

OFFICE OF PROFESSIONAL REGULATION
VERMONT STATE BOARD OF NURSING

IN RE:	Kenneth Shepard	)	
	Case File No. NU86-0504	)	DEFAULT ORDER
	License No. 26-22926	)	

Introduction

The Board of Nursing held a default hearing in the above matter on December 13, 2004 at 81 River Street in Montpelier, Vermont. Board members Susan Farrell, Sandra Norton, Alan Weiss, De-Ann Welch, Laurey Tyo and Elayne Clift participated in the decision. State Prosecuting Attorney Edward Adrian appeared for the State. Kenneth Shepard ("the Respondent") did not attend.

Findings of Fact

1. The Respondent was sent notice of the Charges against him to his last known address by certified mail and first class mail on September 15, 2004.
2. The mailing was signed for by "J. Shepard" on September 21, 2004 and the receipt was returned to the Office of Professional Regulation.
3. Notice of the default hearing was mailed to the same address by certified and regular mail on November 18, 2004.
4. After 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 September 5, 2004 (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 him as indicated by the Board's file. Because the Respondent has failed to answer the charges against him, 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 INDEFINITELY SUSPENDED.

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, RN
Chair

Date: Dec. 24, 2004

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 1/6/05

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

IN RE:)
KENNETH R. SHEPARD) **Docket No. NU 86-0504**
License No: 026-0022926)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Kenneth R. Shepard, R.N.:

Board Authority

1. The Vermont Board of Nursing ("the Board") has jurisdiction to investigate complaints of unprofessional conduct and discipline nurses pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §1582; the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.
2. Inability to practice nursing competently by reason of any cause is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(3).
3. 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. ARBN Chapter 4, Rule IV(II)(C).
4. Being habitually intemperate or addicted to the use of habit-forming drugs is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(5).
5. Engaging in conduct of a character likely to deceive, defraud or harm the public is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(7).
6. Conduct of a character likely to deceive, defraud or harm the public includes diverting supplies, equipment, or drugs for personal or unauthorized use. ARBN Chapter 4, Rule IV(II)(D)(4).
7. Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 3 V.S.A. §129a(a)(3).

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Facts

8. The Respondent, Kenneth R. Shepard, is licensed by the State of Vermont as a Registered Nurse under license number 026-0022926.
9. Respondent's license was originally issued on July 15, 1996 and Respondent's license is currently set to expire on March 31, 2005.
10. On December 22, 2003, the Vermont Board of Nursing received notice from the North Carolina Board of Nursing that the Respondent's nursing license had been suspended. The reason for the suspension was that the Respondent had been terminated from the North Carolina Alternative Program for Chemical Dependency, effective December 12, 2003.
11. On June 16, 2004, the Respondent informed State Investigator Ron West that the reason he was terminated from the Alternative Program was because he was arrested for taking drugs from the hospital he was working at. He also advised that he is scheduled to enter a plea to the amended misdemeanor charge on July 23, 2004.

Charges

12. The acts, omissions and/or circumstances described above, constitute grounds for discipline because Respondent violated:
 - i. 26 V.S.A. §1582(a)(3) (Inability to practice nursing competently by reason of any cause). 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 pursuant to ARBN Chapter 4, Rule IV(II)(C); and
 - ii. 26 V.S.A. §1582(a)(5) (Being habitually intemperate or addicted to the use of habit-forming substances); and
 - iii. 26 V.S.A. §1582(a)(7) (Engaging in conduct of a character likely to deceive, defraud or harm the public). Conduct of a character likely to deceive, defraud or harm the public includes diverting supplies, equipment, or drugs for personal or unauthorized use pursuant to ARBN Chapter 4, Rule IV(II)(D)(4); and
 - iv. 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 Kenneth R. Shepard should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Dated at Montpelier, Vermont this 5th day of September 2004.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

nu.shepard.soc

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602