Vermont Board of Nursing the license suspension or the criminal conviction.
8. It was the recommendation of the State of Vermont that the Respondent's license be indefinitely suspended with the standard drug and alcohol conditions should the Board later determine that the Respondent's license should be reinstated. Those recommended conditions follow in the proposed order below.

Conclusions of Law

Respondent 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 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 3 VSA Sec. 129a(a)(11) (failure to report a criminal conviction); and 3 VSA Sec. 129a(a)(5) (practicing while medically or psychologically unfit to do so).

Proposed Order

In accordance with the above Findings of Fact and Conclusions of Law, and consistent with the recommendation by the State, the Board does **ORDER** that the Respondent's license be **Indefinitely Suspended**. In the event that the Respondent seeks to regain the license, the Respondent must petition for reinstatement. At least forty-five (45) days prior to requesting reinstatement, Respondent must, at Respondent's own cost:

- (a) Obtain an independent evaluation report by a pre-approved licensed professional specializing in drug and alcohol abuse ("Independent Evaluator") who has verified receipt of the Default Order. The results of the Independent Evaluation must indicate that Respondent does not present a risk to the safety, health or welfare of Respondent's potential patients, as well as any recommendations that would ensure Respondent is safe to practice. The evaluation must be submitted to the Enforcement Unit Case Manager;
- (b) Submit to the Enforcement Unit Case Manager the results of a minimum of three (3) random urine analyses:
 - (i) When Respondent is ready to petition for reinstatement, Respondent shall contact the Enforcement Unit Case Manager at the Office of Professional Regulation to set-up the urine analysis process and receive instructions.

Once registered with the pre-approved person or entity, Respondent will have 45 days to submit to a minimum of three (3) random urine analyses. The process by which Respondent learns whether the Respondent is selected to provide a sample on any given day will be governed by the policy of the pre-approved person or entity conducting the testing at that time;

- (ii) The urine analyses must be collected in an observed setting, administered by a pre-approved lab qualified to analyze samples for forensic purposes, the results of which shall be negative;
 - (iii) Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine analysis shall cause that screen to be presumed positive;
 - (iv) The urine tests must be completed no longer than 90 days before the application for reinstatement of the license is filed.
- (c) If recommended by an Independent Evaluator, the Respondent shall enter into a treating professional agreement and substance abuse treatment plan with a pre-approved treating professional(s) and follow all recommendations.

If reinstated, Respondent's license **SHALL BE CONDITIONED** pursuant to whatever terms are reasonable at the time of Respondent's reinstatement request, taking into account the independent evaluation, urine analysis results, the facts contained in the Default Order, and any other relevant factors at that time.

The Hearing Officer reports the above facts, conclusions of law, and the finding of DEFAULT to the Board with the recommendation that the Board approve them and enter the Order as above.

Dated this ^{24th} day of June, 2019.



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

The Vermont Board of Nursing considered the report of findings of fact and conclusions of law at its meeting on 7/8/2019. After considering the report, the Board takes the following action:

- // Rejects the report and schedules the matter for hearing.
- // Schedules the matter for additional evidence.
- ☒ 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

By: 
Ellen Watson, Chair
Vermont Board of Nursing

Date: 7/8, 2019

OFFICE OF PROFESSIONAL REGULATION
DATE OF ENTRY: 7.10.19

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.