

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

<i>In re</i>	Danielle Martel	}
License No.	025-0009017	}
Docket No.	NU15-0807	}

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 Monday 5 November 2007 at the Secretary of State's Office of Professional Regulation, in the National Life Building at 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; Administrative Rules for the Board of Nursing ("Nursing Rules") and the Administrative Rules for the Office of Professional Regulation ("OPR Rules").
2. The State filed a Specification of Charges dated 17 September 2007 ("Charges"), which allege unprofessional conduct against the Respondent.
3. The Office of Professional Regulation ("OPR") served notice of the charges via certified and first class mail at the address Respondent provided to OPR pursuant to 3 V.S.A. §129a (14). 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. OPR 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 Rule 3.3 or at any time thereafter.
5. The Respondent appeared for the hearing and acknowledged that she received the Charges.
6. 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 factual 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 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 evidenced 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 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 by the State of Vermont.

Order

In accordance with the above findings of fact and conclusions of law and effective the date of this order, the Board of Nursing ORDERS that the Respondent's license be SUSPENDED INDEFINITELY and

The Board further ORDERS that the suspension run for a minimum of SIX MONTHS starting as of the date of entry of this order

- END -

(signature page to follow)

Vermont Board of Nursing:

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

Dated at: Montpelier, Vermont 5 November 2007

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 11/8/07

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

IN RE:

**DANIELLE MARIE MARTEL
License No. 025-0009017**

Docket No. NU15-0807

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Danielle Marie Martel, L.P.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. Danielle Marie Martel (the "Respondent") of St. Albans, Vermont is a licensed practical nurse holding license number 025-0009017, issued by the State of Vermont. This license was originally issued on or about August 21, 2006 and is set to expire on January 31, 2008.

3. During all relevant times the Respondent was practicing as a licensed practical nurse at Birchwood Terrace Health Care (the "Facility") in Burlington, Vermont.

4. On or about July 25, 2007 the Respondent was stopped for a traffic violation by Sergeant Scott Graham of the Williston Police Department. At this time, the Sergeant found located in the vehicle marijuana pipes and narcotic and controlled medications in the front and back seats of the vehicle, as well as in the trunk and the Respondent's purse. At the time of the stop the Respondent denied knowledge of the pills.

5. The pills were subsequently identified as 3.5- 500mg Acetaminophen-Hydrocodone Bitartrate, 6 - .5mg Alprazolam, 1 - .5mg Lorazepam, 1 - 5mg Oxycodone-Acetaminophen, 2 - 50mg Imitrex, 2 - 5mg Dextroamphetamine Sulfate and 1 - 60mg MS Contin.

6. On or about August 3, 2007, the Respondent was interviewed by Investigator Pamela Barney-Hango. The Respondent denied taking any narcotics from the Facility. After further questioning, the Respondent admitted that in June, 2007 she took approximately ten pills from the Facility including Morphine and Percocet. The Respondent admitted this in a sworn statement indicating that she was "sorry for any discomfort that she put the residents through." At this time the Respondent also indicated that she made sure all of her medication documentation at the facility was correct because "Medicaid charges for every pill and didn't

STATE OF VERMONT



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[sic] want anyone to be suspicious.”

7. At the time the Respondent was interviewed she indicated that she was participating in a drug abuse counseling program.

8. The Respondent's license was summarily suspended by the Board on or about September 10, 2007.

Charges

9. The acts, omissions and/or circumstances described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:

- 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. 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession);
- iii. 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause);
- iv. Vermont Board of Nursing Administrative Rules Chapter 4, Rule IV, 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);
- v. 26 V.S.A. § 1582(a)(5) (is habitually intemperate or is addicted to the use of habit forming drugs);
- vi. 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public); and
- vii. 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. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

Relief Requested

WHEREFORE, the license of Danielle Marie Martel should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 17th day of September, 2007.

STATE OF VERMONT



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STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

Williston

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

In re: Danielle Martel }
License No. 025-0009017 }
Docket No. NU15-0807 }

SUMMARY SUSPENSION ORDER

On Monday 10 September 2007, this matter came before the Vermont State Board of Nursing by petition of the State of Vermont seeking a summary suspension pursuant to 3 V.S.A. § 814(c). The hearing took place at the Secretary of State's Office of Professional Regulation, Montpelier, Vermont.

The Board has authority to suspend summarily 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 at the hearing of 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)(3); and the Administrative Rules of the Office of Professional Regulation.
2. The State filed a "Request for Summary Suspension" dated 29 August 2007 alleging that Respondent Danielle Marie Martel diverted morphine and oxycodone (Percocet) in June 2007 from Birchwood Terrace Health Care in Burlington Vermont where she worked at that time. The State alleges that the Respondent admitted taking the controlled substances in an interview with an investigator for the Office of Professional Regulation in August 2007.
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 an imperative need for emergency action to protect the public health, safety and welfare.
6. Pursuant to 3 V.S.A. § 814(c), the Board issues the following temporary order, which shall remain in effect until further action by this Board.

ORDER

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.

- END -

Vermont Board of Nursing

By: Susan O. Farrell Dated at Montpelier: 10 September 2007
Susan O. Farrell, RN
Board Chairperson

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 9/13/07