

**STATE OF VERMONT
BOARD OF NURSING**

In re: Debbie L. Swaim
License No. 025-7727

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Docket No. 2013-678(LPN)

Appearances:

Prosecutor: S. Lauren Hibbert
Respondent: Judy Barone

Presiding Officer: Larry S. Novins

DEFAULT ORDER

The Board held a hearing on the above matter on September 8, 2014 at the Office of Professional Regulation Conference Room at the City Center in Montpelier, Vermont. Ms. Swaim was represented by her attorney.

Findings of Fact

1. Ms. Swaim 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 June 26, 2014 Ms. Swaim was sent a Notice of Charges in this matter by certified mail and by first class 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. Stamps on the envelope indicate the notice of charges was refused. Ms. Swaim contacted OPR about the charges indicating that she was aware of them. Ms. Swaim was aware of the need to file an Answer within 20 days of the date on which the notice of charges was mailed to her.
6. Ms. Swaim did not file an Answer in the time prescribed by Rule.
7. On August 1, 2014 notice of the Default Hearing scheduled for this date was mailed to Ms. Swaim at that a new address provided to the office by certified mail. Ms. Swaim signed the return showing that she received the Notice of Default.
8. On September 4, 2014 Ms. Swaim, through her attorney filed an answer to the charges.
9. Upon hearing the Prosecution's presentation and taking notice of its own file, the Board finds Ms. Swaim to be in Default. She was aware of her obligation to file an Answer within the prescribed time period and failed to do so. The allegations contained in the 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. Swaim received actual notice of the charges in this matter as indicated by the Board's file and the Prosecution's presentation. Because Ms. Swaim has failed to answer the charges in the time required by rule, the factual allegations in the Specification of Charges 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. Swaim has engaged in the unprofessional conduct alleged in the Specification of Charges.

Order

In accordance with the above Findings of Fact and Conclusions of Law, Ms. Swaim's license is hereby **reprimanded** effective as of the date of the hearing. Ms. Swaim's license shall be **conditioned** with the requirement that she successfully complete three courses, approved by the Board, on

- 1) critical thinking;
- 2) assessment; and
- 3) communication.

When Ms. Swaim has completed these conditions, she may petition the Board to have the conditions removed.

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

To request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Nursing

By:



Date: September 8, 2014

Jeanine Carr, RN, Chair

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 9/8/14

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

IN RE:)
DEBBIE L. SWAIM) Docket No. 2013-678
License No. 025.0007727)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Debbie L. Swaim, 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. Debbie L. Swaim (the "Respondent") of Colchester, Vermont is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025.0007727. This license was originally issued on or about October 8, 1998 and expires on or about January 31, 2016.
3. At all times relevant, Respondent was employed as a Licensed Practical Nurse for Converse Home (the "Facility") located in Burlington, Vermont.
4. On or about November 11, 2013, Respondent found a resident, A.R., on the floor after a fall. Respondent assisted A.R. into a chair. It is unclear if she did a proper assessment of A.R. Respondent did call A.R.'s son and told him that his mother had died and what funeral home she should call to pick up the body. Respondent then called the family's funeral home. Respondent then returned to the room of the resident and A.R. was responsive and conversing with other facility staff.

Charges

5. 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:

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402

- a. 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
- b. 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 Debbie L. Swaim should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 25 day of June, 2014.

STATE OF VERMONT
SECRETARY OF STATE

By: S. Lauren Hibbert
S. Lauren Hibbert
State Prosecuting Attorney

STATE OF VERMONT



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