

**STATE OF VERMONT
BOARD OF NURSING**

In re: David E. Goodwin
License No. 026-27059

}
}
}

Docket No. NU23-0908

Appearances:

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

Presiding Officer: Larry S. Novins

DEFAULT ORDER

The Board held a hearing on the above matter on May 11, 2009 at the National Life Building in Montpelier, Vermont. Mr. Goodwin did not attend and was not represented by counsel.

Findings of Fact

1. Mr. Goodwin is licensed as a registered 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 February 26, 2009 Mr. Goodwin was sent notice of Charges in this matter by certified mail to his 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 envelope indicate the notice of charges was returned marked "unable to forward."
6. Mr. Goodwin has not filed an answer to the charges.
7. On April 24 2009 Notice of the default hearing scheduled for May 11, 2009 was mailed to Mr. Goodwin at that same address by certified mail. The file shows "not deliverable as addressed."
8. Mr. Goodwin has still not answered the charges.
9. Upon hearing the State's presentation and taking notice of its own file, the Board finds Mr. Goodwin 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

Mr. Goodwin 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 Mr. Goodwin 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 Mr. Goodwin 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, Mr. Goodwin's license is hereby **Revoked** 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 Leff
Ellen Leff, R.N., Chair

Date: May 11, 2009

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 5/14/09

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

IN RE:

DAVID E. GOODWIN

License No. 026-0027059

)
)
)

Docket No. NU23-0908

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, David E. Goodwin, RN:

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. David E. Goodwin (the "Respondent") of Park Falls, Wisconsin is licensed by the State of Vermont as a Registered Nurse under license number 026-0027059. This license was originally issued on or about March 18, 2002 and lapsed on or about March 31, 2007.
3. Respondent has also held Registered Nursing licenses in several other states, including Wisconsin, Texas, New Mexico, and Alabama.
4. According to a NURSUS (a nationwide disciplinary nursing licensure database) report accessed on or about August 1, 2008, Respondent's Texas registered nursing license was revoked on or about May 8, 2007. The NURSUS report stated the following: "Nurse engaged in sexual contact with Patient JH in that Nurse touched, rubbed, and fondled the patients [sic] breasts and thigh in a sexual manner. On 05/10/2006, Nurse was arrested by the Park Falls Police Department, Park Falls, Wisconsin, and charged with 2nd Degree Sexual Assault . . ."
5. A review of the Criminal Complaint and Summons, dated May 12, 2006, for the State of Wisconsin's Price County Circuit Court, reveals the following:
 - a. On or about May 8, 2008, J.H. went to the Flambeau Hospital (the "Facility") emergency room due to feeling ill. Upon arrival, J.H. and her fiancée were met

STATE OF VERMONT



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

by Respondent, who was working as a nurse at the Facility. Respondent directed J.H.'s fiancée to wait in the waiting room. Once J.H. was in an emergency room, Respondent asked J.H. to remove her clothing; Respondent stood there and watched her do so. A female doctor entered the room, examined J.H., then left. Thereafter, Respondent began to rub J.H.'s arms, face, and hair, which made J.H. uneasy and scared. J.H. requested that her fiancée be allowed into the room, but Respondent ignored this request. Respondent directed J.H. to lean back so he could feel her stomach, then rubbed her stomach, but then touched, rubbed, and squeezed J.H.'s breasts with both hands. Respondent then touched J.H.'s thighs. J.H. again asked for her fiancée. Respondent then stroked J.H.'s cheek and kissed her cheek and forehead.

- b. The officer investigating this matter spoke with Facility Director of Nursing E.S., who stated that touching the patient's breasts was not a normal procedure for this examination.
 - c. Upon questioning, Respondent stated that he examined J.H. professionally and had not done anything inappropriately.
- 6. On or about July 23, 2007, Respondent was convicted of 4th Degree Sexual Assault (misdemeanor) in Price County Circuit Court.
 - 7. On or about March 16, 2007, Respondent was denied registered nursing licensure in the State of Louisiana.
 - 8. On or about April 18, 2007, the State of New Mexico revoked Respondent's registered nursing license by default for failure to respond to a Notice of Contemplated Action.
 - 9. On or about July 18, 2007, Respondent voluntarily surrendered his registered nursing license in the State of Alabama.
 - 10. On or about April 23, 2008, Respondent voluntarily surrendered his registered nursing license in the State of Mississippi.
 - 11. Respondent did not report his conviction to the Office of Professional Regulation, in violation of 3 V.S.A. § 129a(a)(11).

Charges

- 12. 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:

STATE OF VERMONT



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

- a. 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);
- b. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause) which includes performance of unsafe or unacceptable patient care pursuant to ARBN Chapter 4, Rule IV(II)(B)(1); and failure to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(2);
- c. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud, or harm the public) which includes aiding, abetting, or assisting any person in any act in violation of this chapter, or acts against the best interests of the public pursuant to ARBN Chapter 4, Rule IV(II)(D)(10);
- d. 3 V.S.A. § 129a(a)(10) (Conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession);
- e. 3 V.S.A. § 129a(a)(11) (Failure to report to the office a conviction of any felony or any offense related to the practice of the profession in a Vermont district court, a Vermont superior court, a federal court, or a court outside Vermont within 30 days);
- f. 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
- g. 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 David E. Goodwin should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 11 day of February, 2009.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

STATE OF VERMONT



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

nu.goodwin.soc

Edward G. Adrian
State Prosecuting Attorney

STATE OF VERMONT



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