

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

IN RE:)
MELISSA SUE HAYNES) **Docket No. 2020-111**
License No. 025.0135286)

REINSTATEMENT STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through Prosecuting Attorney Ultan Doyle, and the Respondent in this matter, Melissa Sue Haynes, by and through her attorney, Robb A. Spensley, Esq., who hereby stipulate and agree as follows:

Board Authority

1. The Vermont Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28; the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.

Stipulated Facts

2. Melissa Sue Haynes ("Respondent") of Proctor, Vermont is licensed by the State of Vermont as a Licensed Practical Nurse ("LPN") under license number 025.0135286. This license was originally issued July 2, 2020 and expired December 8, 2020.
3. On December 8, 2020, the Vermont Board of Nursing summarily suspended Respondent's LPN license on the basis that on October 3, 2020, while working as an LPN at a care facility, she had diverted and later ingested 28 (twenty-eight) 5mg Oxycodone pills that had been prescribed for a patient at the facility.
4. The Board found Respondent had violated 26 V.S.A. § 1582(a)(2)(Diverting or attempting to divert drugs or equipment or supplies for unauthorized use); 26 V.S.A. § 1582(a)(12)(Abusing or neglecting a patient or misappropriating patient property); and 3 V.S.A. § 129a(a) (Failing to exercise independent judgment necessary to avoid actions repugnant to the profession).
5. On September 13, 2021, the Board approved a Stipulation and Consent Order (the "2021 Order") which provided for the indefinite suspension of Respondent's license based on the facts and violations that gave rise to the summary suspension of

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Respondent's license. The 2021 Order included requirements that Respondent, no sooner than 45 days prior to petitioning for reinstatement, obtain an independent evaluation and submit to three random drug and alcohol tests, the results of which must be negative.

6. Respondent now seeks reinstatement of her LPN license.
7. Respondent obtained an independent evaluation, as required by the 2021 Order and submitted to three drug and alcohol tests, the results of which did not show anything concerning.
8. Based on the underlying facts of the 2021 Order and the content and substance of Respondent's independent evaluation, the State supports Respondent's reinstatement request, with the conditions agreed upon by the parties and set forth below.

Understandings

9. Respondent admits the facts above are true and that the conditions below are necessary to protect the public.
10. 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.
11. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced her rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
12. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
13. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
14. 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.
15. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
16. Respondent agrees that the Order set forth below may be entered by the Board.

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ORDER

Based on the Stipulation above, it is **ORDERED AND ADJUDGED** as follows:

A. The Board of Nursing hereby **REINSTATES and CONDITIONS** the Respondent's license and/or re-entry permit for a **MINIMUM OF TWO YEARS, commencing on the date of reinstatement**. The **CONDITIONS** shall be as follows:

1. Renewal. Respondent is immediately eligible to renew and revive her Licensed Practical Nurse license. Respondent must comply with all requirements of license renewal.
2. Re-issuance of License. Upon the commencement of these conditions and the renewal of Respondent's license, Respondent shall be issued a license labeled "conditioned."
3. 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 completes a **minimum of two years** of supervised licensed practical nursing practice in which Respondent works at least forty (40) hours every two (2) weeks as a Licensed Practical Nurse. Part-time hours of fewer than forty (40) hours every two (2) weeks shall be credited on a prorated basis. Respondent shall be prohibited from working more than forty (40) hours per week.
4. Monitoring. The Office of Professional Regulation, through the Enforcement Case Manager, shall be responsible for monitoring Respondent's compliance with these Conditions. All reports or correspondence regarding compliance with these conditions shall be submitted to the Case Manager in accordance with the Conditions listed below.
5. Completion of Substance Abuse Counseling, Treatment Plan, Treatment Reports and recovery groups. Respondent shall enter into and continue substance abuse counseling and comply with substance abuse treatment plan until the pre-approved treating professional certifies in writing to the Board that such counseling is no longer necessary. Compliance with the treatment plan includes, but is not limited to, engaging in face-to-face meetings with the treating professional at the frequency recommended in the treatment plan.
 - a. Within ten (10) days of the date of beginning treatment, Respondent shall provide a copy of this Stipulation and Consent Order to her treatment provider and inform him or her of Respondent's conditional license status and the accompanying conditions. Respondent's treating professional shall submit to the Case Manager, on forms provided by Case Manager, acknowledgement of receipt of the Stipulation and Consent Order along with Respondent's current treatment plan.

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- b. Respondent shall authorize Respondent's treating professional to submit to the Board and the Case Manager **monthly** reports on forms issued by the Board. Respondent shall authorize Respondent's treating professional to provide all information requested by the Nursing Board and Case Manager, either orally or in writing, at any time during the period this Consent Order is in effect.
 - c. If Respondent takes prescribed medications as part of her substance abuse counseling and treatment, Respondent's monthly treating professional reports must also indicate Respondent's current dosage and whether Respondent is appropriately taking her medication as prescribed. Respondent must continue to take such medications as prescribed, until her treating professional certifies in writing to the Case Manager that such medication is no longer necessary.
 - d. Respondent shall participate as recommended by Respondent's treating professional in substance abuse recovery group(s), and, if recommended, shall submit **quarterly** reports documenting such attendance on forms issued by the Board.
6. Random Drug and Alcohol Testing. Respondent shall submit to random drug and alcohol testing through the Board pre-approved entity. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes and approved by the Board. All urine specimens collected for tests shall be collected in an observed setting. All test results shall be negative.

Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any test shall cause that test to be presumed positive. Any positive test shall constitute a violation of this Order. Failure to check-in to determine whether Respondent is selected for testing on any given day, regardless of whether Respondent is actually selected that day, may be considered a violation of this Order.

This condition may be removed only by Respondent filing a petition with the Board after Respondent has fully complied with the random testing requirement for a minimum period of one (1) year. The State shall consent or object to any such petition, and a hearing may be held. In any such petition, Respondent must demonstrate, to the satisfaction of the Nursing Board, full compliance with this provision.

7. Abstain from Drug and Alcohol Use. Respondent shall abstain completely from the consumption or possession of alcohol and drugs.
8. Drug Use Exception. Respondent may take scheduled/controlled medications lawfully prescribed for a bona fide illness or condition by a health care practitioner disclosed to the Board in writing by Respondent within forty-eight (48) hours of the prescription. Respondent's health care practitioner shall inform the Case Manager, in writing and on appropriate letterhead, of knowledge of Respondent's conditional license status within seven (7) days of entering into the practitioner/patient relationship.

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Additionally, the practitioner shall inform the Case Manager of all scheduled/controlled medications prescribed – and the anticipation of how long such prescriptions will need to be taken – within seven (7) days of the prescription.

The Board or its designee may request that the practitioner document the necessity for the prescribed scheduled/controlled medications or other medications known to have abuse potential.

Respondent shall provide the Case Manager with a current medication list of any medications taken on a scheduled or as-needed basis on provided by the Case Manager within seven (7) days of the date of reinstatement and shall update this list within forty-eight (48) hours of any change in these medications.

9. 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 Case Manager 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 Case Manager 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.

10. Reports from Employers/Program Director. Within one (1) month of the date of reinstatement or within one (1) month of the commencement of nursing employment and **monthly** thereafter, 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 Case Manager, 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.
11. Practice Under Supervision. Respondent shall practice as a Licensed Practical Nurse only in a setting where Respondent has onsite supervision for the entire shift by a licensed Registered Nurse that is in good standing with the Board.

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12. 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.
13. Interview with the Board or its Designee. Respondent shall appear in person for interviews with the Board or its designee upon request.
14. Out-of-State Practice. Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board or its designee. The Board will approve out-of-state nursing practice so long as Respondent can still comply with the provisions of this Consent Order. If Respondent receives discipline on a nursing license held in another state during the conditioned period, Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.
15. Notification of Place of Employment/Personal Address/Telephone Number. Within ten (10) days of the date of entry of this Consent Order, Respondent shall notify the Case Manager, in writing, of Respondent's current place of employment, personal address, and telephone number. Respondent shall further notify the Case Manager, in writing, within forty-eight (48) hours of any change in employment (including resignation or termination), personal address, or telephone number.
16. Notification to Other States. In the event that Respondent is licensed in nursing in any other state(s), Respondent must inform the nursing licensing board of the state(s) in which Respondent is licensed of the conditional status of Respondent's Vermont nursing license within thirty (30) days of the date of entry of this Order.
17. License Renewal. This Order does not automatically extend the license and Respondent must comply with the requirements for license renewal.
18. Release of Information Forms. This Order requires Respondent to authorize drug and/or alcohol treatment providers to report information in verbal and/or written format and/or to discuss Respondent and any and all treatment rendered to Respondent for drugs and/or alcohol with the Board or its designee and the Case Manager. Any and all of this information may be provided to the Office of Professional Regulation investigators, and that the information may be used for further prosecutions if so warranted or if the Office of Professional Regulation determines that said information violates the terms of this Order or any rules or laws governing the profession of nursing.

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Respondent is entitled to revoke this consent at any time. However, any revocation shall be considered a violation of this Order. This consent expires when the conditions are removed from Respondent's nursing license.

This Stipulation and Consent Order shall itself constitute a valid written consent pursuant to the requirements of 42 C.F.R. § 2.31. Respondent understands that Respondent's treatment provider may require Respondent's to sign a separate and distinct consent meeting the requirements of 42 C.F.R. § 2.31.

19. Costs. Respondent shall bear all costs of complying with this Consent Order.

20. Violation of this Order. If Respondent violates this Order, the Board, after giving Respondent notice and an opportunity to be heard, may rescind or modify this Order and impose additional appropriate disciplinary actions. If a complaint of unprofessional conduct is made against Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

21. Completion of Conditional License Period. Respondent shall submit a petition to the Docket Clerk to remove any and all conditions on Respondent's license. The State will assent to or oppose Respondent's petition. The Board will conduct a hearing if necessary. Respondent bears the burden and must present proof that Respondent has fully complied with the terms of this Order and these conditions are no longer necessary to protect the public.

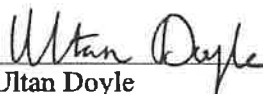
- B. Notwithstanding any provision above, the Respondent must continue to meet all Board requirements for maintaining a license, license renewal and license reinstatement.
- C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided 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:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 5/22/24

By:


Ultan Doyle
Prosecuting Attorney

MELISSA SUE HAYNES
RESPONDENT

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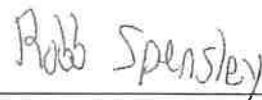
Dated: 5/22/24

APPROVED AS TO FORM:

By: 
Melissa Haynes

ATTORNEY FOR RESPONDENT

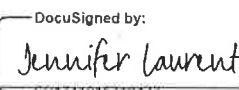
Dated: 5/22/2024

By: 
Robb A. Spensley, Esq.
Chadwick & Spensley, PLLC

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 6/10/24

By: 
DocuSigned by:
Chairperson

Date of Entry: 6/10/24

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State of Vermont
Office of the Secretary of State

Office of Professional Regulation
89 Main Street, 3rd Floor
Montpelier, VT 05620-3402
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Sarah Copeland Hanzas, Secretary of State
S. Lauren Hibbert, Deputy Secretary
Kevin Rushing, Director

May 15, 2024

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

Case: Melissa Haynes
Credential: License # 025.0135286
Docket No: 2020-111

Dear Attorney Colin:

Please find the enclosed **Petition for License Reinstatement** 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*

Cc: Kristin Donnelly, Case Manager
Robb Spensley, Esq., Respondent's Attorney



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May 14, 2024

Office of Professional Regulation

89 Main Street, 3rd Floor
Montpelier, VT 05620-3402

Re: In Re: Melissa Haynes
OPR Docket No. 2020-111

Petition for License Reinstatement

NOW COMES Melissa Haynes by and through her attorney and requests that the Commissioner of the Office of Professional Regulation reinstate her license to practice as a Licensed Practical Nurse pursuant to the terms and conditions of the Stipulation and Consent Order in OPR Docket 2020-111. Attached herewith are the following items directly requested by the Office of Professional Regulation or items which may assist the Office of Professional Regulation in making a decision:

- Independent Evaluation dated April 15, 2024 by Ethan Gilson LADC, LCMHC
- Reference Letter from Turning Point Center Rutland
- Reflection paper about experience in treatment
- Written copy of speech given to treatment court
- Reference letter from manager at Melissa Haynes present employer
- Three random negative drug tests have previously been submitted to the Office of Professional Responsibility

- Written documentation of completion of deferred sentence has previously been submitted to the Office of Professional Responsibility

Ms. Haynes Employment History:

April 2023 – present

Comfort Inn

19 Allen St.

Rutland, VT 05701

802-775-2200

Direct Supervisor-Assistant General Manager Nicole Cummings

September 2022 – April 2023

Hannaford

318 S Main St.

Green Mountain Plaza

Rutland, VT 05701

802-775-8900

Direct Supervisor-Deli Manager Kim

November 2021 – August 2022

Midway Oil-Tenney Brook

Rt 30 N

Castleton, VT 05735

802-468-3044

Direct Supervisor-Store Manager Norene Clark

Dated at Pittsford, Vermont this 14th day of May, 2022.

Melissa Haynes

By Counsel

/s/Robb Spensley

Robb Spensley, Esq.

Chadwick & Spensley

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Pittsford, VT 05060

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