

VERMONT SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

In re Neal Patrick }
License No. 026-0032237 }
Docket No. NU 50-0207 }

DEFAULT ORDER

Upon the filing of a "Notice of Hearing for Default Judgment" by the Secretary of State, the Vermont Board of Nursing (the "Board") heard this matter on Thursday 15 November 2008 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 30 August 2007 ("charges"), which allege that the Respondent engaged in unprofessional conduct in his handling, documentation, administration and wasting of controlled substances while employed at Brattleboro Memorial Hospital.
3. The Office of Professional Regulation served Respondent with notice of the charges via certified and first class mail at the address Respondent provided to OPR. Respondent is required to keep OPR and the Board informed of Respondent's current mailing address. 3 V.S.A. §129a (14).
4. 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.
5. The Respondent did not answer the charges within the legally prescribed time as required by OPR Rule 3.3 or at any time thereafter.
6. The Respondent did not appear for this default hearing.
7. 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 Board therefore treats the factual allegations contained in the State's charges (copy

attached) as proven, and those allegations will 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

8. 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.
9. 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 entry of this order, the Board of Nursing ORDERS that the Respondent's license be SUSPENDED INDEFINITELY.

- END -

(signature page to follow)

Vermont Board of Nursing:

By: Alan H. Weiss
Presiding Board Member

Date: Montpelier, Vermont
15 November 2007

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 11/19/07

Appeal Rights

This is a final administrative determination. 3 V.S.A. § 812.

A party aggrieved by a final decision of a Board may appeal the decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, National Life Building, North, FL 2 Montpelier, Vermont 05620-3402, within 30 days of the entry of the order.

If a party files an appeal, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The appellate officer shall review the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, the appellate officer may receive additional evidence related to the allegations of procedural defects in the record created before the board. 3 V.S.A. §130a.

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

**IN RE:
NEIL PATRICK
License No. 026-0032237**

Docket No. NU50-0207

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Neil Patrick, R.N.:

Board Authority

1. The Vermont State Board of Nursing ("the Board") has authority to issue warnings or reprimands, suspend, revoke, limit, 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 ("ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. The Respondent, Neil Patrick, is licensed in the State of Vermont as a registered nurse holding license number 026-0032237. This license was originally issued on or about December 28, 2005 and is currently set to expire on March 31, 2009.
3. At all times relevant, the Respondent was employed as a registered nurse at Brattleboro Memorial Hospital (the "Facility") located in Brattleboro, Vermont.
4. On or about January, 2005 the Facility emergency room nurse manager J.S. conducted an investigation and noted the following discrepancies in the patient records that the Respondent was responsible for charting:
 - a. On or about December 31, 2006 the Respondent signed out the drug Hydromorphone 2mg for patient J.V. There was no order for this drug, no record of the patient receiving the drug and no record of waste. When interviewed, the Respondent stated that this may be due to sloppiness. J.V.'s physician confirmed that Hydromorphone was never ordered.
 - b. On or about January 7, 2007 the Respondent signed out the drug Hydromorphone 2mg for patient C.R. The patient did have an order for Percocet which was given. Dilaudid (Hydromorphone) was charted as given but no order was noted.
 - c. On or about January 10, 2007 the Respondent signed out for Demoral 100 mg for patient T.L. There was no order for this drug, no record of the patient receiving the drug and no record of waste. When interviewed, the Respondent claimed that this could be explained by the Facility "charge sheets". Investigator Kennedy retrieved the

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documentation from the complied charge sheets and there was no Demerol indicated as charged.

- d. On or about January 13, 2007 the Respondent signed out for Demoral 100 mg for patient N.B. There was no order for this drug, no record of the patient receiving the drug and no record of waste. When interviewed, the Respondent claimed that this could be explained by the Facility "charge sheets". Investigator Kennedy retrieved the documentation from the complied charge sheets and there was no Demerol indicated as charged.
- e. On or about January 14, 2007 the Respondent signed out for Demoral 100 mg for patient C.J. There was no order for this drug, no record of the patient receiving the drug and no record of waste. When interviewed, the Respondent claimed that this could be explained by the Facility "charge sheets". Investigator Kennedy retrieved the documentation from the complied charge sheets and there was no Demerol indicated as charged.
- f. On or about January 14, 2007 the Respondent signed out for Meperidine 100 mg for patient C.B. There was a line through the patient's name on the control sheet. There was no order for this drug, no record of the patient receiving the drug and no record of waste. When interviewed, the Respondent claimed that he placed the Meperidine back in the pharmacy return box with a note. It is against Facility protocol to return controlled drugs.
- g. Between November, 2006 and January, 2007 there were several other discrepancies in respect to the Respondent's narcotic paperwork.

Charges

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

- (i) 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes, but is not limited to, failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(2);
- (ii) 3 V.S.A. § 129a(b)(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 failure to conform to the essential standards of acceptable and prevailing practice); and
- (iii) 3 V.S.A. § 129a(a)(3) (failing to comply with the provisions of state statutes or rules governing the practice of the profession).

Relief Requested

WHEREFORE, the license of Neil Patrick should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 30th day of August 2007.

STATE OF VERMONT



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STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

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