

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

IN RE:	)	
JESSICA JAWIDZIK	)	Docket No. 2022- 171, 2022-172
License No. 101.0134482	)	
License No. 026.0141493	)	

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney Rachel Heath, and Respondent Jessica Jawidzik, by and through Attorney William Smart, 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").

Alleged Facts

2. Jessica Jawidzik ("Respondent") of Williston, Vermont is licensed as an Advanced Practice Registered Nurse (APRN) under license number 101.0134482 and as a Registered Nurse ("RN") under license number 026.0141493. The State of Vermont first issued the APRN license on February 10, 2020, and the license expires on March 31, 2023. The State of Vermont first issued the RN license on February January 24, 2020, and the license expires on March 31, 2023.
3. At all relevant times, Respondent was a solo practitioner at her own practice called Lux Telepsych.
4. At all times relevant to the facts alleged herein, Respondent advertised on her website that she provided education and therapy, medication management, and pharmacogenomic tests. Under "Medication Management," the website read, "Comprehensive, holistic treatment for the following: Depressive Disorders, PTSD, Psychosis, Bipolar Disorder, Insomnia or Sleep Difficulties, Anxiety or

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Panic Disorders, OCD, Agoraphobia, Stress Management, Changes in Appetite/Weight, Postpartum Depression.”

5. Respondent also advertised that she has worked in crisis stabilization units and in hospitals.
6. Respondent’s Psychology Today advertisement provided that Respondent had “over ten years of experience in the mental health field in outpatient, inpatient, and community health settings.”
7. On March 4, 2021, Respondent had an initial appointment with Patient M.B.
8. Patient M.B. was a self-referral through psychologytoday.com.
9. On March 16 and March 22, 2021, Respondent had two more follow up appointments with Patient M.B.
10. During these appointments, Respondent changed Patient M.B.’s medications and plan for medicated treatment.
11. Respondent’s treatment notes for Patient M.B. indicated he had complex post-traumatic stress disorder and major depressive disorder.
12. On March 31, 2021, Patient M.B. was admitted to the Emergency Room at the University of Vermont Medical Center for a mental health crisis that included suicidal threats.
13. On the morning of April 1, 2021, Patient M.B. notified Respondent via her patient portal that he was in the Emergency Room.
14. Respondent and Patient M.B. sent several messages back and forth on April 1, 2021 about his frustrations on a lack of care from the hospital and she encouraged him to remain at the hospital.
15. Respondent called the Emergency Room as she became increasingly concerned about Patient M.B., his state of mind, and his insistence on wanting to leave. The hospital informed Respondent of the serious nature of the event that brought Patient M.B. to the Emergency Room and that the hospital had placed Patient under an involuntary hold.
16. Respondent did not have any communication with Patient M.B. until April 5, 2021, when a discharge planner from UVMMC left a message for Respondent that she wanted to schedule an appointment for Patient M.B. Later that morning, Patient M.B. messaged Respondent himself to set up an appointment with her.

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17. Respondent replied to Patient M.B.'s message discharging him as a patient. Respondent told Patient M.B. to contact the Howard Center to establish services. She further offered to send a 30 day supply of refills for his medications.
18. Respondent indicated that her reason for discharging Patient M.B. was because the circumstances that brought him to the Emergency Room were very different than what he had disclosed to her and that he needed a higher level of care than she could provide.
19. When Patient M.B. again requested an appointment with Respondent just a few minutes after her message discharging him, Respondent reiterated she was discharging him and asked him to cease contacting her. She suggested he ask inpatient staff to help him find an outpatient provider.
20. When an OPR Investigator contacted Respondent asking for a response to the complaint, Respondent accessed Patient M.B.'s prescription fill history for prescriptions he received and prescribers he had seen after she had discharged him as a patient.

Violation One: 26 V.S.A. § 1615(a)(1) Abandonment of a patient in violation of the duty to maintain a provider-patient relationship within the reasonable expectations of continuing care or referral.

21. Paragraphs 2 through 20 above are incorporated herein.
22. Under Vermont law, an APRN may not abandon a patient in violation of the duty to maintain a provider-patient relationship within the reasonable expectations of continuing care or referral.
23. Paragraphs 2 through 20 above demonstrate that Respondent abandoned patient M.B. when she failed to maintain a provider-patient relationship within the reasonable expectations of continuing care or referral by abruptly discharging Patient M.B. and not providing him with adequate assistance in finding new care or providing him with a referral but instead told him to stop contacting her.
24. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct in violation of 26 V.S.A. § 1615(a)(1)

Violation Two: 3 V.S.A. § 129a(a)(3) Failure to comply with provisions of federal or State statutes or rules governing the practice of the profession, incorporating 45 C.F.R. § 164.502 and 18 V.S.A. § 1881.

25. Paragraphs 2 through 20 above are incorporated herein.
26. The Health Insurance Portability and Accountability Act of 1996 ("HIPAA") is a federal law that prohibits a health care provider from accessing or using a patient's

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protected health information for a purpose other than treatment, payment, or health care operations of the Facility, except when the individual authorizes or as law requires. *See* 45 C.F.R. § 164.502.

27. Paragraphs 20 through 20 above demonstrate that Respondent violated federal law by accessing Patient M.B.'s electronic medical record after she discharged Patient M.B without authorization or a permitted purpose.
28. Vermont statute 18 V.S.A. § 1881, the state law incorporating HIPAA protections, prohibits a "covered entity," which includes Respondent as a health care provider, from disclosing protected patient health information. Under HIPAA, the definition of "disclosure" includes "provision of access to."
29. Paragraphs 2 through 20 above demonstrate that Respondent violated Vermont law by accessing Patient M.B.'s electronic medical record without authorization or a permitted purpose.
30. 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(a)(3), incorporating 45 C.F.R. § 164.502 and 18 V.S.A. § 1881.

Understandings

31. This Stipulation is neither an admission of facts by Respondent nor a concession by the State of Vermont that its charges are not well-founded. To avoid delay, uncertainty, inconvenience, and the expense of protracted litigation, the parties enter this full and final Stipulation pursuant to these Understandings and the Order below. Respondent does not contest that the State has evidence which, if believed by the fact finder, may establish by a preponderance of the evidence that he engaged in the alleged misconduct.
32. 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.
33. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
34. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
35. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.

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36. 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.
37. 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.
38. Respondent agrees that the Board may enter the Order set forth below.

ORDER

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

- A. The Board of Nursing hereby **CONDITIONS** Respondent's license commencing with the date of entry of this Stipulation and Consent Order. The conditions will be as follows:
 1. Re-issuance of License. Upon the commencement of these conditions, Respondent shall be issued a license labeled "conditioned."
 2. License Renewal. This Order does not automatically extend the license and Respondent must comply with the requirements for license renewal.
 3. Notification to Other States. If 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.
 4. Required Coursework. Respondent shall, at her own expense and within ninety (90) days of the date of entry of this Stipulation and Consent Order, successfully complete (i.e., receive a passing score, if applicable) the following online courses from (or equivalent that the Enforcement Case Manager pre-approves):

Relias Academy:

- a. HIPAA: Basics (0.50 hour)
- b. HIPAA Do's and Don'ts of Social and Media Electronic Communication (0.50 hour)
- c. HIPAA: Privacy Rule (0.25 hour)
- d. HIPAA: Security Rule (0.50 hour)

International Center for Regulatory Scholarship:

- a. Righting a Wrong – Ethics & Professionalism in Nursing (3 CE's)
- b. Upholding the Standard: Professional Accountability in Nursing (4.5 CE's)

Respondent need not wait for Board approval to begin satisfying these requirements.

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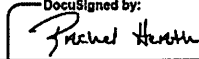
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Respondent shall submit the certificates of completion, completed assignment book(s) and quiz results, if applicable, to the Enforcement Case Manager. Failure to satisfactorily complete the courses shall constitute a violation of this Order. The coursework may not be counted toward any continuing education requirement of licensure.

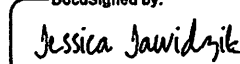
5. Costs. Respondent shall bear all costs of complying with this Consent Order.
 6. Violation of this Order. If Respondent violates this Order the Board, after giving Respondent notice and an opportunity to be heard, may rescind or modify this Order and impose additional appropriate disciplinary actions. 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.
 7. 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 may 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 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: 8/9/2023

STATE OF VERMONT
SECRETARY OF STATE
By: 
Rachel Heath
Prosecuting Attorney

Dated: 8/8/2023

RESPONDENT
By: 
Jessica Jawidzik

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Prosecuting Attorney
Office of
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89 Main Street
3rd Floor
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APPROVED AS TO FORM:

Dated: 8/7/2023

APPROVED AND SO ORDERED:

Dated: 8/14/23

Date of Entry: 8/14/23

ATTORNEY FOR RESPONDENT

By: DocuSigned by:
William Smart
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William Smart, Esq.

VERMONT BOARD OF NURSING

By: DocuSigned by:
Matthew Spate
43D6849C1C474EF...
Chairperson

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Office of
Professional Regulation
89 Main Street
3rd Floor
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**STATE OF VERMONT
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BOARD OF NURSING**

IN RE:)
JESSICA JAWIDZIK) **Docket No. 2022- 171, 2022- 172**
License No. 101.0134482)
License No. 026.0141493)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following charges against Advanced Practice Registered Nurse and Registered Nurse Jessica Jawidzik:

Board Authority

1. 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(a); 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 Rules").

Statement of Facts

2. Jessica Jawidzik ("Respondent") of Williston, Vermont is licensed as an Advanced Practice Registered Nurse (APRN) under license number 101.0134482 and as a Registered Nurse ("RN") under license number 026.0141493. The State of Vermont first issued the APRN license on February 10, 2020, and the license expires on March 31, 2023. The State of Vermont first issued the RN license on February January 24, 2020, and the license expires on March 31, 2023.
3. At all relevant times, Respondent was a solo practitioner at her own practice called Lux Telepsych.
4. Respondent advertises on her website that she provides education and therapy, medication management, and pharmacogenomic tests. Under "Medication Management," the website reads, "Comprehensive, holistic treatment for the following: Depressive Disorders, PTSD, Psychosis, Bipolar Disorder, Insomnia or Sleep Difficulties, Anxiety or Panic Disorders, OCD, Agoraphobia, Stress Management, Changes in Appetite/Weight, Postpartum Depression."
5. Respondent also advertises that she has worked in crisis stabilization units and in hospitals.

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6. Respondent's Psychology Today advertisement provides that Respondent has "over ten years of experience in the mental health field in outpatient, inpatient, and community health settings."
7. On March 4, 2021, Respondent had an initial appointment with Patient M.B.
8. Patient M.B. was a self-referral through psychologytoday.com.
9. On March 16 and March 22, 2021, Respondent had two more follow up appointments with Patient M.B.
10. During these appointments, Respondent changed Patient M.B.'s medications and plan for medicated treatment.
11. Respondent's treatment notes for Patient M.B. indicated he had complex post-traumatic stress disorder and major depressive disorder.
12. On March 31, 2021, Patient M.B. was admitted to the Emergency Room at the University of Vermont Medical Center for a mental health crisis that included suicidal ideations.
13. On the morning of April 1, 2021, Patient M.B. notified Respondent via her patient portal that he was in the Emergency Room.
14. Respondent and Patient M.B. sent several messages back and forth on April 1, 2021 about his frustrations on a lack of care from the hospital and she encouraged him to remain at the hospital.
15. Respondent called the Emergency Room as she became increasingly concerned about Patient M.B., his state of mind, and his insistence on wanting to leave. The hospital informed Respondent of the serious nature of the event that brought Patient M.B. to the Emergency Room and that the hospital had placed Patient under an involuntary hold.
16. Respondent did not have any communication with Patient M.B. until April 5, 2021, when he messaged Respondent to set up an appointment with her.
17. Respondent replied to Patient M.B.'s message discharging him. Respondent told Patient M.B. to contact the Howard Center to establish services. She further offered to send a 30 day supply of refills for his medications.
18. Respondent indicated that her reason for discharging Patient M.B. was because the circumstances that brought him to the Emergency Room were very different than what he had disclosed to her.
19. When Patient M.B. again requested an appointment with Respondent just a few minutes after her message discharging him, Respondent reiterated she was

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discharging him and asked him to cease contacting her. She suggested he ask inpatient staff to help him find an outpatient provider.

20. When an OPR Investigator contacted Respondent asking for a response to the complaint, Respondent accessed Patient M.B.'s prescription fill history for prescriptions he received after she had discharged him as a patient.
21. Respondent included in her response various details of his prescriptions and prescribers since she discharged Patient M.B.

Violation One: 26 V.S.A. § 1615(a)(1) Abandonment of a patient in violation of the duty to maintain a provider-patient relationship within the reasonable expectations of continuing care or referral.

22. The State re-alleges and incorporates paragraphs 2 through 21 above.
23. Under Vermont law, an APRN may not abandon a patient in violation of the duty to maintain a provider-patient relationship within the reasonable expectations of continuing care or referral.
24. Paragraphs 2 through 21 above demonstrate that Respondent abandoned patient M.B. when she failed to maintain a provider-patient relationship within the reasonable expectations of continuing care or referral by abruptly discharging Patient M.B. and not providing him with any assistance in finding new care or providing him with a referral but instead told him to stop contacting her.
25. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct in violation of 26 V.S.A. § 1615(a)(1)

Violation Two: 3 V.S.A. § 129a(a)(3) Failure to comply with provisions of federal or State statutes or rules governing the practice of the profession, incorporating 45 C.F.R. § 164.502 and 18 V.S.A. § 1881.

26. The State re-alleges and incorporates paragraphs 2 through 21 above.
27. The Health Insurance Portability and Accountability Act of 1996 ("HIPAA") is a federal law that prohibits a health care provider from accessing or using a patient's protected health information for a purpose other than treatment, payment, or health care operations of the Facility, except when the individual authorizes or as law requires. *See* 45 C.F.R. § 164.502.
28. Paragraphs 20 through 21 above demonstrate that Respondent violated federal law by accessing Patient M.B.'s electronic medical record after she discharged Patient M.B. without authorization or a permitted purpose.
29. Vermont statute 18 V.S.A. § 1881, the state law incorporating HIPAA protections, prohibits a "covered entity," which includes Respondent as a health care provider,

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Office of
Professional Regulation
89 Main Street
3rd Floor
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from disclosing protected patient health information. Under HIPAA, the definition of “disclosure” includes “provision of access to.”

30. Paragraphs 20 through 21 above demonstrate that Respondent violated Vermont law by accessing Patient M.B.’s electronic medical record without authorization or a permitted purpose.
31. 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(a)(3), incorporating 45 C.F.R. § 164.502 and 18 V.S.A. § 1881.

Violation Three: 3 V.S.A. § 129a(a)(26) Sexually harassing or exploiting a patient, client, or consumer, or doing so to a coworker in a manner that threatens the health, safety, or welfare of patients, clients, or consumers; failing to maintain professional boundaries, or violating a patient, client, or consumer’s reasonable expectation of privacy.

32. The State re-alleges and incorporates paragraphs 2 through 21 above.
33. Under Vermont law, an APRN is prohibited from violating a patient’s reasonable expectation of privacy.
34. Paragraphs 20 through 21 above demonstrate that Respondent violated a patient’s reasonable expectation of privacy by accessing Patient M.B.’s medical records after his treatment ceased without a valid purpose related to his treatment.
35. 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)(26).

Violation Four: 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 profession.

36. The State re-alleges and incorporates paragraphs 2 through 21 above.
37. Under Vermont law, an APRN and RN must exercise independent professional judgment in the performance of licensed activities when such judgment is necessary to avoid action repugnant to the profession.
38. Paragraphs 2 through 21 above demonstrate that Respondent failed to exercise independent professional judgment in the performance of licensed activities when such judgment is necessary to avoid action repugnant to the profession when she abruptly discharged Patient M.B., failed to provide him assistance in finding a suitable alternative care provider, and accessed his medical history after discharge without a valid purpose related to his treatment.

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89 Main Street
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39. 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).

Relief Requested

WHEREFORE, the State of Vermont respectfully requests that the Board warn, reprimand, suspend, revoke, limit, condition, or otherwise discipline Jessica Jawidzik's Registered Nurse and Advanced Practice Registered Nurse licenses.

DATED at Vermont this 29th day of June 2022.

STATE OF VERMONT
SECRETARY OF STATE

By: /s/ Rachel Heath
Rachel Heath
State Prosecuting Attorney
Enforcement Unit
(802) 828-0041
Rachel.Heath@vermont.gov

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Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402