

VERMONT SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

IN RE: John Gallagher } Docket No. NU63-0206
License No. 101-0012125 }
0014125

DEFAULT ORDER

Upon the filing of a *Notice of Hearing for Default Judgment* by the Secretary of State, the Nursing Board heard this matter on 10 July 2006 at the Secretary of State's Office, Heritage Building, 81 River Street, Montpelier, Vermont.

Findings of Fact

1. Respondent is subject to the regulatory authority of this Board. 3 V.S.A. §§ 129 and 129a; 26 V.S.A. Chapter 28; Board of Nursing Administrative Rules and Office of Professional Regulation Administrative Rules.
2. The State filed a Specification of Charges against the Respondent on 3 May 2006 (attached).
3. The Office of Professional Regulation served Respondent with notice of the charges by certified mail and first class mail to the Respondent's last known address as provided by the Respondent to the Office of Professional Regulation. The notice of charges contained instructions detailing the Respondent's legal obligation to answer the charges and explaining the consequences of failure to file a timely response. The Office of Professional Regulation also served a notice of this default hearing to the Respondent by certified mail.
4. The Respondent did not answer the charges within the legally prescribed time as required by OPR Admin. Rule 3.3 or at any time thereafter.
5. Upon hearing the State's presentation and taking notice of its own file pursuant to 3 V.S.A. § 810(4), the Board finds the Respondent to be in default. The allegations contained in the State's specification of charges (copy attached) are therefore treated as proven and serve as the factual basis for the Board's order. OPR Admin. Rule 3.4; 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

Conclusions of Law

The Respondent received adequate and legal notice of the charges as indicated by the Board's file and the State's presentation of the case to the Board. Because the Respondent failed to answer the charges of unprofessional conduct, the Board finds the Respondent in default and will treat the State's factual allegations as established pursuant to OPR Admin. Rule 3.4. The Board concludes, in this default hearing held pursuant to 3 V.S.A. § 809(d), that the Respondent has engaged in unprofessional conduct as alleged in the State's Specification of Charges.

Order

In accordance with the above findings of fact and conclusions of law, the Board of Nursing orders the license of the Respondent to be INDEFINITELY SUSPENDED effective as of the date of entry of this Order.

Vermont Board of Nursing:

By: Susan O. Farrell
Susan O. Farrell, RN, Chairperson

Dated at Montpelier: 10 July 2006

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 7/11/06

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

In re: John Paul Gallagher }
License No. 101-0014125 } Docket No. NU63-0206

SUMMARY SUSPENSION ORDER

On 10 April 2006, this matter came before the Vermont State Board of Nursing on the prosecution's Request for Summary Suspension pursuant to 3 V.S.A. § 814(c). The hearing took place at Central Vermont Hospital, 130 Fisher Road Berlin, Vermont. The Board has authority to summarily suspend a license pending further proceedings if it determines that public health, safety or welfare imperatively require emergency action.

Findings of Fact & Conclusions of Law:

Based on a review of the evidence presented to the Board at the hearing on this matter, the Board finds:

1. The Respondent is licensed by and subject to the disciplinary authority of this Board. 26 V.S.A. Chapter 28, 3 V.S.A. § 129(a), and the Administrative Rules of the Office of Professional Regulation.
2. The State filed a "Request for Summary Suspension" dated 24 March 2006, alleging that Respondent was convicted in New Hampshire of misdemeanor sexual assault due to sexual conduct "with a patient while there was an intact/on going therapeutic relationship with the patient." The State further alleges that the Respondent voluntarily surrendered his New Hampshire RN and APRN licenses. See Request for Summary Suspension at ¶¶ 4 and 5.
3. The State argues that public health, safety or welfare imperatively requires emergency action, and the state asks this Board to suspend summarily the Respondent's license prior to a full hearing on the merits.
4. The Board has considered the evidence related to the allegations in the State's Request for Summary Suspension.
5. The Board finds that the State has, in its presentation of evidence, met its burden to the necessary degree of showing the need for emergency action to protect the public health, safety and welfare.

Order:

Pursuant to 3 V.S.A. § 814(c), the Board issues the following order which shall remain in effect until further action by the Board.

The Board of Nursing GRANTS the State of Vermont's Request for Summary Suspension.

The Respondent's license is SUMMARILY SUSPENDED pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

Vermont Board of Nursing

By: Susan O. Farrell Dated at Berlin: 10 April 2006
Susan O. Farrell, RN, Chairperson

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 4/12/06

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

IN RE: JOHN PAUL GALLAGHER) DOCKET No. NU63-0206
License No. 101-0014125

REQUEST FOR SUMMARY SUSPENSION

Board Authority

1. The Vermont Board of Nursing (the "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 and; the rules of the Board and the Vermont Office of Professional Regulation.
2. The Board of Nursing is authorized by 3 V.S.A. § 814 to summarily suspend the license of a nurse when it finds that the public health, safety or welfare imperatively requires emergency action.

Statement of Facts

3. John P. Gallagher (the "Respondent") of Langdon, New Hampshire is a advanced practice registered nurse (with a speciality in adult-clinical psychiatric/mental health) holding license number 101-0014125, issued by the State of Vermont. This license was originally issued on or about April 21, 1981 and is set to expire on March 31, 2007.
4. On or about November 29, 2005 the Respondent was convicted of a Class A Misdemeanor Sexual Assault in the State of New Hampshire for sexual conduct with a patient while there was an intact/on going therapeutic relationship with the patient.
5. On or about January 20, 2006 the New Hampshire Board of Nursing accepted the voluntary surrender of the Respondent's New Hampshire RN and APRN licenses. The Voluntary Surrender Agreement indicates that Respondent "engaged in unethical conduct by demonstrating a willful or careless disregard for the health or safety of a client with resulting injury, that he engaged in unprofessional conduct by departing from nursing practice standards, creating an unnecessary danger to the client's life, health or safety with resulting injury, and that he violated the Board's administrative rules pertaining to client exploitation, physical/mental abuse, patients' rights and nursing practice standards by failing to respect the appropriate boundaries of the profession and engaging in an inappropriate relationship with a client whom he was counseling and medicating and whose weaknesses and vulnerabilities he was cognizant of."

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

Request for Relief

6. 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.
7. The above acts and circumstances, alone or in combination, violate: 3 V.S.A. § 129a(a)(3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession); 26 V.S.A. § 1582(a)(2)(whether or not committed in this state, has been convicted of a crime related to the practice of nursing or a felony which evinces an unfitness to practice nursing); 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause); Vermont Board of Nursing Administrative Rules Chapter 4, Rule IV, II, B (Inability to practice nursing competently includes: (1) performance of unsafe or unacceptable patient care; (2) failure to conform to the essential standards of acceptable and prevailing nursing practice); and 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public).

WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. § 814(c), the Respondent's nursing license number 101-0014125 be summarily suspended, pending a hearing on the merits.

DATED at Montpelier, Vermont this 24th day of March, 2006.

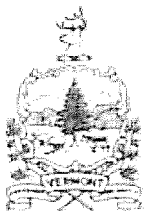
STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

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STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

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

IN RE: JOHN PAUL GALLAGHER)
License No. 101-0014125)

DOCKET No. NU63-0206

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, John Paul Gallagher, A.P.R.N.:

Board Authority

1. The Vermont Board of Nursing (the "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 and; the rules of the Board and the Vermont Office of Professional Regulation.

Statement of Facts

2. John P. Gallagher (the "Respondent") of Langdon, New Hampshire is a advanced practice registered nurse (with a specialty in adult-clinical psychiatric/mental health) holding license number 101-0014125, issued by the State of Vermont. This license was originally issued on or about April 21, 1981 and is set to expire on March 31, 2007.
3. On or about November 29, 2005 the Respondent was convicted of a Class A Misdemeanor Sexual Assault in the State of New Hampshire for sexual conduct with a patient while there was an intact/on going therapeutic relationship with the patient.
4. On or about January 20, 2006 the New Hampshire Board of Nursing accepted the voluntary surrender of the Respondent's New Hampshire RN and APRN licenses. The Voluntary Surrender Agreement indicates that Respondent "engaged in unethical conduct by demonstrating a willful or careless disregard for the health or safety of a client with resulting injury, that he engaged in unprofessional conduct by departing from nursing practice standards, creating an unnecessary danger to the client's life, health or safety with resulting injury, and that he violated the Board's administrative rules pertaining to client exploitation, physical/mental abuse, patients' rights and nursing practice standards by failing to respect the appropriate boundaries of the profession and engaging in an inappropriate relationship with a client whom he was counseling and medicating and whose weaknesses and vulnerabilities he was cognizant of."
5. The Respondent's license was summarily suspended by this Board on or about April 10, 2006.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

Charges

6. The above acts and circumstances, alone or in combination, violate:

- i. 3 V.S.A. § 129a(a)(3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession);
- ii. 26 V.S.A. § 1582(a)(2)(whether or not committed in this state, has been convicted of a crime related to the practice of nursing or a felony which evinces an unfitness to practice nursing);
- iii. 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause); Vermont Board of Nursing Administrative Rules Chapter 4, Rule IV, II, B (Inability to practice nursing competently includes: (1) performance of unsafe or unacceptable patient care; (2) failure to conform to the essential standards of acceptable and prevailing nursing practice); and
- iv. 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public).

Relief Requested

WHEREFORE, the license of John Paul Gallagher should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 3rd day of May, 2006.

STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

nu.gallagher.soc

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107