

State of Vermont
Vermont Board of Nursing

In re: Megan Kelley
License Number: 025.0088461
Docket Number: 2018-116

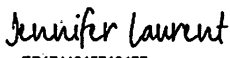
Order to Remove Conditions

On November 14, 2022, the Vermont Board of Nursing considered Megan Kelley's request for Removal of Conditions imposed pursuant to a Stipulation & Consent Order under Docket Number 2018-116. Ms. Kelley has successfully completed the conditions. After review of the compliance file, the State does not object to removal of all conditions.

Order:

The Board hereby removes all conditions from Megan Kelley's LPN license.

Vermont Board of Nursing

DocuSigned by:

EB1741915719477...

Jennifer Laurent, Chair

Date: November 14, 2022

Date of Entry:

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

IN RE:)
Megan Kelly) Docket No. 2018-116
License No. 025.0088461)

**STATE'S RESPONSE TO RESPONDENT'S
REQUEST TO REMOVE CONDITIONS**

After review of Respondent's compliance file, the State has no objection to Respondent's request to remove all conditions from Respondent's LPN license 025.0088461. Attached to this response is a proposed Order should the Board decide to grant Respondent's request.

Dated this 1st day of November, 2022.

STATE OF VERMONT
SECRETARY OF STATE

By: /s/ Jennifer B. Colin
Jennifer B. Colin
State Prosecuting Attorney
802-522-8987
Jennifer.Colin@vermont.gov

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James C. Condos, Secretary of State
Christopher D. Winters, Deputy Secretary
S. Lauren Hibbert, Director

October 19, 2022

Jennifer Colin, Esq.
Office of Professional Regulation
89 Main Street, 3rd Floor
Montpelier, VT 05620-3402

Case: In Re Megan Kelley
Credential: 025.0088461
Docket No.: 2018-116

Dear Attorney Colin:

Please find the enclosed Request to Remove Conditions filed on the above captioned docket number. Pursuant to the Office of Professional Regulation's Administrative Rule 3.8 you have 10 days to respond to the motion.

You may contact me at (802) 828-2367 if you have any questions.

Sincerely,

/s/Julie Bowen
Docket Clerk

Enc: Request to Remove Conditions

cc: Kristin Donnelly, Case Manager
Megan Kelley, Respondent, First Class Mail, Certified Mail, Email

10/12/2022

To: Vermont Board of Professional Regulation

Regarding: Megan Kelley, LPN license number 025.0088461

Please consider this letter for request to remove the conditional status of my licensure.

In 2018 I agreed to stipulations and conditions placed on my licensure due to charges of prescription fraud.

Since that time, I have completed all required remediation including counseling, reparative program, and supervised practice. All documentation of such has been submitted to the board previous to this letter.

At this time, I would like to request the conditional provisions be removed from my license. Over the last 4 years, I feel I have learned and grown professionally, and I have received excellent evaluations from my current employer, Union House Nursing Home, whom I have been with since November 2021. I understand the mistakes that I made, and I value my career as an LPN, and I am passionate about the people I care for.

Thank you for your consideration in this matter.

Respectfully,

Megan Kelley, LPN

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

IN RE:

**Megan M. Kelley
License No. 025.0088461**

Docket No. 2018-116

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through Prosecutor Jennifer B. Colin, and Respondent Megan M. Kelley, by and through her counsel David Sleigh, Esq., who hereby Stipulate and Agree as follows:

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; 3 V.S.A. §129a; 3 V.S.A. §814(d); 26 V.S.A. Chapter 28; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation ("OPR").

Stipulated Facts

2. Megan M. Kelley ("Respondent") of Newport, Vermont is licensed by the State of Vermont as a Licensed Practical Nurse ("LPN") under license number 025.0088461. This license was originally issued on August 2, 2012 and expires on January 31, 2020.
3. During the relevant time period, Respondent was employed as an LPN at North Country Hospital ("the Facility") in Newport, Vermont.
4. In 2016, a patient of the Facility's Obstetrics and Gynecology office ("Patient One") was contacted by a pharmacy and told that her prescription for Cytotec, a brand name for misoprostol, was ready when she was not expecting a prescription and knew nothing about it.
5. Patient One reported to the Facility that a prescription for Cytotec had been ordered under her name and retrieved by an unknown person from a pharmacy.
6. Security video from the pharmacy showed that Respondent retrieved the prescription for Patient One from the pharmacy on May 27, 2016.

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7. When questioned by the Facility, Respondent stated that she E-prescribed the medication for Patient One in anticipation of the patient needing it, but then deleted the prescription from Patient One's medical record days after prescribing it.
8. Respondent admitted to the Facility that she was the individual in the pharmacy video but denied retrieving Patient One's prescription from the pharmacy.
9. The Facility conducted an audit of Respondent's ordering of medication for patients and identified seven incidents of concern, including the situation with Patient One, in which Respondent ordered Cytotec/misoprostol under different patient names and then later deleted the orders from the patients' medical records.
10. The various patients for whom Respondent prescribed and then deleted the Cytotec/misoprostol prescriptions were patients of two different providers, an APRN and a physician.
11. Neither of the providers authorized or signed off on Respondent's Cytotec/misoprostol orders in the seven instances identified by the Facility.
12. On June 2, 2016, Respondent retrieved from a pharmacy her own prescription for medication, as well as a prescription for Cytotec that she prescribed for Patient 2.
13. Patient 2 knew nothing about the prescription for Cytotec ordered for her by Respondent.
14. On June 6, 2016, Respondent went to a pharmacy where she knew the pharmacy technician and retrieved a prescription for Misoprostol for Patient 3.
15. Patient 3 knew nothing about the prescription for Misoprostol ordered for her by Respondent.
16. The Facility terminated Respondent's employment on June 9, 2016 as the result of its investigation.
17. On August 5, 2016, Respondent was interviewed by OPR Investigator John Lewis.
18. In the interview, Respondent admitted that she e-prescribed Cytotec/misoprostol for various patients on at least seven occasions between May 5 and June 6, 2016, retrieving those medications from pharmacies, deleting the prescriptions from the patients' records and then using the medications herself.
19. As the result of the conduct described above, Respondent was cited criminally for felony prescription fraud, a violation of 18 V.S.A. §4223(e).
20. On October 30, 2018, Respondent pled guilty to felony prescription fraud. She received a deferred sentence and was placed on probation until October 30, 2019.

Violation One: 26 V.S.A. §1582(a)(2) Diverting or attempting to divert drugs or equipment or supplies for unauthorized use.

- 21. Paragraphs 2 through 20 above are incorporated herein.
- 22. As an LPN, Respondent is prohibited from diverting drugs for unauthorized use.
- 23. Paragraphs 2 through 20 above demonstrate that Respondent diverted drugs for unauthorized use in violation of 26 V.S.A. §1582(a)(2).
- 24. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent diverted drugs for unauthorized use in violation of 26 V.S.A. §1582(a)(2).

Violation Two: 3 V.S.A. §1582(a)(3) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

- 25. Paragraphs 2 through 20 above are incorporated herein.
- 26. As an LPN, Respondent is required to refrain from engaging in conduct of a character likely to deceive, defraud, or harm the public.
- 27. Paragraphs 2 through 20 demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public on at least seven occasions by ordering drugs for various patients without their knowledge, retrieving the drugs from the pharmacy, deleting the prescriptions from the patients' records and diverting drugs to her own use.
- 28. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct of a character likely to deceive, defraud, or harm the public in violation of 26 V.S.A. §1582(a)(3).

Violation Three: 3 V.S.A §129a(b)(1) 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.

- 29. Paragraphs 2 through 20 above are incorporated herein.
- 30. As an LPN, Respondent is required to provide safe and acceptable patient care.
- 31. Paragraphs 2 through 20 above demonstrate that Respondent performed unsafe and unacceptable patient care by ordering medications for various patients without medical need or provider knowledge in order to divert the medications to her own use.

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32. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because on multiple occasions Respondent ordered medications for various patients without medical need or provider knowledge in order to divert the medications to her own use, thereby performing unsafe and unacceptable patient care in violation of 3 V.S.A. §129a(b)(1).

Violation Four: 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, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (2) failure to conform to the essential standards of acceptable and prevailing practice.

33. Paragraphs 2 through 20 above are incorporated herein.
34. The essential standards of acceptable and prevailing practice require that an LPN order only medications for patients that are approved by a provider and accurately document medication orders in patient records.
35. Paragraphs 2 through 20 above demonstrate that Respondent failed to conform to the essential standards of acceptable and prevailing practice when she ordered medications for patients without provider approval.
36. Paragraphs 2 through 20 above demonstrate that Respondent failed to conform to the essential standards of acceptable and prevailing practice when she failed to accurately document medications in patient records.
37. 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 3 V.S.A. §129a(b)(2).

Violation Five: 3 V.S.A. §129a(a)(15) Failing to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.

38. Paragraphs 2 through 20 above are incorporated herein.
39. As an LPN, Respondent is required to exercise her own independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.
40. Paragraphs 2 through 20 above demonstrate that Respondent failed to exercise independent professional judgment by ordering medications for patients without need or provider approval and then diverting medications.
41. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(15).

Violation Six: 3 V.S.A. §129a(a)(7) Willfully making or filing false reports or records in the practice of the profession, willfully impeding or obstructing the proper making or filing of reports or records, or willfully failing to file the proper reports or records.

42. The State re-alleges and incorporates Paragraphs 2 through 20 above.
43. As an LPN, Respondent is required to make and file accurate reports and records in the practice of the profession and must refrain from willfully making or filing false reports or records and from willfully impeding or obstructing the proper making or filing of reports or records.
44. Paragraphs 2 through 20 demonstrate that Respondent willfully made and filed false reports and records in the practice of the profession and willfully impeded or obstructed the proper making or filing of reports or records by failing to accurately document medication orders.
45. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct by willfully impeding or obstructing the proper making or filing of reports or records in violation of 3 V.S.A. §129a(a)(7).

Understandings

46. Respondent admits the facts above are true and that the conditions below are necessary to protect the public.
47. Respondent understands that the Nursing Board must review and accept the terms of the Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.
48. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced Respondent's rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
49. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
50. Respondent is not under the influence of any drugs or alcohol at the time of signing this Stipulation and Consent Order.
51. Respondent voluntarily enters into this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.
52. Respondent voluntarily waives the right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.

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53. Respondent agrees that the Order set forth below may be entered by the Board.

ORDER

- A. The Board of Nursing hereby **CONDITIONS** Respondent's license **FOR A MINIMUM OF ONE (1) YEAR** and until Respondent is discharged from probation as the result of successfully completing her probation conditions. The conditions hereby imposed on Respondent's license are as follows:

1. Re-issuance of License. Upon the commencement of these conditions, Respondent shall be issued a license labeled "conditioned."

2. Length of Time of Conditions Imposed. The conditions shall remain in place until Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent successfully completes probation and completes a minimum of one (1) year of supervised nursing in which she works at least forty (40) hours every two (2) weeks as a nurse. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis. Respondent shall be prohibited from working more than forty-eight (48) hours per week.

3. Notification to Employers/Nursing School. Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which Respondent practices as a nurse and inform them of Respondent's conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any subsequent nursing employment, Respondent shall cause Respondent's immediate supervisor to submit to the Board an employer agreement form approved by the Board, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

In the event Respondent is attending a nursing program which has a clinical portion that involves actual patient care, Respondent shall provide a copy of the Stipulation and Consent Order to the Program Director. Respondent shall cause the Program Director to submit to the Board a nursing program agreement form approved by the Board, acknowledging receipt of the Stipulation and Consent Order and the ability of the program to comply with the conditions in the Consent Order during clinical experience.

4. Notification to Probation Officer. Within ten (10) days of the date of entry of this Order, Respondent shall provide a copy of this Stipulation and Consent Order to her Probation Officer and inform him or her of Respondent's conditional license status. Respondent's Probation Officer shall submit to the Board, on letterhead from his or her office, acknowledgement of receipt of the Stipulation and Consent Order.

5. Probation Violation. If the Respondent is alleged to have violated her probation during the term of this Order, this Order shall be automatically extended until the probation violation matter is concluded. Respondent shall notify the Board, in writing, within ten (10) days of the filing of an allegation of a probation violation.

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If a criminal proceeding conducted on the probation violation results in the Respondent being found to have violated her probation, the Respondent shall be considered in violation of this Order. The Board, after giving the Respondent notice and an opportunity to be heard, may rescind or modify this Order and impose additional appropriate disciplinary actions.

6. Practice Under Supervision. Respondent shall practice nursing only in a setting where Respondent has direct supervision for the entire shift by a registered nurse or licensed practical nurse that is licensed and in good standing with the Board.

7. Reports from Employers/Program Director. Within one (1) month of the date of this order or within one (1) month of the commencement of nursing employment and monthly thereafter while Respondent's license is "conditioned," Respondent shall cause every nursing employer Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. In the event Respondent is attending a nursing program, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Respondent's performance and attendance. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance (i.e. consistently meeting all standards of nursing practice) and attendance.

8. Types of Employment Prohibited. Respondent shall not work in a supervisory role. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency, or as a private duty nurse or personal care provider requiring a nursing or nursing assistant license during the effective period of this Consent Order.

9. Out-of-State Practice and Licensing. Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board. Failure to seek approval shall result in out-of-state practice not being credited toward the fulfillment of the terms and conditions of this Consent Order.

If the Respondent receives discipline on a nursing license held in another state during the conditioned period, the Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.

10. Notification to Other States. In the event that the Respondent is licensed in nursing in any other state(s), Respondent must inform the other nursing licensing boards of the conditional status of her Vermont nursing license within thirty (30) days of the date of entry.

11. Completion of Conditioned License Period. After the conditioned license period and upon successful completion of probation, the Respondent may petition the Board to remove any and all conditions on her license. Respondent shall have the burden of proof to demonstrate successful completion of the above-stated conditions.

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- B. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. § 129(a).
- D. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

Dated: 5/1/19

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Jennifer B. Colin
Prosecuting Attorney

RESPONDENT

Dated: 05/01/2019

By: _____

Megan McKelley

APPROVED AS TO FORM:

COUNSEL FOR RESPONDENT

By: _____

David Sleigh, Esq.
Sleigh Law

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 5.13.2019

By: _____

Chairperson

Date of Entry: 5.16.19

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