

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

In re: Tanya Rivera } NU 59-0301
License No. 025-6924 } Appeal of Reinstatement Preliminary Denial

ENTRY ORDER

On Monday 10 April 2006 the Board heard the appeal from Petitioner Tanya Rivera's preliminary denial of her petitioner for reinstatement. Board members Kenneth W. Bush, Susan O. Farrell (Chairperson), Donarae Metcalf, Sandra Norton, Marilyn Rinker (*ad hoc*), Laurey M. Tyo and Alan Weiss participated in the hearing of this matter. Board counsel Kevin F. Leahy presided.

Petitioner's license was revoked by default order in April 2002 subsequent to receiving a prior conditioned license. In January 2006 Petitioner sought reinstatement of her LPN license. Petitioner submitted independent mental health and substance abuse evaluation in support of her application for reinstatement. Her application was reviewed by a Board committee and they investigated the status of the Petitioner. After reviewing the Petitioner's request, the Board's committee preliminarily denied her application for reinstatement. The Committee found that Petitioner had not fully documented adequate progress warranting reinstatement.

In an appeal of a preliminary denial, the burden of proof is on the Petitioner to show that the preliminary denial was wrongly issued.

In support of her appeal, Respondent testified that she believed that she had made sufficient progress in substance abuse counseling and lifestyle changes. She explained to the Board that she would not be a danger to patients or the public if granted a license.

The Board acknowledges the Petitioner has made significant progress. However, the Board wants to see further documented success from Petitioner's counselor(s) showing sustained compliance with a treatment plan. Specifically, the Board would like to see the Petitioner follow the recommendations of her counselor(s) and engage in self-help programs.

The Board appreciates the ongoing efforts and accomplishments Ms. Rivera is making in order to satisfy the requirements needed to show rehabilitation to be reinstated. We will consider another petition after further progress consistent with this Order.

ORDER

Petitioner's Appeal is DENIED.

Vermont Board of Nursing:

By: Susan O. Farrell Date: Oct. 28, 2006
Susan O. Farrell, RN, Chairperson

Date of Entry 11/2/06
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OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 11/2/06

OFFICE OF PROFESSIONAL REGULATION
VERMONT STATE BOARD OF NURSING

IN RE: Tanya Maureen Rivera)
 Case File No. NU59-0301)
 License No. 25-6924) DEFAULT ORDER

Introduction

The Board of Nursing held a default hearing in the above matter on April 8, 2002 at 133 State Street in Montpelier, Vermont. Board members Larry Kingsbury, Linda Rice, Diane Dowgiewicz, Susan Farrell, Ad Hoc member Margaret Luce and Sandra Norton participated in the decision. Assistant Attorney General William Ahlers appeared for the State. The Respondent did not attend and was not represented.

Findings of Fact

1. The Respondent was sent notice of the Charges against her by certified mail on March 4, 2002 to her last known address.
2. A return receipt bearing the Respondent's signature was returned to the Office of Professional Regulation dated March 5, 2002.
3. Notice of the default hearing was mailed to the same address by certified mail and was signed for on March 29, 2002.
4. The Respondent has not answered the charges against her.
5. Upon hearing the State's presentation and taking notice of its own file, the Board found the Respondent to be in default. The allegations contained in the State's specification of charges dated February 28, 2002 (copy attached) are therefore treated as the facts on which the Board's order is based.

Conclusions of Law

The Respondent has received adequate notice of the charges against her as indicated by the Board's file and the State's presentation. Because the Respondent has failed to answer the charges against her, the State's factual allegations are treated as if proved. Accordingly, the

Board finds, in the default hearing held pursuant to 3 V.S.A. §809(d), that the Respondent 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, the license of the Respondent is hereby REVOKED, effective as of the date of the hearing.

Appeal Rights

This is a final administrative determination by the Vermont State Board of Nursing. You may appeal by sending a notice of appeal in writing to the Director of the Office of Professional Regulation within 30 days of the date of entry of this order. If you wish to request a stay of the Board's decision, please refer to the attached stay instructions.

By: Susan Farrell
Susan Farrell
Chair

Date: April 13, 2002

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 4/23/02

STATE OF VERMONT
BOARD OF NURSING

IN RE:	)	
Tanya Rivera	)	Docket No. NU59-0301
License No: 25-6924	)	

SPECIFICATION OF CHARGES

1. The Vermont Board of Nursing has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses and nursing assistants pursuant to 3 V.S.A. §§129, 129a and 814; 26 V.S.A. §§1574, 1582, 1595 and 1598; the Board of Nursing's Rules and the Office of Professional Regulation's Rules.
2. Respondent Tanya Rivera, of Sheffield, Vermont, is a licensed practical nurse holding license number 25-6924, issued by the State of Vermont. This license was originally issued on about April 14, 1993 and it is currently conditioned.
3. By way of history, Respondent's license was conditioned pursuant to a stipulation and consent order entered by the Board on or about May 11, 1998 (Docket No. NU57-0497, incorporated by reference).
4. By way of history, Respondent's request for removal of certain conditions was preliminarily denied by the Board on or about October 20, 1999 (Docket No. NU57-0497, preliminary denial incorporated by reference).
5. By way of history, Respondent's request for removal of certain conditions was further denied after hearing, pursuant to a Findings of Fact, Conclusions of Law and Order entered by the Board on about January 25, 2000. (Docket No. NU57-0497, incorporated by reference).
6. Respondent was employed by or associated with Maple Lane Nursing Home, of Barton, Vermont, from about July 10, 2000 to March 7, 2001.

Count 1

7. Paragraphs 1 to 6 are incorporated.
8. At a time or times, including about January 10, 2001 at 3:00 a.m., Respondent slept while on duty.
9. The above act(s), omission(s) and/or circumstance(s), taken individually, together or in any combination, violate: Nursing Board Rules Chapter 4, Rule IV(B)(2)(a) (performance of unsafe or unacceptable nursing care) and Chapter 4, Rule IV(B)(2)(b) (failure to conform to the essential standards of acceptable and

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prevailing nursing practice), and; 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).

Count 2

10. Paragraphs 1 to 6 are incorporated.
11. On or about February 9, 2001, Respondent wasted a schedule II, prescription medication (percocet, upon information and belief), without a witness.
12. On or about February 9, 2001, Respondent asked another staff member to falsely document witnessing the waste of the above medication (when actually there was no witness).
13. On or about February 10, 2001, Respondent administered percocet to patient "J.M.", and also inaccurately charted this, and further did so without an order from a provider with prescriptive authority.
14. The above act(s), circumstance(s) and/or omission(s), taken alone, together or in any combination, constitute unprofessional conduct and violate Nursing Board Rules: Chapter 4, Rule IV(B)(2)(a) (performance of unsafe or unacceptable nursing care) and Chapter 4, Rule IV(B)(2)(b) (failure to conform to the essential standards of acceptable and prevailing nursing practice), and; Chapter 4, Rule IV(B)(4)(c) (falsifying or altering clinical records or making inaccurate or misleading entries), which are violations of, and constitute unprofessional conduct within the meaning of, 26 V.S.A. §1582(a)(3) (unable to practice nursing competently by reason of any cause) and 26 V.S.A. §1582(a)(7) (conduct of a character likely to deceive, defraud or harm the public).
15. The above act(s), circumstance(s) and/or omission(s), taken alone, together or in any combination, constitute unprofessional conduct and violate: 21 C.F.R. §1307.21(a)(1) (...list the controlled substance or substances which he/she desires to dispose of on DEA Form 41, and submit three copies of that form to the Special Agent in Charge of his/her area); 21 C.F.R. §1307.21(b)(3) (...destruction in the presence of an agent of the Administration or other authorized person...) and 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).

Count 3

16. Paragraphs 1 to 6 are incorporated.
17. On or about February 24, 2001, Respondent threw water at patient "C.S."

18. On or about February 24, 2001, Respondent acted hysterically, cursed and/or used inappropriate language in earshot of staff and/or patient(s).
19. The above act(s), omission(s) and/or circumstance(s), taken individually, together or in any combination, violate: Nursing Board Rules Chapter 4, Rule IV(B)(2)(a) (performance of unsafe or unacceptable nursing care) and Chapter 4, Rule IV(B)(2)(b) (failure to conform to the essential standards of acceptable and prevailing nursing practice), and; 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).

Count 4

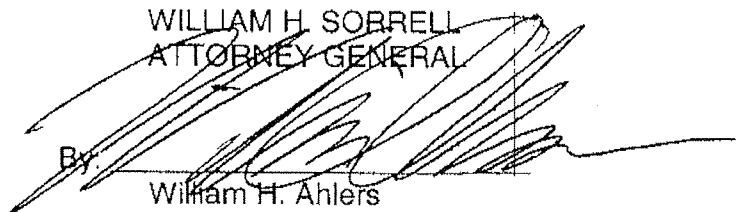
20. Paragraphs 1 to 6 are incorporated.
21. At a time or times, including about January 2001 to May 2001, Respondent engaged in drug seeking behavior, including but not necessarily limited to presenting at an Emergency Room in no acute distress and requesting prescription(s) for narcotic medication.
22. The above act(s), omission(s) and/or circumstance(s) violate: 26 VSA §1582(a)(7) (engages in conduct of a character likely to deceive, defraud or harm the public); 26 VSA §1582(a)(5) (Is habitually intemperate or is addicted to the use of habit-forming drugs), and; 3 VSA § 129a(a)(3) (failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession).

WHEREFORE, the license of Tonya Rivera should be disciplined.

Dated this 28th day of February, 2002 at Montpelier, Vermont.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 

William H. Ahlers
Assistant Attorney General

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