

**STATE OF VERMONT
BOARD OF NURSING**

In re: Christy Lee Russell
License No. 026-32068

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Docket No. NU25-0807

Appearances:

Petitioner, State of Vermont: Betsy A. Wrask

Respondent: Did not appear

Presiding Officer: Larry S. Novins

DEFAULT ORDER

The Board held a hearing on the above matter on May 11, 2009 at the National Life Building in Montpelier, Vermont. Ms. Ms. Russell did not attend and was not represented by counsel.

Findings of Fact

1. Ms. Ms. Russell 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 October 24, 2008 Ms. Ms. Russell was sent 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. Ms. Russell filed an answer and a pre-hearing conference was scheduled.
6. The conference was re-scheduled and finally held on March 27, 2009. Ms. Russell stated at that time that she "wished to "turn her license in." She was told that the matter would be set for a default hearing on this date, and that if she wished to participate further, she must inform the docket clerk no later than April 15, 2009.
7. Ms. Russell was sent the pre-hearing notice which scheduled this default hearing.
8. Ms. Russell has not contacted the docket clerk to participate in this matter further.
9. Upon hearing the State's presentation and taking notice of its own file, the Board finds Ms. Ms. Russell to be in Default. The allegations contained in the State's 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. Ms. Russell has received adequate or constructive notice of the charges in this matter as indicated by the Board's file and the State's presentation. Because Ms. Ms. Russell has failed to answer the charges, the State's factual allegations 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. Ms. Russell 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, Ms. Ms. Russell's license is hereby **indefinitely suspended** effective as of the date of the hearing.

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, National Life Bldg., North, FL2, 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: Ellen Leff
Ellen Leff, R.N., Chair

Date: May 11, 2009

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 5/13/09

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

IN RE:

**CHRISTY LEE RUSSELL
License No. 026-0032068**

Docket No. NU25-0807

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Christy Lee Russell, R.N.:

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 ("ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Christy Lee Russell (the "Respondent") of Plattsburgh, New York is licensed by the State of Vermont as a Registered Nurse under license number 026-0032068. This license was originally issued on or about November 2, 2005 and is currently set to expire March 31, 2009. Respondent is also licensed by the State of New York as a Registered Nurse under license number 532870 (the "New York license"). Respondent's New York license was issued on or about July 24, 2002 and is currently set to expire May 31, 2011.
3. On or about May 25, 2006, Respondent was convicted of Criminal Mischief (Class A misdemeanor) in the State of New York, Clinton County, Schuyler Falls Town Court under Case Number 05090062, for damaging the property of another person. Respondent was fined \$600.00 (six hundred dollars).
4. On or about October 2, 2006, Respondent began employment as a registered nurse at Birchwood Terrace Healthcare ("Birchwood"), located in Burlington, Vermont.
 - a. Respondent's personnel file from Birchwood indicates that on or about February 21, 2007, Respondent was re-hired after Respondent had become frustrated and left Birchwood.
 - b. On or about June 22, 2007, Respondent received a Performance Evaluation which states in part, "Christy - you have a passion for the position + welfare of resident

STATE OF VERMONT



Prosecuting Attorney
Office of
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9 Baldwin Street
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[sic], however I would like to see Christie [sic] keep her personal emotions in check i.e. when frustrated is over heard 'I'm going to quit,' horrible for moral [sic] and building a team."

- c. On or about April 9, 2008, State Investigator Amy Carlson interviewed S.F., Director of Nursing Services at Birchwood. S.F. advised that Respondent was terminated from Birchwood on or about August 17, 2007. The termination was due to Respondent leaving Birchwood and not returning. Respondent's departure was subsequent to Respondent meeting with one of Birchwood's nurse managers regarding Respondent's behavior in the workplace. S.F. stated that Respondent is very smart and has good nursing skills, but that there are "[m]any, many concerns otherwise. Very concerning mood swings."
5. On or about April 4, 2007, Respondent signed and subsequently submitted an application to renew Respondent's registered nursing license in the State of Vermont (the "Renewal Application"). In Section D of the Renewal Application, Respondent answered "NO" to the question "Have you been convicted of a crime other than a minor traffic violation?" In Section E of the Renewal Application, Respondent answered "NO" to the question "Do you have a physical or mental condition or disorder which in any way impairs or limits your ability to practice with reasonable skill and safety?"
6. On or about August 2, 2007 in Order #CS-07-28, Respondent was assessed a civil penalty in the amount of \$2,000.00 (two thousand dollars) by the New York State Department of Health. Attachment A. This penalty was due in part to Respondent violating New York Public Health Law, Article 33, on May 2, 4, 20, and 30, 2005 by obtaining controlled substances for herself from the stock of Champlain Valley Physicians Hospital, located in Plattsburgh, New York, by using the name of a patient who did not receive the controlled substance; and by violating 10 NYCRR § 80.48 on those dates by failing to document the administration of those controlled substances.
7. In or around January 2008, Respondent was hired as a registered nurse at Lake Champlain Gynecological Oncology ("LCGO"), located in South Burlington, Vermont and Plattsburgh, New York. Respondent's supervisor at LCGO was Dr. G.E.
 - a. On or about June 11, 2008, after Respondent was given a two weeks' notice of termination from LCGO, Dr. G.E. received an email in his "inbox" that appeared to be sent from Dr. G.E., to the Respondent, even though Dr. G.E. did not write Respondent this email. Included in the email were the statements "You have been nothing but trouble here in my office" and "You have been in a combined group to ruin my practice." The email did not appear in Dr. G.E.'s "sent box," which is where it should have appeared had Dr. G.E. actually sent the email to Respondent.
 - b. On or about June 13, 2008, Dr. G.E. requested Dewyea Consulting (the "Consultant"), located in South Hero, Vermont, to investigate the email. The

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Consultant found that the email was not sent via Microsoft Office – the email program Dr. G.E. used exclusively for LCGO emailing – but by a web-based application accessing Dr. G.E.'s email account online. The Consultant noted that because the passwords for the online email accounts were not very secure, it would not have been difficult for someone with a moderate level of computer knowledge to inappropriately access email for any LCGO employee via the online web interface. The Consultant also found that the email appeared in Dr. G.E.'s inbox because apparently Dr. G.E. was BCC'd on the email, in an effort to create the illusion that the email originated from his computer. Moreover, once Respondent received this email in her inbox, Respondent immediately forwarded the email to an employee in the VOSHA office, which the Consultant found was an indication that some previous thought or discussion had occurred.

- c. On or about June 30, 2008 in an interview with Investigator Carlson, Dr. G.E. stated that Respondent was terminated from LCGO on or about June 18, 2008 due to poor job performance. Dr. G.E. advised that Respondent suffers from depression, and exhibited angry outbursts and erratic behavior.
- 8. On or about April 10, 2008 in an interview with Investigator Carlson, Respondent advised that in or around June 2005, Respondent was under the influence of alcohol and ingested an unknown substance. Respondent stated that although she does not remember ingesting such a substance, she was informed by a former coworker, S.S., that another former coworker, Z.W., had given Respondent an unknown substance and that Respondent and Z.W. snorted the substance.

Charges

- 9. 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)(1) (Has made or caused to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing);
 - b. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause);
 - c. ARBN Chapter 4, Rule IV(II)(B)(1) and (2) ("Inability to practice competently" includes: (1) performance of unsafe or unacceptable patient care; and (2) failure to conform to the essential standards of acceptable and prevailing nursing practice);
 - d. ARBN Chapter 4, Rule IV(II)(C) ("Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs, narcotics, chemicals, or any other type of materials);

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- e. 26 V.S.A. § 1582(a)(6) (Has a mental, emotional, or physical disability, the nature of which interferes with ability to practice nursing competently);
- f. 3 V.S.A. § 129a(a)(1) (Fraudulent or deceptive procurement or use of a license);
- g. 3 V.S.A. § 129a(a)(5) (Practicing the profession when medically or psychologically unfit to do so);
- h. 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); and
- i. 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).

Relief Requested

WHEREFORE, the license of Christy Lee Russell should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 20th day of October, 2008.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

nu.russell2soc

STATE OF VERMONT



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STATE OF NEW YORK : DEPARTMENT OF HEALTH
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IN THE MATTER :

OF :

ANTONIA C. NOVELLO, M.D., M.P.H., Dr. P.H., :
as Commissioner of Health of the State of :
New York, to determine the action to be :
taken with respect to: :

CHRISTY HUTCHINS, R.N. :

a/k/a :

CHRISTY RUSSELL :

ORDER

Respondent, :

#CS-07-28

arising out of alleged violations of :
Article 33 of the Public Health Law of :
The State of New York and Title 10 (Health) :
of Official Compilation of Codes, Rules :
and Regulations of the State of New York :
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ORIGINAL

A December 19, 2006 Statement of Charges (Department Exhibit 1) alleged that the Respondent violated N. Y. Public Health Law (PHL) §§ 3304(1) & 3397(1) and Title 10 NYCRR § 80.48 by possessing controlled substances in a manner inconsistent with the requirements of PHL Article 33, obtaining controlled substances on four occasions for herself by using the name of a patient who did not receive said controlled substance and obtaining controlled substances on four occasions but failing to document the administration of said controlled substance. Administrative Law Judge (ALJ) James F. Horan conducted a hearing into those charges on March 12, 2007 at the Champlain Valley Physicians Hospital, 75 Beekman Street, Plattsburgh, New York. At the hearing, both parties presented witnesses, who testified under oath and who underwent cross-examination. A stenographic reporter prepared a transcript from the proceeding and Department

Attachment A

introduced documents into evidence, which the ALJ received into the record.

After reviewing the entire record in the proceeding, the ALJ issued a May 2, 2007 Report containing his findings of fact, conclusions of law and recommendations to the Commissioner. The ALJ found that the Department proved all the charges. The ALJ recommended that the Commissioner affirm the charges and fine the Respondent \$2,000.00.

NOW, on reading and filing the Notice of Hearing, Statement of Charges, the Record herein and the Administrative Law Judge's Report, I hereby adopt the Report of the Administrative Law Judge as my own; and

I ISSUE THE FOLLOWING ORDER:

1. I affirm the charge that the Respondent violated PHL § 3304(1) by possessing controlled substances in a manner inconsistent with the requirements of PHL Article 33 [Charge 1].
2. I affirm the charges that the Respondent violated PHL § 3397(1) on May 2, 4, 20 & 30, 2005, at Champlain Valley Physicians Hospital in obtaining controlled substances for herself from the stock at the Hospital, by using the

name of a patient who did not receive the controlled substance [Charges 2, 4, 6, 8].

3. I affirm the charges that the Respondent violated Title 10 NYCRR § 80.48 on May 2, 4, 20 & 30, 2005 by obtaining controlled substances and failing to document the administration of those controlled substances [Charges 3, 5, 7 & 9].
4. I fine the Respondent \$2000.00.
5. The Respondent shall pay the fine to the Bureau of Accounts Management, New York State Department of Health, Erastus Corning Tower Building, Room 1258, Empire State Plaza, Albany, New York 12237 within thirty (30) days of the effective date of this Order.
6. Any civil penalty not paid by the prescribed date shall be subject to all provisions of law relating to debt collection by the State of New York. This includes but is not limited to the imposition of interest, late payment charges and collection fees, referral to the New York State Department of Taxation and Finance for collection, and non-renewal of permits or licenses (Tax Law §171(27); State Finance Law §18; CPLR §5001; Executive Law §32).

7. This Order shall be effective upon service on the Respondent by personal service or by certified or registered mail.

DATED: Albany, New York
8/2/2007



RICHARD F. DAINES, M.D.
Commissioner of Health

TO: Michael O'Brien, Esq.
Senior Attorney
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