

VERMONT SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

In re Theony Lee Tanner }
License No. 025-0006053 }
Docket No. NU17-0807 }

DEFAULT ORDER

Upon the filing of a "Notice of Hearing for Default Judgment" by the Secretary of State, the Vermont Board of Nursing (the "Board") heard this matter on Monday 10 March 2008 at the Secretary of State's Office of Professional Regulation, in the National Life Building at Montpelier, Vermont.

Findings of Fact

1. Respondent is subject to the regulatory authority of this Board. 3 V.S.A. §§ 129 and 129a; 26 V.S.A. Chapter 28; Administrative Rules for the Board of Nursing ("Nursing Rules") and the Administrative Rules for the Office of Professional Regulation ("OPR Rules").
2. The State filed a Specification of Charges dated 21 December 2007 ("charges"), which allege that the Respondent engaged in unprofessional conduct.
3. The Office of Professional Regulation served Respondent with notice of the charges via certified and first class mail at the address Respondent provided to OPR. Respondent is required to keep OPR and the Board informed of Respondent's current mailing address. 3 V.S.A. §129a (14).
4. The notice of charges contained instructions detailing the Respondent's legal obligation to answer the charges and explaining the consequences of failure to file a timely response. OPR also served a notice of this default hearing to the Respondent by certified mail.
5. The Respondent did not answer the charges within the legally prescribed time as required by OPR Rule 3.3 or at any time thereafter.
6. The Respondent did not appear for this default hearing.
7. Upon hearing the State's presentation and taking notice of its own file pursuant to 3 V.S.A. § 810(4), the Board finds the Respondent to be in default. The Board therefore treats the factual allegations contained in the State's specification of charges (copy attached) as proven, and those allegations will serve as the factual basis for the Board's order. OPR Rule 3.4; 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

Conclusions of Law

8. The Respondent received adequate and legal notice of the charges as evidenced by the Board's file, and the State's presentation of the case to the Board. Because the Respondent failed to answer the charges of unprofessional conduct, the Board finds the Respondent in default and will treat the State's factual allegations as established pursuant to OPR Rule 3.4.
9. The Board concludes, in this default hearing held pursuant to 3 V.S.A. § 809(d), that the Respondent has engaged in unprofessional conduct as alleged by the State of Vermont.

Order

In accordance with the above findings of fact and conclusions of law and effective the date of entry of this order, the Board of Nursing ORDERS that the Respondent's license be SUSPENDED INDEFINITELY.

- END -

(signature page to follow)

Vermont Board of Nursing:

By: Linda Rice
Linda M.Y. Rice, APRN
Board Chairperson

Dated: 3-19-08 2008

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 3/25/08

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 the decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Secretary of State's Office, National Life Building, FL2, 1 National Life Drive, Montpelier, Vermont 05602-3402 within 30 days of the entry of the order.

For more information about the procedure for filing an appeal, please see the Administrative Rules for the Office of Professional Regulation, which you can find at: <http://www.vtprofessionals.org/opr1/opr/admnrule.pdf> and the Rules are also available at the Office of Professional Regulation.

If you file an appeal, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The appellate officer will review the record (the tape recording, exhibits etc.) created before the board during the hearing of your case. In cases of alleged irregularities in procedure before the board, not shown in the record, proof related to that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.

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

IN RE:

THEONY LEE TANNER

License No. 025-0006053

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Docket No. NU17-0807

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Theony L. Tanner, L.P.N.:

Board Authority

1. The Vermont State Board of Nursing ("the Board") has authority to issue warnings or reprimands, suspend, revoke, limit, 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. Theony Lee Tanner (the "Respondent") of Proctor, Vermont is a ^{*Licensed practical*} ~~registered~~ nurse holding license number 025-00060053, issued by the State of Vermont. This license was originally issued on or about November 18, 1986 and is set to expire on January 31, 2008.

3. During all relevant times the Respondent was practicing as a Licensed Practical Nurse at the Convenient Medical Care Facility (the "Facility") in Rutland, Vermont.

4. On or about September 28, 2007 the Respondent admitted to Investigator Pamela Barney that on or about mid-July 2007, she had taken a prescription for Tylox (acetaminophen and oxycodone hydrochloride) that had been disposed of at the Facility and wrote her name and date on the prescription in hopes of getting the prescription filled. The Respondent then attempted to fill the prescription at the Brooks Pharmacy (now Rite Aid) in Rutland, Vermont.

5. The Respondent is currently facing criminal charges of Prescription Fraud in Rutland District Court.

6. The Board summarily suspended the Respondent's license on or about November 5, 2007.

Charges

7. The acts, omissions and/or circumstances described above constitute grounds for

STATE OF VERMONT



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

discipline because the Respondent has committed unprofessional conduct in violation of:

- 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);
- ii. 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause);
- iii. Vermont Board of Nursing Administrative Rules 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); and
- iv. 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public).

Relief Requested

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

DATED at Montpelier, Vermont this 21st day of December, 2007.

STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

nu.tanner.soc2

STATE OF VERMONT



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