

**STATE OF VERMONT
BOARD OF NURSING**

In re: Charles Darryll Shore
License No. 025-9553

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Docket No. 2010-270(LPN)

Appearances:

Petitioner, State of Vermont: Betsy Ann Wrask
Respondent: Did not appear

Presiding Officer: Larry S. Novins

DEFAULT ORDER

The Board held a hearing on the above matter on November 8, 2010 at the National Life Building in Montpelier, Vermont. Mr. Shore did not attend and was not represented by counsel.

Findings of Fact

1. Mr. Shore is licensed as a practical 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 September 24, 2010 Mr. Shore was sent a Notice of Charges in this matter by certified mail to his 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. Stamps on the envelope indicate the notice of charges was unclaimed.
6. Mr. Shore has not filed an answer to the charges.
7. On November 1, 2010 notice of the Default Hearing scheduled for this date was mailed to Mr. Shore at that same address by certified mail. The file shows no return on this mailing.
8. Mr. Shore has still not answered the charges.
9. Upon hearing the State's presentation and taking notice of its own file, the Board finds Mr. Shore 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

Mr. Shore 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 Mr. Shore 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 Mr. Shore 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, Mr. Shore's **voluntary surrender of his license is accepted**, 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. November 5, 2010

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: November 8, 2010

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 11/12/10

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

IN RE:

**CHARLES DARYLL SHORE
License No. 025.0009553**

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Docket No. 2010-270

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Charles Daryll Shore, 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. Charles Daryll Shore (the "Respondent") of Claremont, New Hampshire is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025.0009553. This license was originally issued on or about June 27, 2008 and is currently set to expire on or about January 31, 2012. Respondent has also been licensed by the State of Vermont as a Licensed Nursing Assistant under license number 075.0006875. Respondent's LNA license was originally issued on or about October 23, 1995 and expired on or about January 31, 1997.
3. At all times relevant, Respondent was employed as a Licensed Practical Nurse at Springfield Health and Rehabilitation Center (the "Facility"), located in Springfield, Vermont.
4. In or around May 2010, Licensing and Protection referred to the Board a complaint regarding Respondent's conduct with Resident J.A. at the Facility. J.A. has dementia.
5. On or about June 2, 2010 in an interview with State Investigator Jocelyn Stohl, Facility Director of Nursing S.B. advised that on or about May 12, 2010, LNA A.F. reported to S.B. that A.F. overheard Respondent yelling at Resident J.A., and that A.F. stated she witnessed Respondent hold J.A. by the arm and leg and throw J.A. into bed. S.B. advised that when she asked Respondent about this incident, Respondent told her that Respondent was angry at J.A. for running into Respondent

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Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

with J.A.'s wheelchair; that J.A. had been in an agitated state; and that Respondent may have been a bit rough with J.A. when he assisted J.A. into bed. S.B. advised that because Respondent had a previous performance incident with this same resident on or about July 31, 2009 (referenced below in ¶9), the decision was made to terminate the Respondent. However, instead, Respondent resigned from the Facility.

6. On or about June 2, 2010 in an interview with Investigator Stohl, LNA A.F. advised that on the day in question, she heard "a bunch of banging and yelling." A.F. advised that she walked toward J.A.'s room; looked in; and saw Respondent pick J.A. up off his/her floor mat by J.A.'s arm and leg and "very manly" throw J.A. onto his/her bed, so that J.A.'s head was at the foot of the bed. A.F. advised Respondent stated to J.A., "You didn't think I could manhandle you."
7. On or about June 2, 2010 in an interview with Investigator Stohl, Respondent advised that J.A. has a long history of violent and aggressive behavior. Respondent stated that on the day in question, Respondent had to redirect J.A. several times, as J.A. was entering the rooms of other residents. Respondent advised that he redirected J.A. to J.A.'s room, with J.A. walking, pushing his/her own wheelchair. Respondent further advised that he then went into J.A.'s room to deliver a drink to J.A.'s roommate, and that at that point, J.A. intentionally rammed his/her wheelchair into Respondent. Respondent advised that in so doing, J.A. lost his/her balance and fell into his/her door.
8. In this same interview, when asked by Investigator Stohl whether Respondent picked up J.A. as described by A.F., Respondent stated, "I probably did." Respondent stated he "lost it." Respondent advised that J.A. had deliberately run his/her wheelchair into Respondent, and Respondent admitted that he lost his patience with J.A.
9. A review of Respondent's personnel file indicates that on or about August 3, 2009 in a Performance Improvement Plan, Respondent received a Documented Verbal Notice after he was found to have been verbally inappropriate to J.A. and engaged in a verbal altercation with J.A., on or about July 31, 2010. The Plan indicated that Respondent received verbal counseling on residents' rights and how to manage aggressive/agitated residents.

Charges

10. 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)(3) (Is unable to practice nursing competently by reason of any cause);
 - b. ARBN Chapter 4, Subchapter 4, Rule II(B)(1) and (2) ("Inability to practice nursing competently" includes: (1) performance of unsafe or unacceptable patient

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care; and (2) failure to conform to the essential standards of acceptable and prevailing nursing practice);

- c. 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
- d. 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 Charles Daryll Shore should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 2nd day of September, 2010.

STATE OF VERMONT
SECRETARY OF STATE

By: 
Betsy Ann Wrask
State Prosecuting Attorney

nu.shore.soc

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Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107