

VERMONT SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

<i>In re</i>	Katherine Troy	}
License No.	026-0037672	}
Docket No.	NU80-0607	}

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 Thursday 15 November 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 August 2007 ("charges") alleging 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 participated in the hearing by telephone.
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 the Respondent's license be SUSPENDED INDEFINITELY and that the suspension be for a minimum period of SIX MONTHS.

The Board further ORDERS that the Respondent receive an evaluation from an independent drug and alcohol counselor prior to filing a petition for reinstatement with this Board.

- E N D -

(signature page to follow)

IN

Vermont Board of Nursing:

By: Alan H. Weiss
Alan H. Weiss
Board Chairman, *pro tempore*

Date: Montpelier, Vermont
15 November 2007

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 11/19/07

Appeal Rights

This is a final administrative determination. 3 V.S.A. § 812.

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, Vermont Secretary of State, National Life Building, North, FL 2 Montpelier, Vermont 05620-3402, within 30 days of the entry of the order.

If a party files an appeal, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The appellate officer shall review the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, the appellate officer may receive additional evidence related to the allegations of procedural defects in the record created before the board. 3 V.S.A. §130a.

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

IN RE:

KATHERINE M. TROY
License No. 026-0037672

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Docket No. NU80-0607

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Katherine M. Troy, R.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. Katherine M. Troy (the "Respondent") of Boca Raton, Florida is a registered nurse holding license number 026-0037672, issued by the State of Vermont. This license was originally issued on or about May 29, 2007 and is set to expire on March 31, 2009.

3. During all relevant times, the Respondent was practicing as a Registered Nurse for Brattleboro Memorial Hospital (the "Facility") in Brattleboro, Vermont.

4. The Respondent started working at the Facility on or about June 12, 2007. On this date, RN K.C. witnessed the Respondent leave the staff bathroom at approximately 11:30 AM. K.C. then entered the bathroom and saw an insulin syringe wrapper and syringe cap in the trash. Later, when emptying a sharps container, K.C. noticed that there was an empty morphine cassette. The morphine cassette belonged to patient G.B. and based on the amount used by G.B. there should have been 29 mg of the original 30 mg remaining. G.B.'s medication administration record indicates that only 1 mg was administered.

5. On or about June 13, 2007 staff pharmacist S.K. heard the Respondent inquire about where the bathroom was near the pharmacy, even though there was a bathroom near the Respondent's station. The second time that the Respondent utilized the bathroom located near the pharmacy, S.K. went in and noticed an empty syringe and blood on a paper towel in the trash. S.K. had been in this bathroom earlier and had not noticed these things. S.K. had never seen syringes left in the bathroom before because of Facility protocol.

STATE OF VERMONT



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6. On or about June 13, 2007 RN S.W. had been advised of the concerns surrounding the Respondent. After being informed of this, S.W. went into the bathroom by the nurse's station and saw a wrapper to a syringe lying on the floor. After looking in the trash, S.W. saw a syringe wrapped in a bloody tissue. S.W. then conferred with Nurse Manager P.W. and the trash was replaced. Nurse B.G. utilized the bathroom and S.W. checked the trash again after this use and found nothing. The Respondent then used the bathroom and S.W. looked in the bathroom trash again with P.W. and discovered another syringe in the trash can.
7. On or about June 13, 2007 S.W. and P.W. confronted the Respondent about what they had found and the Respondent denied using the morphine.
8. Nurse L.D. indicated that on or about June 13, 2007 the Respondent approached her and asked L.D. to sign a narcotics record indicating that L.D. had witnessed a morphine waste for a patient. L.D. refused to sign record because she did not witness the wasting. L.D. discovered that the record that the Respondent asked her to sign turned up missing.
9. On or about June 26, 2007 the Respondent was contacted by Investigator Steve Kennedy. Investigator Kennedy asked Respondent where she was and she stated that she was still in Vermont. When Investigator Kennedy asked the Respondent to meet with him she then indicated that she was in Maryland. The contact address the Respondent provided when requested is her parent's address in Florida. The Respondent indicated that she did load G.B.'s morphine pump and did put the morphine cassette in the sharps container.
10. Upon inquiry from Investigator Kennedy, the Respondent indicated that she had a prescription for Hydrocodone, but would not provide a copy of the prescription to the Investigator. The Respondent told the Investigator that she had been on a lot of opiates in the past.
11. The Respondent's license was summarily suspended by the Board on or about August 13, 2007.

Relief Requested

12. The acts, omissions and/or circumstances described above constitute grounds for discipline because Respondent violated:

- 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. 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession);
- iii. 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause);
- iv. 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);

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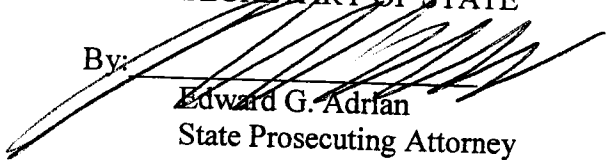
- v. 26 V.S.A. § 1582(a)(5) (is habitually intemperate or is addicted to the use of habit forming drugs);
- vi. 26 V.S.A. § 1582(a)(7) (engages in conduct of a character likely to deceive, defraud or harm the public); and
- vii. 3 V.S.A. § 129a(b)(2) (failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes failure to conform to the essential standards of acceptable and prevailing practice).

Relief Requested

WHEREFORE, the license of Katherine M. Troy should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 21st day of August, 2007

STATE OF VERMONT
SECRETARY OF STATE

By: 

Edward G. Adrian
State Prosecuting Attorney

nu.troy.soc

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