

VERMONT SECRETARY OF STATE  
OFFICE OF PROFESSIONAL REGULATION  
BOARD OF NURSING

|              |                    |   |
|--------------|--------------------|---|
| <i>In re</i> | Stephen Zammarelli | } |
| License No.  | 026-0028124        | } |
| Docket No.   | NU20-1006 &        | } |
|              | NU04-0707          | } |

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 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; the 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 2 April 2008 ("charges"), which allege unprofessional conduct against the Respondent. The charges include allegations that the Respondent acted belligerently and with hostility toward a patient.
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 M. Y. Rice APRN Dated: Montpelier, Vermont 9 June 2008  
Linda M. Y. Rice, APRN  
Board Chairperson

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 6/12/08

### **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**

|                                |   |                               |
|--------------------------------|---|-------------------------------|
| <b>IN RE:</b>                  | ) |                               |
| <b>STEPHEN E. ZAMMARELLI</b>   | ) | <b>Docket Nos. NU20-1006;</b> |
|                                | ) | <b>NU04-0707</b>              |
| <b>License No. 026-0028124</b> | ) |                               |

**SPECIFICATION OF CHARGES**

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Stephen E. Zammarelli, 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. Stephen E. Zammarelli (the "Respondent") of North Haverill, New Hampshire is a licensed nurse holding license number 026-0028124, issued by the State of Vermont. This license was originally issued on or about April 8, 2003 and is set to expire on March 31, 2009.

3. At all times relevant the Respondent was employed as a registered nurse at Central Vermont Hospital (the "CVH") located in Barre, Vermont.

4. On or about July 15, 2006, the Respondent was involved in a verbal altercation with R.G., a visitor at CVH. R.G. was visiting his wife who was hospitalized at CVH. Witnesses described R.G. as being "hostile" and "belligerent" at the time the incident occurred.

5. In an interview conducted by State Investigator Amy Carlson on or about August 28, 2007, the Respondent admitted to having a verbal argument with R.G. and calling R.G. an "asshole." The Respondent further advised that he became involved in the altercation with R.G. because he felt R.G. was behaving in a threatening manner towards another nurse who was present at the time.

6. On or about June 3, 2007, the Respondent was providing care for patient J.N. who was a paraplegic. While caring for J.N., the Respondent became upset at comments J.N. made

STATE OF VERMONT



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towards the Respondent. In reply, the Respondent began yelling at J.N. and called J.N. a "jerk." At one point during the altercation, the Respondent made a comment to J.N. that J.N.'s "ass was rotting off." Charge nurse N.D. heard the disturbance and had to instruct the Respondent to leave J.N.'s room two or three times before the Respondent left the room. The Respondent was terminated from CVH as a result of this incident.

7. In an interview conducted by State Investigator Amy Carlson on or about August 28, 2007, the Respondent admitted that he was upset with J.N. during the incident described above. The Respondent further advised that he had called J.N. a "jerk" and that he said to J.N. "Your ass is rotting off."

### Charges

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

- i) 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes performing unsafe or unacceptable patient care and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(1) and (2);
- ii) 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. Failure to practice competently includes: 1) performance of unsafe or unacceptable patient or client care; and/or 2) failure to conform to the essential standards of acceptable and prevailing practice); and
- iii) 3 V.S.A. §129a(a)(3) (failing to comply with the provisions of state statutes or rules governing the practice of the profession).

### Relief Requested

**WHEREFORE**, the license of Stephen R. Zammarelli should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

**DATED** at Montpelier, Vermont this 2<sup>nd</sup> day of April, 2008.

STATE OF VERMONT



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STATE OF VERMONT  
SECRETARY OF STATE

By:

Edward G. Adrian  
State Prosecuting Attorney