

**STATE OF VERMONT
BOARD OF NURSING**

In re: Amanda Stephani Giguere
License No. 025-9587

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Docket No. 2009-151

Appearances:

Petitioner, State of Vermont: Betsy Ann Wrask
Respondent: Did not appear

Presiding Officer: Larry S. Novins

DEFAULT ORDER

The Board held a hearing on the above matter on August 10, 2009 at the National Life Building in Montpelier, Vermont. Ms. Giguere did not attend and was not represented by counsel.

Findings of Fact

1. Ms. Giguere is licensed as 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. § 1582(a), the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.
2. On June 25, 2009 Ms. Giguere was sent notice of Charges in this matter by certified mail to her last known address. A copy of the Specification of Charges is attached to this Default Order.
3. OPR Rule 3.3 requires that an Answer be filed within 20 days of the date on which the notice of charges was mailed by the Director.
4. Licensees are required to notify the Board of any change of address within 30 days. 3 V.S.A. § 129a(a)(14).
5. Stamps on the certified mail envelope indicate the notice of charges was "unclaimed."
6. Ms. Giguere has not filed an answer to the charges.
7. On July 28, 2009 notice of the default hearing scheduled for August 10, 2009 was mailed to Ms. Giguere at that same address by certified mail.
8. Ms. Giguere has still not answered the charges.
9. Upon hearing the State's presentation and taking notice of its own file, the Board finds Ms. Giguere to be in Default. The allegations contained in the State's Specification of Charges are therefore treated as the facts on which the Board's Order is based. OPR Rule 3.4, 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

Conclusions of Law

Ms. Giguere has received adequate or constructive notice of the charges in this matter as indicated by the Board's file and the State's presentation. Because Ms. Giguere has failed to answer the charges, the State's factual allegations are treated as if proved. O.P.R. Rule 3.4. Accordingly, the Board finds, in this Default Hearing held pursuant to 3 V.S.A. §809(d), that Ms. Giguere 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, Ms. Giguere's license is hereby Suspended Indefinitely effective as of the date of the hearing.

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, National Life Bldg., North, FL2, Montpelier, VT 05620-3402 within 30 days of the entry of this order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.

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

Vermont Board of Nursing

By: Ellen W. Leff
Ellen Leff, R.N., Chair

Date: August 10, 2009

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 8/12/09

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

IN RE:

**AMANDA STEPHANI GIGUERE
License No. 025.0009587**

Docket No. 2009-151

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Amanda Stephani Giguere, LPN:

Board Authority

1. The Vermont State Board of Nursing (the "Board") has authority to issue warnings or reprimands; suspend, revoke, limit, or condition current licenses; or prevent the renewal of lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. § 129(a); 3 V.S.A. § 129a; 3 V.S.A. § 814(d); 26 V.S.A. § 1582; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Amanda Stephani Giguere (the "Respondent") of Newport, New Hampshire is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025.0009587. This license was originally issued on or about July 25, 2008 and is currently set to expire on or about January 31, 2010.
3. Respondent is also licensed by the State of New Hampshire as a Licensed Practical Nurse under license number 013903-22 (the "New Hampshire license"). Respondent's New Hampshire license was originally issued on or about May 16, 2006 and is currently set to expire on or about September 24, 2009.
4. On or about May 6, 2009, the Board received a certified copy of the New Hampshire Board of Nursing's Findings of Fact, Conclusions of Law and Sanctions (the "Order") regarding Respondent. Attachment A.
5. The Order revoked Respondent's New Hampshire license on or about January 21, 2009 due in part to a report from Maplewood Nursing Home in Westmoreland, New Hampshire on or about August 25, 2008 which stated that Respondent demonstrated a pattern of Medication Administration Record (the "MAR") documentation errors and omissions in June and July 2008 relative to Oxycodone, including Respondent forging another nurse's name on an MAR relative to Oxycodone. Attachment A.

STATE OF VERMONT



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

Respondent did not reply to the New Hampshire Board of Nursing regarding this issue. Attachment A.

Charges

6. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:
- a. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause);
 - b. ARBN Chapter 4, Subchapter 4, Rule II(B)(1) and (2) ("Inability to practice nursing competently" includes: (1) performance of unsafe or unacceptable patient or client care; and (2) failure to conform to the essential standards of acceptable and prevailing nursing practice);
 - c. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud, or harm the public) which includes falsifying or altering clinical records or making inaccurate or misleading entries pursuant to ARBN Chapter 4, Subchapter 4, Rule II(D)(3); and diverting supplies, equipment, or drugs for personal or other unauthorized use pursuant to ARBN Chapter 4, Subchapter 4, Rule II(D)(4);
 - d. 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records);
 - e. 3 V.S.A. § 129a(b)(1) and (2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and
 - f. 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).

Relief Requested

WHEREFORE, the license of Amanda Stephani Giguere should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 22nd day of June, 2009.



STATE OF VERMONT

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STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

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STATE OF VERMONT



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STATE OF NEW HAMPSHIRE
NEW HAMPSHIRE BOARD OF NURSING
21 S FRUIT ST STE. 16
CONCORD NH 03301-2431

Webpage: <http://www.state.nh.us/nursing>

TDD Access: Relay NH 1-800-735-2964

Nursing 603-271-2323

Nurse Asst. 603-271-6282

AMANDA GIGUERE

LPN # 013903-22

DOCKET # 08-1230-0197

FINDINGS OF FACT. CONCLUSIONS OF LAW AND SANCTIONS

A hearing chaired by the Board chairperson Robert Duhaime, was held, in absentia, on January 15, 2009 at the Board of Nursing's office, 21 S. Fruit St., Concord, N.H. for Amanda Giguere, (Respondent) pursuant to the December 30, 2008 Notice of Disciplinary Hearing

Present at the hearing were:

Witness: D. Sheltra, DNS, Maplewood Nursing Home

N. Blake, RN, Asst. Director, NH Board of Nursing

Board members: M. Potter, H. Featherston, S. Dyer, N. Fortin, C. Naas, L. Elliott, K. Baranowski,
B. Brown, C. Smith, B. Libby.

and Board staff: S. Goodness, K. Dickson.

Atty. N. Patenaude, Prosecutor for the Board of Nursing

Following presentation of oral or written statements and exhibits the Board found for the following:

FINDINGS OF FACT

1. In the interest of public safety the Board of Nursing ("Board") has jurisdiction over the practice of nursing in the State of New Hampshire pursuant to RSA Chapter 326-B and the administrative regulations Chapter Nur 100-800.
2. The respondent, Amanda Giguere, is a licensed practical nurse in the State of New Hampshire and is subject to the jurisdiction of the Board. She obtained an LPN license by examination on May 16, 2006 and it is scheduled for renewal on September 24, 2009.
3. On August 25, 2008 Maplewood Nursing Home in Westmoreland, NH reported a pattern of MAR documentation errors and omissions in June and July 2008 relative to Oxycodone and in particular a forged entry on July 7, 2008 relative to the same controlled substance.
4. Board staff sent a letter to the respondent on September 23, 2008 requesting an explanation but she never replied.

Attachment A

Findings of Fact, Conclusions of Law and Sanctions

A. Giguere

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5. On December 30, 2008 the Administrative Prosecutor wrote to the respondent and recommended that she consider a voluntary surrender of her license but she never responded.
6. The Notice of Hearing was sent to the respondent at the last address of record provided by the respondent by certified mail with return receipt requested as well as by regular first-class mail with postage prepaid and this constitutes adequate service of notice under RSA 326-B:38, IX.

CONCLUSIONS OF LAW

1. Based on the evidence of record the Board concludes that the respondent in June and July 2008 committed multiple medication administration and documentation errors when she failed to comply with professional medication administration and documentation standards of practice and forged another nurse's signature on the MAR. This behavior constitutes unethical and unprofessional conduct in violation of RSA 326-B:37, II (e), (h)(1), (k), (p)(2) for deviating from practice standards including the improper management of patient records, for making incorrect, inconsistent, or unintelligible entries in patient records, and Nur 402.04 (b)(10), (11) and (17) for administering medication and /or recording it in an inaccurate or negligent manner without omission; and engaging in a pattern of behavior consisting of more than one incident of professional misconduct that is incompatible with the standards of practice, and Nur 501.03 (a), (c) and (g) for violating professional and ethical standards, dishonoring the profession, and failing to fulfill all professional obligations conscientiously.
2. Based on the evidence of record the Board concludes that the Respondent failed to cooperate with a Board investigation and provide information requested by the Board or its agents by not responding to telephone calls or correspondence from administrative staff. This behavior constitutes unethical and unprofessional conduct for failure to cooperate with a lawful investigation conducted by the Board or its agents in violation of RSA 326-B:37, II (m).

SANCTIONS

1. For committing multiple medication administration and documentation errors and forging another nurse's signature on the MAR and for not cooperating with a lawful board investigation, the Board REVOKES Respondent's LPN license and assesses a monetary penalty of \$350 to deter future misconduct and to defray the costs associated with the investigation and prosecution of this case to be paid within 90 days from the effective date of the Board's order in one single payment by certified bank check or postal money order payable to the "NH Board of Nursing". Failure to pay the penalty by the deadline may cause the penalty to be reported to credit reporting services for inclusion on the respondent's credit record. If the Board determines that collection action including court proceedings are necessary to enforce this obligation, the Board will petition the Court to assess the respondent with all costs including reasonable legal fees and accrued interest at the prevailing state government rate.

Findings of Fact, Conclusions of Law and Sanctions

A. Giguere

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2. The Respondent shall provide a copy of this order to all nursing license boards and registries where she is currently licensed or registered and schools of nursing where currently enrolled within 30 days of receipt of the NH Board-executed copy as well as to all licensing boards, employers and schools of nursing for which the Respondent makes future application at the time of such application.
3. Should the Respondent apply for any New Hampshire license under RSA 326-B authority on or after the effective date of this order, the Respondent shall by the act of filing such application automatically waive any statute of limitations or laches defense which may otherwise be available concerning the misconduct set forth above with the misconduct being fully addressed in the context on the Respondent's license application. Respondent shall bear the burden of proving that the Respondent possesses sufficient knowledge, judgment, skills, abilities and character qualifications to be licensed in any such future licensing proceedings.
4. Any relief from the provisions of this order shall be granted pursuant to RSA 326-B:39.
5. This order shall become a public document upon signature and a summary of the misconduct noted above may be published in the Board's newsletter and notification of federal and other state agencies and boards of nursing shall be effectuated as required or permitted by law.

Board Rationale:

- Credible witness testimony
- Forged entries on the Medication Administration Record (MAR)
- Times changed on the MAR
- Did not respond to Board correspondence or telephone calls

BY ORDER OF THE BOARD:

Margaret J. Walker
Margaret J. Walker EdD., RN
Executive Director

1/21/09
Date