

**STATE OF VERMONT
BOARD OF NURSING**

In re: Joyce A. Rabideau
License No. 026-33698

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Docket No. 2013-424(RN)

Appearances:

Prosecutor: S. Lauren Hibbert
Respondent: Did not appear

Presiding Officer: Larry S. Novins

DEFAULT ORDER

The Board of Nursing held a hearing on the above matter on September 8, 2014 at the Office of Professional Regulation Conference Room at the City Center in Montpelier, Vermont. Ms. Rabideau did not attend and was not represented by counsel.

Findings of Fact

1. Ms. Rabideau 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 June 18, 2014 Ms. Rabideau 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. Stamps on the envelope indicate the notice of charges was "unclaimed."
6. Ms. Rabideau did not file an answer to the charges.
7. On July 21, 2014 notice of the Default Hearing scheduled for this date was mailed to Ms. Rabideau at that same address by certified mail. It, too, was "unclaimed" and marked "Return to Sender, Not Deliverable as Addressed/Unable to Forward."
8. Ms. Rabideau has still not answered the charges.
9. Upon hearing the Prosecution's presentation and taking notice of its own file, the Board finds Ms. Rabideau 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. Rabideau has received constructive notice of the charges in this matter as indicated

by the Board's file and the Prosecution's presentation. Because Ms. Rabideau has failed to answer the charges, the factual allegations in the Specification of Charges 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. Rabideau 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. Rabideau's license is hereby **Suspended Indefinitely**, effective as of the date of the hearing. Should Ms. Rabideau apply for reinstatement, the Board at that time will determine whether 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
Jeanine Carr, RN, Chair

Date: September 8, 2014

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 9/8/14

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

IN RE:)
JOYCE A RABIDEAU) **DOCKET NO. 2013-424**
License No. 026.0033698)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Joyce A. Rabindeau:

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. Joyce A. Rabideau (the "The Respondent") of Mooers Forks, NY is a Registered Nurse in the State of Vermont under license number 26.0033698. This license was originally issued on or about July 22, 2006 and expires on or about March 31, 2015.

3. At all times relevant, Respondent was working at Northwestern Medical Center (the "facility").

4. Respondent diverted four (4) 15 milligram Morphine Sulfate ER tablets from the facility's ICU Omnicell machine on May 17, 2013 and/or May 18, 2013:

- a. On or about May 7, 2013, a reconciliation count was conducted and there were fourteen (14) 15 milligram Morphine Sulfate ER tablets in the ICU Omnicell machine.
- b. On or about May 28, 2013, a reconciliation count was conducted and there were ten (10) 15 milligram Morphine Sulfate ER tablet in the ICU Omnicell machine.

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- c. Review of the records showed that Respondent was the only nurse accessing the Morphine Sulfate drawer in the ICU Omnicell machine and she accessed it on May 17, 2013 at 11:56 PM and May 18, 2013 at 1:41 AM. Respondent accessed the machine under two patients names; however, neither were proscribed morphine.
- d. Respondent denied diverting the morphine when questioned by the facility on July 3, 2013.
- e. On April 8, 2014, in a conversation with Investigator Lewis, Respondent admitted that she had diverted the morphine to treat head and neck pain.

Charges

5. 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. 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)(3) (Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession); and,
- 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).

Relief Requested

WHEREFORE, the license of Joyce A. Rabindeau should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 17 day of June, 2014.

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SECRETARY OF STATE

By: 
S. Lauren Hibbert
State Prosecuting Attorney

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