

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

IN RE:)
JENNIFER HIGGINS) **Docket Nos. 2022-214**
License Nos. 026.0148052)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through Prosecuting Attorney Ultan Doyle, and Respondent Jennifer Higgins, by and through her counsel Robert J. Kaplan, 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(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.

Alleged Facts

2. Jennifer Higgins ("Respondent") of Rexford, New York is licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0148052. This license was originally issued on December 8, 2021 and expires on March 31, 2023.
3. During the relevant time period, Respondent was employed as an RN by the University of Vermont Medical Center ("the Facility") in Burlington, Vermont.
4. On or about January 26, 2022, E.T., a nurse who was employed by the Facility, was working at the Facility's mother-baby unit. Also present were nurses S.S. and G.S.
5. Between approximately 2:00am and 3:00am, E.T. was seated at her station when Respondent came into the room and grabbed E.T.'s breasts from behind and shook them up and down for approximately three to four seconds.
6. E.T. then left the room upset and teary eyed.

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7. When interviewed by an OPR investigator, Respondent admitted to touching E.T.'s breasts but claimed that she bumped into them accidentally while hugging E.T. from behind.

Violation One: 26 V.S.A. §1582(a)(3) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

8. Paragraphs 2 through 7 above are incorporated herein.
9. As an RN, Respondent is required to refrain from engaging in conduct of a character likely to deceive, defraud, or harm the public.
10. Paragraphs 2 through 7 demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public when she grabbed E.T.'s breasts shook them up and down for approximately three to four seconds.
11. 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 Two: 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.

12. Paragraphs 2 through 7 above are incorporated herein.
13. As an RN, Respondent was required to maintain professional boundaries with her co-workers.
14. Paragraphs 2 through 7 demonstrate that Respondent failed to maintain professional boundaries with E.T. when she grabbed E.T.'s breasts shook them up and down for approximately three to four seconds.
15. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct by 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 in violation of 3 V.S.A. §129a(a)(26).

Understandings

16. This Stipulation is neither an admission of liability by Respondent nor a concession by the State of Vermont that its charges are not well-founded. To

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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 dispute that the State may be able to prove these charges by a preponderance of the evidence if this matter proceeds to a merits hearing.

17. Respondent understands that the Nursing Board must review and accept the terms of the Stipulation and Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.
18. 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.
19. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
20. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
21. 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.
22. 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.
23. Respondent agrees that the Order set forth below may be entered by the Board, will be a binding Order upon Respondent, and will be made public.
24. Respondent understands that Respondent is responsible for all compliance costs associated with this Stipulation and Consent Order and any violation of this Order may result in additional disciplinary action.

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ORDER

Based on the Stipulation 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 Stipulation and Consent Order:

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. Required Coursework. Respondent shall, at her own expense and within ninety (90) days of the date of entry of this Stipulation and Consent Order, satisfactorily complete the following pre-approved courses:
 - i. Sexual Harassment Prevention (offered by Nursing CE);
 - ii. Maintaining Ethics, Boundaries and Professionalism in Nursing (offered by PBI Education)

*Respondent must provide satisfactorily completed workbooks and certificates of completion to the Case Manager.

**Coursework may not be counted toward any continuing education requirement of licensure.

- D. Upon compliance with and completion of all required conditions, Respondent must petition to remove any or all conditions from the license and demonstrate full compliance with the Order.
- E. Notwithstanding any provision above, Respondent must continue to meet all requirements to maintain licensure, for license renewal, and for license reinstatement.
- F. 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).
- G. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be considered relative to any future disciplinary matter.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 4/14/23

By: Ultan Doyle
Ultan Doyle, Esq.
State Prosecuting Attorney

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JENNIFER HIGGINS
RESPONDENT

Dated: 4/13/2023

By: Jennifer Higgins
Jennifer Higgins

APPROVED AS TO FORM:

ROBERT J. KAPLAN, ESQ.
ATTORNEY FOR RESPONDENT

Dated: 4/14/23

By: Robert J. Kaplan
Robert J. Kaplan, Esq.

STATE OF VERMONT



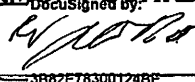
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APPROVED AND SO ORDERED:

Dated: 5/12/23

Date of Entry: 5/12/23

VERMONT BOARD OF NURSING

By: 
Chairperson

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BOARD OF NURSING

IN RE: :
JENNIFER HIGGINS : Docket No.: 2022-214
License No. 026.0148052 :

ANSWER TO SPECIFICATION OF CHARGES

COMES NOW Respondent, JENNIFER HIGGINS, by Counsel, Robert J. Kaplan,
Esquire and KAPLAN AND KAPLAN and in response to the Specification of Charges states as
follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Respondent is without sufficient information to admit or deny the allegations in Paragraph 4. Therefore, the allegations in Paragraph 4 are denied.
5. Admitted that E.T. was present between 2:00am and 3:00am. The other allegations in Paragraph 5 are denied.
6. Admitted that E.T. left the room. The other allegations in Paragraph 6 are denied.
7. Admitted.
8. Respondent restates and incorporates herein her responses to Paragraphs 1 through 7 above.
9. Admitted.
10. Denied.
11. Denied.
12. Respondent restates and incorporates herein her responses to Paragraphs 1 through 11 above.

13. Admitted.
14. Denied.
15. Denied.
16. Respondent restates and incorporates herein her responses to Paragraphs 1-15 above.
17. Admitted.
18. Denied.
19. Denied.

WHEREFORE, Respondent respectfully requests that the Board of Nursing dismiss this Specification of Charges.

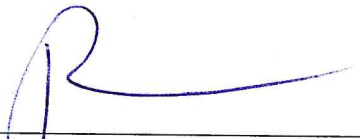
Dated at, Burlington, Vermont this 12TH day of October 2022.

Respectfully Submitted,

JENNIFER HIGGINS

By Counsel

KAPLAN AND KAPLAN



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Burlington, Vermont 05401
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(802) 448-3478 (fax)
rkaplan@kaplanlawvt.com

KAPLAN AND KAPLAN
ATTORNEYS AT LAW

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95 ST. PAUL STREET
BURLINGTON, VT 05402
(802) 651-0013

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IN RE:	)	
JENNIFER HIGGINS	)	Docket Nos. 2022- 214
License Nos. 026.0148052	)	

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Jennifer Higgins:

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(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.

Statement of Facts

2. Jennifer Higgins (“Respondent”) of Rexford, New York is licensed by the State of Vermont as a Registered Nurse (“RN”) under license number 026.0148052. This license was originally issued on December 8, 2021 and expires on March 31, 2023.
3. During the relevant time period, Respondent was employed as an RN by the University of Vermont Medical Center (“the Facility”) in Burlington, Vermont.
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5. Between approximately 2:00am and 3:00am, E.T. was seated at her station when Respondent came into the room and grabbed E.T.’s breasts from behind and shook them up and down for approximately three to four seconds.
6. E.T. then left the room upset and teary eyed.
7. When interviewed by an OPR investigator, Respondent admitted to touching E.T.’s breasts but claimed that she bumped into them accidentally while hugging E.T. from behind.

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Violation One: 26 V.S.A. §1582(a)(3) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

8. The State re-alleges and incorporates Paragraphs 2 through 7 above.
9. As an RN, Respondent is required to refrain from engaging in conduct of a character likely to deceive, defraud, or harm the public.
10. Paragraphs 2 through 7 demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public when she grabbed E.T.'s breasts shook them up and down for approximately three to four seconds.
11. 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 Two: 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.

12. The State re-alleges and incorporates Paragraphs 2 through 7 above.
13. As an RN, Respondent was required to maintain professional boundaries with her co-workers.
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Violation Three: 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.

16. The State re-alleges and incorporates Paragraphs 2 through 7 above.

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17. As an RN, Respondent is required to exercise his 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.
18. Paragraphs 2 through 7 demonstrate that Respondent failed to exercise independent professional judgment when she grabbed E.T.'s breasts shook them up and down for approximately three to four seconds.
19. 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 RN licenses of Jennifer Higgins should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 30th day of September, 2022.

STATE OF VERMONT
SECRETARY OF STATE

By: Ultan Doyle
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