

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

In re: JOHN L. ROSKE	}	
License No. 026.0028058	}	Docket No. 2016-347 (RN)
	}	

Appearances:

Prosecutor: Elizabeth A. Jarvis, Esq.
Respondent: Did not appear

Hearing Officer: George K. Belcher

DEFAULT ORDER

The Hearing Officer of the Vermont Board of Nursing held a hearing pursuant to 3 VSA Sec. 129(f) in the above matter on November 15, 2016 at the Office of Professional Regulation in Montpelier, Vermont. Respondent did not attend and was not represented by counsel.

Findings of Fact

1. Respondent 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. Chapter 28, and the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.
2. Charges were filed in this matter on September 21, 2016. On September 21, 2016 the Respondent was sent a Notice of Charges in this matter by certified mail and first class mail to the address of the Respondent which was on file with the Office of Professional Regulation. The notice of specification of charges was received as shown by signature of the Respondent on October 18, 2016. The Respondent noted on the return receipt card a change of 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. On October 27, 2016 a notice was sent to the Respondent advising of the hearing before the Board to find the Respondent in default and advising that, "If you wish to contest the charges you must contact the office immediately at (802) 828-2367 and show good cause for failing to answer the charges against you." This notice was mailed by certified mail and by regular mail. The certified mail notice was not returned as of the date of the hearing. The regular mail notice was not returned as of the date of the hearing.
5. Respondent has not filed an answer to the charges, nor any communication concerning good cause for failure to answer. The Respondent did not appear at the hearing on

default. No contact was made by the Respondent to the attorney for the State indicating that the Respondent intended to contest the charges. Upon consideration of the Prosecution's presentation and taking notice of the OPR file, the Hearing Officer of the Board finds Respondent to be in Default. The allegations contained in the Specification of Charges are therefore treated as the facts on which the Board may issue an order of professional discipline. OPR Rule 3.4, 3 V.S.A. § 809(d), and 3 V.S.A. § 814(c).

6. It is specifically found that the Respondent grossly failed to comply with numerous conditions set forth in a prior order of the Board dated July 14, 2014 including but not limited to failure to submit to random urine screens, failure to have clear urine screens when taken, and failure to abstain completely from the consumption or possession of alcohol or drugs.
7. It was the recommendation of the State that the Respondent's license be indefinitely suspended, and that if and when the Respondent's seeks reinstatement then appropriate conditions may be imposed.

Conclusions of Law

Respondent has received adequate or constructive notice of the charges in this matter as indicated by the Board's file and the Prosecution's presentation. Because Respondent 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 may find, based up the finding of Default from this Default Hearing held pursuant to 3 V.S.A. §809(d), that Respondent has engaged in the unprofessional conduct alleged in the Specification of Charges.

Proposed Order

In accordance with the above Findings of Fact and Conclusions of Law, and consistent with the recommendation by the State, the Board does ORDER that the Respondent's license be indefinitely suspended. If and when the Respondent's seeks reinstatement then appropriate conditions may be imposed. Any such reinstatement would be in the sole discretion of the Board dependent upon such facts as might appear at the time a request for reinstatement occur.

The Hearing Officer reports the above facts, conclusions of law, and the finding of DEFAULT to the Board with the recommendation that the Board approve them and enter the Order as above.

Dated this 17th day of November, 2016.


George K. Belcher

Hearing Officer of the Vermont Board of Nursing

The Vermont Board of Nursing considered the report of findings of fact and conclusions of law at its meeting on 5-12-12. After considering the report, the Board takes the following action:

- / / Rejects the report and schedules the matter for hearing.
- / / Schedules the matter for additional evidence.
- /X Accepts the report, adopts the findings of fact and conclusions of law, and orders the recommended discipline as set forth above.

SO ORDERED.

Vermont Board of Nursing

By: Jeanine Carr
Jeanine Carr, RN, Chair
Vermont Board of Nursing

Date: 12/12, 2016

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 12-14-16

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.

**STATE OF VERMONT
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IN RE:
JOHN L. ROSKE
License No. 026.0028058

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Docket No. 2016-347

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, John L. Roske:

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. Chapter 28; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. John L. Roske (the "Respondent") of Ashfield, Massachusetts is licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0028058. This license was originally issued March 21, 2003, and expires on or about March 31, 2017.
3. Respondent's RN license is currently conditioned for a minimum of three (3) years as a result of a Vermont Board of Nursing Stipulation and Consent Order (the "Vermont Order") in Docket No. 2013-569, entered on July 14, 2014.
4. The Vermont Order is based on discipline the Respondent received from the Massachusetts Board of Nursing in Docket No. NUR-2011-0084, effective September 3, 2013, for issues related to substance abuse.
5. Under the Vermont Order, Respondent is required to complete Substance Abuse Counseling and provide monthly reports to the Board from Respondent's treating professional.
6. Under the Vermont Order, Respondent is required to submit to random drug and alcohol screenings.

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7. Under the Vermont Order, Respondent must abstain completely from the consumption or possession of alcohol or drugs.
8. Random drug testing under the Vermont Order requires the Respondent to make a daily phone call to FirstLab, the testing facility the Board uses, to determine whether he needs to submit a sample on that day.
9. Since August of 2014, the Respondent has failed to call-in to First Lab to determine if he needs to give a sample at least ninety-five (95) times.
10. The Respondent has failed to call-in to First Lab to determine if he needs to give a sample each day since June 17, 2016.
11. Since August of 2014, the Respondent failed to show for a drug test after learning he needed to submit a sample eleven (11) times.
12. Since November of 2015, the Respondent has had four (4) positive urine samples for alcohol.
13. A blood test collected from the Respondent on May 23, 2016, resulted in a high positive for alcohol use.
14. The Respondent dropped out of substance abuse treatment in June of 2016.

Violation One: 3 V.S.A. §129a(a)(4) Failing to comply with an order of the board or violating any term or condition of a license restricted by the board.

15. The State re-alleges and incorporates Paragraphs 2 through 14 above.
16. As stated in Paragraph 3 above, the Respondent's RN license is currently conditioned as a result of a Vermont Board of Nursing Stipulation and Consent Order in Docket No. 2013-569.
17. The Respondent is required to comply with all Board Orders and conditions placed on his nursing license.
18. The Respondent currently has several conditions placed on his RN license, as stated in Paragraphs 5 through 8 above.
19. The Respondent has failed to comply with an order of the board and has violated terms and conditions of a license restricted by the board by engaging in the conduct stated in Paragraphs 9 through 14 above.
20. 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 3 V.S.A. §129a(a)(4).

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Relief Requested

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

DATED at Montpelier, Vermont this 21st day of September, 2016.

STATE OF VERMONT
SECRETARY OF STATE

By: Elizabeth A. Jarvis
Elizabeth A. Jarvis
State Prosecuting Attorney

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