

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

In re: ABIGAIL L. ROY	}	
License No. 025.0110059	}	Docket No. 2015-249 (LPN)
	}	

Appearances:

Prosecutor: S. Lauren Hibbert, 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 September 26, 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 Licensed Practical 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, a copy of which are attached hereto. 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 specification of charges which were sent by regular mail were not returned.
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 August 12, 2016 a notice was sent to the Respondent advising her of the hearing before the Board to find her in default and advising her 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 and the regular mail notice were returned "unclaimed and unable to forward".
5. Respondent has not filed an answer to the charges, nor any communication concerning good cause for failure to answer. She 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 was the recommendation of the State that the Respondent's ability to renew her license (which has currently lapsed) be indefinitely suspended, and that, if and when the Respondent's seeks reinstatement or renewal, then appropriate conditions may be imposed if a license is issued.

Conclusions of Law

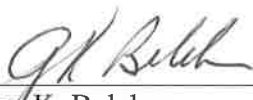
Respondent has received adequate or constructive notice of the charges in this matter as indicated by the Board's file and the Prosecution's presentation. Because Respondent has failed to answer the charges, the factual allegations in the Specification of Charges are treated as if proven. O.P.R. Rule 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 ability to renew her license be indefinitely suspended. If and when the Respondent's seeks renewal or reinstatement, then appropriate conditions may be imposed if a license is issued. 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 occurs.**

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 28th day of September, 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 OCT. 10, 2016. 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, RN, Chair
Vermont Board of Nursing

Date: 10/10, 2016

DATE OF ENTRY: 10/11/16

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.

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IN RE:	)	
ABIGAIL L. ROY	)	Docket No. 2015-249
License No. 025.0110059	)	

SPECIFICATION OF CHARGES

NOW COME the State of Vermont and makes the following Charges against the Respondent, Abigail L. Roy, LPN:

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. Abigail L. Roy (the "Respondent") of Claremont, New Hampshire is licensed by the State of Vermont as a Registered Nurse under license number 025.0110059. This license was originally issued on or about February 25, 2015 and expired on or about January 31, 2016.
3. On or about October 24, 2008, Respondent pleaded guilty to Uttering a Forged Prescription in the New Hampshire Grafton County Superior Court. This is a felony conviction. Respondent forged prescriptions and diverted approximately eight hundred sixty (860) Percocet tablets over an eight month period.
4. On a Licensed Practical Nurse Endorsement Application received on or around February 25, 2015, Respondent answered No to the question: "Have you EVER been convicted of a crime other than a minor traffic violation?"
5. On the same application, Respondent signed the statement: "I certify, under the pains and penalties of perjury, that all information I have provided in this application is true and accurate. I understand that furnishing false information may constitute unprofessional conduct and result in the denial of my application or further

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disciplinary action. The maximum penalty for perjury is fifteen years in prison and/or a \$10,000 fine. (13 V.S.A. §2901)

6. On or about March 20, 2015, the New Hampshire issued an Order of Emergency License Suspension and Notice of Hearing in the matter of Abigail Roy, LPN. The basis of the order was the alleged falsification of records and diversion or attempted diversion of drugs or controlled substances at nursing home facilities in New Hampshire. The diverted drugs included Percocet, Clonazepam, and Oxycodone.

Charges

7. 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)(2)(diverting or attempting to divert drugs or equipment or supplies for unauthorized use);
 - b. 26 V.S.A. § 1582(a)(3) (Engages in conduct of a character likely to deceive, defraud or harm the public);
 - c. 3 V.S.A. § 129a(a)(1)(Fraudulent or deceptive procurement or use of a license);
 - d. 3 V.S.A. § 129a(a)(3)(10)(Conviction of a crime related to the practice of the profession or conviction of a felony whether or not related to the practice of the profession);
 - e. 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records; or willfully failing to file the proper reports or records); and,
 - f. 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).

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

DATED at Montpelier, Vermont this 30 day of June, 2016.

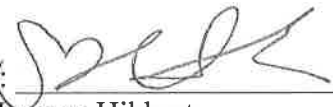
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SECRETARY OF STATE

By: 
S. Lauren Hibbert
State Prosecuting Attorney

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