

IN RE: Mary Fitts)
Case File No. NU33-0200) DEFAULT ORDER
License No. 25-6581)

The Board took official notice of its own files in making the default determination.

1. The Respondent was sent notice of the Charges against her by certified mail on July 21, 2000 to her last known address.
2. The certified mail was returned to the Office of Professional Regulation marked "unclaimed" and was resent by regular mail on August 11, 2000.
3. Respondent was also sent notice of the default hearing to the same address and there has been no response.
4. Upon hearing the State's presentation and taking notice of its own file, the Board found the Respondent to be in default. The allegations contained in the State's specification of charges dated July 18, 2000 (copy attached) are therefore treated as the facts on which the Board's order is based.

The Respondent has received adequate notice of the charges against her as indicated by the Board's file and the State's presentation. Because the Respondent has failed to answer the

charges against her, the State's factual allegations are treated as if proved. Accordingly, the Board finds, in the default hearing held pursuant to 3 V.S.A. §809(d), that the Respondent has engaged in the unprofessional conduct alleged in the State's specification of charges.

Order

In accordance with the above findings of fact and conclusions of law, the license of the Respondent is hereby **SUSPENDED INDEFINITELY**, until such time as the Respondent demonstrates to the Board that she is able to return to the practice of nursing by addressing the five reinstatement factors found in the Board's Administrative Rules, Chapter 4, Rule (IV)(IV)(C)(1). The suspension is effective as of the date of entry of this Order, below.

Appeal Rights

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

By: Susan Farrell
Susan Farrell
Chair

Date: 9-15-00

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 9-29-00

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

IN RE:)
MARY E. FITTS, LPN)
License No. 025-0006581)

Docket No: NU 33-0200

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Mary E. Fitts, LPN:

Board Authority

1. The Vermont State Board of Nursing ["the Board"] has authority to issue warnings or reprimands, suspend, revoke, limit, 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)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a).
2. Failure to comply with the provisions of state statutes or rules governing the practice of the profession is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(3).
3. Being addicted to the use of habit-forming drugs is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(5).
4. Being unable to practice the profession of nursing competently by reason of any cause, including the use of drugs, narcotics or chemicals is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(3); Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(3).

Facts

5. The Respondent (whose address is listed in the database of the Office of Professional Regulation as 7 Dairy Lane, Windsor, Vermont 05089) is a Licensed Practical Nurse under License Number 025-0006581.

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

6. Respondent was originally licensed on November 27, 1990 and Respondent's license has a current expiration date of January 31, 2002.
7. At all times relevant to these Charges, the Respondent was employed by the Mt. Ascutney Hospital in Windsor, Vermont.
8. On or around December 27, 1999 Respondent checked herself into the Brattleboro Retreat for inpatient treatment for drug addiction.
9. Respondent was, prior to treatment, taking prescribed Percodan and/or Percocet which she was addicted to.
10. Respondent was, prior to treatment, taking Morphine Sulfate, which she took without a prescription, and that she had acquired from her mother.

Charges

11. By being addicted to Percodan and/or Percocet and by taking Morphine Sulfate from another person and without a prescription, the Respondent has committed unprofessional conduct in that she is:
12. addicted to the use of habit-forming drugs, in violation of 26 V.S.A. §1582(a)(5);and
13. unable to practice the profession of nursing competently by reason of any cause, including the use of drugs, narcotics or chemicals, in violation of 26 V.S.A. §1582(a)(3) and Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(3).

Relief Requested

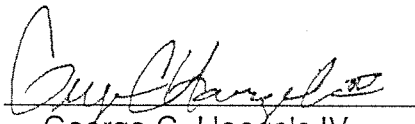
WHEREFORE, the license of Mary E. Fitts, LPN should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 18th day of July 2000.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:


George C. Haegle IV
Assistant Attorney General