

State of Vermont
Vermont Board of Nursing

In re: Brenda Walsh
License Number: 025.0006823
Docket Number: 2022-194

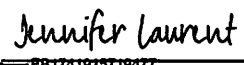
Order to Remove Conditions

On March 11, 2024, the Vermont Board of Nursing considered Brenda Walsh's request for Removal of Conditions imposed pursuant to a Board Order under Docket Number 2022-194. Ms. Walsh has successfully met the conditions. After review of the follow-up file, the State does not object to removal of all conditions.

Order:

The Board hereby removes all conditions from Brenda Walsh's LPN license.

Vermont Board of Nursing

DocuSigned by:

EB1741915719477...
Jennifer Laurent, Chair

Date: March 11, 2024

Date of Entry: 3 / 11 / 24



State of Vermont
Office of the Secretary of State

Office of Professional Regulation
89 Main Street, 3rd Floor
Montpelier, VT 05620-3402
sos.vermont.gov

Sarah Copeland Hanzas, Secretary of State
S. Lauren Hibbert, Deputy Secretary
Kevin Rushing, Director

February 9, 2024

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

Case: Brenda Walsh
Credential: License # 025.0006823
Docket No: 2022-194

Dear Attorney Doyle:

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*

Cc: Kristin Donnelly, Case Manager
Brenda Walsh, Respondent

Bowen, Julie

From: Brenda Walsh <brendawalsh1063@gmail.com>
Sent: Thursday, February 8, 2024 12:30 PM
To: SOS - Docket Clerk
Subject: Re: 2022-194 Brenda Walsh

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

I would like to submit a request to be released from the conditions on my nursing license.

Thank you.

On Fri, Jan 12, 2024, 9:39 AM Brenda Walsh <brendawalsh1063@gmail.com> wrote:

I was premature in requesting release of conditions please disregard my previous request and I will submit it later in February.

On Fri, Jan 5, 2024, 8:00 AM SOS - Docket Clerk <sos.docketclerk@vermont.gov> wrote:

Dear Attorney Doyle,

Enclosed please find a request to remove conditions on the above docket.

Thank you.

Julie Bowen

Docket Clerk

Vermont Secretary of State | Office of Professional Regulation

OPR Website: <https://sos.vermont.gov/opr/>

Online Services: <https://sos.vermont.gov/opr/online-services/>

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

IN RE:)
BRENDA WALSH) **Docket No. 2022-194**
License No. 025.0006823)

Participating Board Members:

Jennifer Laurent, APRN
Ginger Gillette-Kent, APRN
Luana Tredwell, LPN
Matthew Choate, RN
Kelly Sinclair, LNA
Deborah Belcher, Public Member
Daniel Coane, Public Member
Douglas Sutton, RN, *ad hoc* member

Appearances:

Prosecutor: Ultan Doyle, Esq.
Respondent: appeared *pro se*

Presiding Officer: George K. Belcher

Exhibits:

State Exhibit 1: Drug Screen Report reported on 4/7/23
State Exhibit 2: Drug Screen Report reported on 4/21/23
State Exhibit 3: Drug Screen Report reported on 5/10/23
State Exhibit 4: Nursing Board Order dated 2/17/23
State Exhibit 5: Paula Shulman Evaluation dated 9/21/23

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

This matter came before the Board of Nursing on October 9, 2023. The hearing was held by electronic means. Upon the evidence presented, the Board makes the following findings, conclusions, and Order:

FINDINGS OF FACT

1. The Respondent is licensed as a Licensed Practical Nurse. Her license was originally issued on October 21, 1992, and it expires on January 31, 2024.
2. The Respondent is subject to a prior order of the Board dated February 17, 2023. That

Order (State Exhibit 4) required that the Respondent submit to three random screens for drug and alcohol. The Respondent participated in the drug and alcohol screens and the results were reported to OPR. (State Exhibits 1-3)

3. The Respondent also participated in an Evaluation for Substance Abuse (State Exhibit 5). That evaluation concluded, "Brenda does not meet the criteria for substance abuse disorder. Further treatment for a substance abuse disorder is not recommended, my impression is that (sic) is able to continue to work in a way that is safe to practice." (See page 2 of Exhibit 5)
4. The test results (Exhibits 1-3) did test positive for Ethyl Glucuronide and Ethyl Sulfate which are metabolites of alcohol.
5. The State filed a request that the existing order be modified to require three additional drug and alcohol tests which would be required to be negative for alcohol and drugs. (The prior order only required that the tests be negative for drugs.)
6. The Respondent testified, and the Board accepts, that the Respondent has not consumed alcohol during the testing period. Rather, she has used hand sanitizers which may have caused positive results on the random urine screens. In addition, the initial findings of fact in the February 2023 Order did not require that the random screens be negative for alcohol since alcohol use was not a factor in the prior findings of unprofessional conduct.
7. After consideration of the evidence presented, the Board voted to deny the Motion to Amend the Order as filed by the State.

ORDER

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

- A. The Board of Nursing **DENIES** the State's Motion to Amend the February 2023 Order.

SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 10/10/23

By:

DocuSigned by:
Jennifer Laurent
Jennifer Laurent, APRN
Chair

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 10/10/2023

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Nursing or Director of the Office of Professional Regulation. A party aggrieved by a final decision of a board or hearing authority may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, 89 Main Street, Fl. 3, Montpelier, VT 05620-3402 within 30 days of the entry of this order. If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on 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**

IN RE:)
Brenda Walsh)
License No. 025.0006823) **Docket No. 2022-194**

MOTION TO AMEND ORDER

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Ultan Doyle, and respectfully requests that the Order (“the Order”) issued by the Board of Nursing (“the Board”) on February 17, 2023 be amended.

The Order required Respondent to submit to three random drug and alcohol tests, which she did on three separate occasions: March 29, 2023, April 13, 2023, and May 1, 2023. In each instance, Respondent tested positive for Ethyl Glucuronide and Ethyl Sulfate. However, the Order requires only that Respondent’s test results be negative for drugs. Therefore, the State was unable to charge Respondent with a violation of the Order, despite testing positive for alcohol on three separate occasions.

From August 9, 2023 to September 2023, Respondent submitted to an independent evaluation which was also required by the Order. During that evaluation, Respondent told the evaluator that she had not drunk alcohol in six years. This statement is clearly at odds with her three positive alcohol tests results referenced above.

Relief Requested

WHEREFORE, for the foregoing reasons, the State requests that the Order be amended to require Respondent submit to three additional drug and alcohol tests within 90 days of the Order, and that the tests be negative for alcohol and drugs except for drugs for which Respondent has a valid prescription.

DATED at Montpelier, Vermont this 29th day of September, 2023.

STATE OF VERMONT
SECRETARY OF STATE

By: Ultan Doyle
Ultan Doyle
Prosecuting Attorney
(802)828-1217
ultan.doyle@vermont.gov

STATE OF VERMONT



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

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

IN RE: BRENDA WALSH License No. 025.0006823	)))	Docket No. 2022-194
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Participating Board Members:

Jennifer Lyon, RN
Krystal Bernier, LPN, Vice Chair
Luana Tredwell, LPN
Matthew Choate, RN
William “Jamie” Floyd, RN
Kelly Sinclair, LNA
Deb Belcher, Public Member
Daniel Coane, Public Member
Jeanine Carr, RN, *ad hoc* member

Appearances:

Prosecutor: Ultan Doyle, Esq.
Respondent: appeared *pro se*

Presiding Officer: George K. Belcher

Exhibits:

State Exhibit 1: Methadone Medication Log

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

This matter came before the Board of Nursing on February 13, 2023. Upon the evidence presented, the Board makes the following findings, conclusions and Order:

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”).

FINDINGS OF FACT

2. The Respondent is licensed as a Licensed Practical Nurse. Her license was

originally issued on October 21, 1992, and it expires on January 31, 2024.

3. During the times in question, the Respondent worked at the Crescent Manor Rehabilitation facility in Bennington, Vermont. She was a staff nurse at this facility.
4. On March 15, 2022, the Respondent worked the 2 PM to 10 PM shift. At the beginning of her shift, the Respondent recorded that she had 150 Methadone Hydrochloride 10 mg tablets set aside on the medication cart for patient S.C. During her shift, she documented that she administered two tablets and that she had 148 tablets remaining.
5. At 6 PM the Respondent unexplainedly left 5 lines blank in the medication log and “transferred” the log to the next page of the log. On the second page of the log she logged only 120 tablets instead of the 148 tablets that she previously logged. There was no logged explanation for the missing 28 tablets.
6. According to Trish Bossong, the Director of Nursing for the facility, there would be no reason to skip lines on the log and to “transfer” to another page. Such a skipping of lines is not normal nursing practice at the facility.
7. At some time later, the Director of Nursing became aware that the missing medications were unaccounted for. The Director conducted an investigation which included an exhaustive search of the facility, the trash, the “shred box” and other sections of the facility. The missing drugs were not found. The “shred box” did not contain the drugs or any evidence of the packaging being discarded.
8. As part of the investigation, the Director of Nursing inquired of the Respondent whether the Respondent had lost or taken the medication. The Respondent denied taking the medication, but she did not mention any particular distractions she had during the shift in question.
9. When a bubble pack container of drugs is discarded at the facility, a portion of the package is placed in the “shred box” so that patient information is protected.
10. On or about April 14, 2022, the Respondent was interviewed by an OPR investigator. The Respondent stated that she did not take the medications but that she had been distracted during the shift by an unruly patient who assaulted her. When asked for verification of this, the Respondent showed the investigator an email or voicemail communication about the assault which she had communicated to another co-worker. The investigator pointed out that the communication was a week following the March 15, 2022 time the drugs went missing. The Respondent then stated that there were two incidents of assault (one on March 15 and one a week later),

11. The Respondent testified and explained that she was distracted during her “med pass” and must have thrown away a “bubble pack” card containing the drugs. This testimony seems inconsistent with the facility process of placing thrown out medication cards in the shred box (which did not contain any thrown away material which would explain that the drugs were inadvertently thrown away).
12. The Respondent admitted that she may have made mistakes in her accounting for the drugs and her logging information on the medication log, but she denied that she took the drugs.

Violation One: 3 VSA Sec. 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.

13. Paragraphs 2 through 12 are incorporated herein.
14. The evidence established that the Respondent deviated from acceptable patient care by her failure to follow facility procedures in handling the medications, accounting for the medication administration and wasting, and handling of patient drug information when discarding medications.
15. The Respondent’s explanation for the missing medications and her failure to account for the missing medications is not credible. The facts create a reasonable concern about the drug use status of the Respondent which can be reasonably addressed by the conditions set forth in the following Order.

Violation Two: 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. (2) Failure to conform to the essential standards of acceptable and prevailing practice.

16. Paragraphs 2 through 15 are incorporated herein.
17. It is a basic concept of drug management by nurses that medications are strictly accounted for from receipt, to administration, to ultimate disposition. Drug counts and drug inventories are essential components of proper nursing and medication accountability. The Respondent failed to conform to acceptable and prevailing practice when she failed to account and keep accurate track of the medications in question.

ORDER

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

- A. The Board of Nursing hereby **REPRIMANDS** Respondent's license.
- B. The Board of Nursing hereby **CONDITIONS** Respondent's license commencing with the date of entry of this 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. Length of Time of Conditions Imposed. Respondent shall be subject to the conditions for a **minimum period of one year** and until Respondent has fully completed all conditions as ordered.
 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. Substance Abuse Evaluation. The Respondent must obtain an independent evaluation report by a pre-approved licensed professional specializing in substance abuse treatment ("Independent Evaluator") who has verified receipt and review of the Board's Order, Specification of Charges, and Respondent's Answer to the Specification of Charges and Exhibit 1 in the above-referenced docket number. The results of the Independent Evaluation must indicate that Respondent does not present a risk to the safety, health or welfare of Respondent's potential patients. The evaluation shall meet all Independent Evaluation Requirements and shall include any recommendations that would ensure Respondent is safe to practice. The evaluation must be submitted to the Enforcement Unit Case Manager.
 6. Random Drug Screens. Within ninety (90) days of the date of entry of this Order, submit to the Enforcement Unit Case Manager the results of a minimum of three (3) random drug and alcohol tests:
 - i. When Respondent is ready to initiate the drug screen process, Respondent shall contact the Enforcement Unit Case Manager to set-up the drug and alcohol testing process and receive

instructions. Once registered with the pre-approved person or entity, Respondent will have 90 days from the date of this Order to submit a minimum of three (3) random drug and alcohol tests. The process by which Respondent learns whether she is selected to submit to a test on any given day will be governed by the policy of the pre-approved person or entity conducting the testing at that time. The tests must be negative for drugs except for drugs for which the Respondent has a valid and current prescription.

- ii. The drug and alcohol tests must be collected in an observed setting; administered by a pre-approved person or entity; and analyzed by a pre-approved lab qualified to analyze samples for forensic purposes, the results of which shall be negative.
 - iii. Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any test in anyway shall cause that test to be presumed positive.
- 7. Practice Under Supervision. Respondent shall practice as a nurse only in a setting where Respondent has on-site supervision. On-site supervision means the supervising nurse, medical doctor, doctor of osteopathy, physician assistant, or advanced practice nurse is present in the same facility or is available by phone or other electronic means if the supervisor is not on-site during the entire shift.
- 8. Reports from Employers/Program Director. Within one (1) month of the date of this Order or within one (1) month of the commencement or recommencement 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 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.
- 9. Types of Employment Prohibited. While practicing as a nurse the Respondent shall not work in a supervisory role. The Respondent shall not work in a nursing position which requires more than 40 hours per week. 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 Order.

10. Interview with the Board or its Designee. Respondent shall appear in person for interviews with the Board or its designee upon request.
11. 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 Final 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.
12. Notification to Employers/Nursing School. Respondent shall provide a copy of this 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 Final 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 Order and the ability to comply with the conditions in the Order.

In the event Respondent is attending a nursing program that has a clinical portion that involves actual patient care, Respondent shall provide a copy of the 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 Order and the ability of the program to comply with the conditions in the Final Order during clinical experience.
13. Notification of Place of Employment/Personal Address/Telephone Number. Within ten (10) days of the date of entry of this Final Order, Respondent shall notify the Board, in writing, of Respondent's current place of employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in employment (including resignation or termination), personal address, or telephone number.
14. 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.
15. Required Coursework. Respondent shall, at her own expense and within ninety (90) days of the date of entry of this Order, successfully complete (i.e., receive a passing score, if applicable) eight hours of pre-approved coursework on (1) nursing ethics and (2) medication management. The coursework must be pre-approved by the Enforcement Case Manager.

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 within the prescribed timeframe shall constitute a violation of this Order. The coursework may not be counted toward any continuing education requirement of licensure.

16. Costs. Respondent shall bear all costs of complying with this Final Order.

17. 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 the Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

18. 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.

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

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 2/17/2023

By:

DocuSigned by:

Krystal Bernier

05E1BFF5DBAD443...
Krystal Bernier, LPN
Vice-Chair

OFFICE OF PROFESSIONAL REGULATION
DATE OF ENTRY: 2/17/2023

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Nursing or

Director of the Office of Professional Regulation. A party aggrieved by a final decision of a board or hearing authority may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, 89 Main Street, Fl. 3, Montpelier, VT 05620-3402 within 30 days of the entry of this order. If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.