

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

In re: THOMAS A. FINKLE

License No. 025.0107951

}
}
}

Docket No. 2018-92

Appearances:

Prosecutor: Jennifer B. Colin, 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 January 10, 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 August 28, 2018. 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 August 30, 2018. The certified mail notice of charges was returned, having been received by the Respondent on September 6, 2018. 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 December 17, 2018, 2018 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. Both mailings were returned to the office with a notation that the forwarding time had expired and that the notices were not deliverable. The State Prosecutor likewise sent a copy of the Motion for Default to the Respondent on December 13, 2018 to which no answer was made.
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. No contact was made by the Respondent to the attorney for the State indicating that the Respondent intended to contest the charges. 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 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).

6. It is specifically found that in February of 2016 while working at the Burlington Health and Rehabilitation Center the Respondent consistently administered medications in an untimely manner, despite prior warnings concerning tardy medication administration.
7. It was the recommendation of the State of Vermont that the Respondent's license be indefinitely suspended with 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

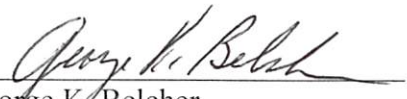
Respondent has received adequate or constructive notice of the charges in this matter as indicated by the Board's file and the Prosecution's presentation. Because Respondent has failed to answer the charges, the factual allegations in the Specification of Charges are treated as if proved. O.P.R. Rule 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(b)(2) (Failure to practice competently/failure to conform to essential standards of practice) and 3 VSA Sec. 129a(b)(1) (Failure to practice competently by performance of unsafe or unacceptable patient care).

Proposed Order

1. 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 his license, he must petition for reinstatement.
2. **Completion of Coursework:** Prior to petitioning for reinstatement, Respondent must complete two courses pre-approved by the Nursing Case Manager in medication administration. Upon completion, Respondent must submit written documentation of completion (certificate of completion, etc.) and completed workbook if applicable, to the Board or its designee.
3. If reinstated, Respondent's license **SHALL BE CONDITIONED** pursuant to whatever terms are reasonable at the time of Respondent's reinstatement request, which may include a period of supervised practice with employer reports, limitations on practice settings, and other such conditions.

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 14th day of January, 2019.

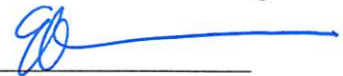

George K. Belcher
Hearing Officer of the Vermont Board of Nursing

The Vermont Board of Nursing considered the report of findings of fact and conclusions of law at its meeting on 14 Jan 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.

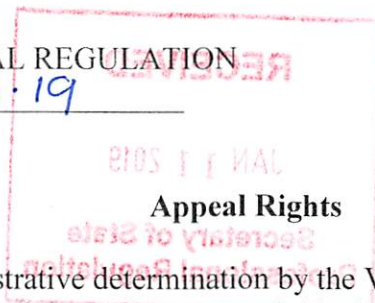
Vermont Board of Nursing

By: 
Ellen Watson, Chair
Vermont Board of Nursing

Date: 14 January 2019

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 1.15.19



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.

RECEIVED

JAN 11 2019

**Secretary of State
Professional Regulation**