

**STATE OF VERMONT
BOARD OF NURSING**

In re: Kristin L. Magnant
License No. 026-21621

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Docket No. 2013-156(RN)

Appearances:

Prosecuting the case: S. Lauren Hibbert
Respondent: Did not appear

Presiding Officer: Larry S. Novins

DEFAULT ORDER

The Board held a hearing on the above matter on April 14, 2014 at the Capitol Plaza in Montpelier, Vermont. Ms. Magnant did not attend and was not represented by counsel. Ms. Magnant emailed a request to continue the hearing because her husband was having surgery. Because she did not address why she still has not filed an Answer, the Board denied the motion and proceeded to conduct the Default Hearing.

Findings of Fact

1. Ms. Magnant 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 January 17, 2014 Ms. Magnant was sent a 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. The return receipt shows that the notice of charges was received and signed for by Ms. Magnant.
6. Ms. Magnant has not filed an answer to the charges.
7. On March 3, 2014 notice of the Default Hearing scheduled for this date was mailed to Ms. Magnant at that same address by certified mail. The return receipt shows that the notice of charges was sent but was unclaimed by Ms. Magnant.
8. Ms. Magnant has still not answered the charges.
9. Upon hearing the Prosecution's presentation and taking notice of its own file, the Board finds Ms. Magnant to be in Default. The allegations contained in the 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. Magnant has received actual notice of the charges in this matter as indicated by the Board's file and the Prosecution's presentation. Because Ms. Magnant has failed to answer the charges, the factual allegations in the Stipulation and Consent Order 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. Magnant has engaged in the unprofessional conduct alleged in the Specification of Charges.

Order

In accordance with the above Findings of Fact and Conclusions of Law, Ms. Magnant's license is hereby **Suspended Indefinitely** effective as of the date of the hearing.

Reinstatement Precondition: Should Ms. Magnant wish to apply for reinstatement, she must have a mental health evaluation by a provider pre-approved by the Board. The evaluation shall consider the conduct set forth in the Specification of Charges and report to the Board whether Ms. Magnant is able to resume practice. The Board will then determine what, if any conditions can permit her to resume practice while protecting public health and safety.

Appeal Rights

This is a final administrative determination by the Vermont Board of Nursing.

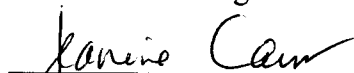
A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, 89 Main St., Fl. 3, Montpelier, VT 05620-3402 within 30 days of the entry of this Order.

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.

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

Vermont Board of Nursing

By:


Jeanine Carr, RN, Chair

Date: April 14, 2014

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 4/17/14

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

IN RE:

KRISTIN L. MAGNANT
License No. 026.0021621

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Docket No. 2013-156

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Kristin L. Magnant, 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

1. Kristin L. Magnant (the "Respondent") of South Burlington, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0021621. This license was originally issued on or about June 29, 1994 and is currently set to expire on or about March 31, 2015.
2. At all times relevant, Respondent was employed at Fletcher Allen Health Care (the "Facility"), located in Burlington, Vermont.
3. On or about March 18, 2013, Hannaford's Pharmacy called the facility questioning a Phentermine prescription for Respondent called in from Dr. Schnure's office. It was discovered that Respondent had a regularly filled prescription for Phentermine since 2009 with Dr. Schnure as the prescriber. Review of the facility records showed that Respondent was never a patient of Dr. Schnure. The facility determined that the prescription was called in from Respondent's extension.
4. Respondent admitted that she called in the prescriptions for Phentermine, which she used as an off label supplement to anti-depressant medication. Respondent admitted she was never prescribed the Phentermine.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
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5. On or about September 26, 2013, Respondent was issued a citation for the crime Fraud or deceit, 28 V.S.A. 4223.

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), ARBN Chapter 4, Subchapter 4, Rule II(B)(1) and (2) ("Inability to practice nursing competently" includes: (1) performance of unsafe or unacceptable patient care; and (2) failure to conform to the essential standards of acceptable and prevailing nursing practice), ARBN Chapter 4, Subchapter 4, Rule II(C) ("Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs, narcotics, chemicals, or any other type of materials);
 - b. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud or harm the public);
 - c. 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);
 - d. 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
 - e. 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).

WHEREFORE, the license of Kristin L. Magnant should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 27 day of December, 2013.

STATE OF VERMONT
SECRETARY OF STATE

By: S. Lauren Hibbert

S. Lauren Hibbert
State Prosecuting Attorney



Prosecuting Attorney
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