



**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

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

June 14, 2022

August Brown
449 Little Otter Road
Gassaway, West Virginia 26624-7609

CASE: In Re August Brown
Docket No.: 2022-54
License # 026.0145160

Dear Mr. Brown:

Enclosed please find a copy of the approved *Stipulation and Consent Order*

For questions about complying with this Order, please contact the Case Manager at 802-828-2875

Sincerely,

DocuSigned by:

S. Lauren Hibbert

9CDAB598B5C54EE...

S. Lauren Hibbert
Director

Enc: *Stipulation and Consent Order*

cc: Ultan Doyle, Esq., Prosecuting Attorney
Kristin Donnelly, Case Manager
August Brown, Respondent, Email, First Class Mail, Certified Mail

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

IN RE:)
August Brown) **Docket No. 2022-54**
License No. 026.0145160)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through Prosecuting Attorney Ultan Doyle, and Respondent August Brown, by and through her counsel Todd W. Reed, 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.

Stipulated Facts

2. August Brown ("Respondent") of Gassaway, West Virginia is licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0145160. This license was originally issued on March 8, 2021 and expires on March 31, 2023.
3. During the relevant time period, Respondent was employed as an RN by Grace Cottage Hospital ("the Facility"), located in Townshend, Vermont.
4. As part of her responsibilities, Respondent was required to provide care for D.B., a patient at the Facility ("the Patient").
5. On June 19, 2021, at approximately 7:00am, Respondent requested that a fellow RN, G.V., witness the wasting of 2mg of a 4mg vial of IV morphine in the Facility's Pyxis room.
6. G.V. observed Respondent collecting the necessary needle and syringe and going to the Cactus Smart sink, where medications were wasted.

STATE OF VERMONT



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

7. After G.V. confirmed the waste with her fingerprint, Respondent stated, "you might not want to watch this, I'm not wasting this morphine. Giving morphine to a dying man only every 4 hours is cruel. Plausible deniability."
8. The dying man to whom Respondent was referring was the Patient.
9. Respondent then drew the entire 4mg of the morphine vial into a syringe and exited the Pyxis room without wasting any of the morphine.
10. G.V. immediately informed the charge nurse, C.A., about what she had just witnessed.
11. G.V. also reported to C.A. that she believed that Respondent had administered the morphine to the Patient.
12. On June 19, 2021, at 7:26am, Respondent recorded on the medication log that she wasted 2mg of a 4mg vial of morphine.
13. The Medication Administration Record shows that Respondent administered 2mg of Morphine to the Patient at 7:30am on June 19, 2021.
14. The administration of the Morphine was pursuant to a provider order issued at 12:44am on June 18, 2021, which called for 2mg of Morphine to be administered intravenously to the Patient once per hour as needed.
15. The administration of the Morphine was verified by Respondent at 7:30am on June 19, 2021.
16. On June 22, 2021, the Facility conducted an internal investigation, during which Respondent admitted to administering 4mg of Morphine to the Patient on June 19, 2021 instead of the 2mg of Morphine as set forth in the provider's order.
17. Respondent also stated that she had not requested a change in the Patient's Morphine dose prior to administering the 4mg of Morphine.
18. On June 22, 2021, the Facility terminated Respondent's employment.
19. Respondent later advised OPR's investigator that her reasoning for administering 4mg of Morphine to the Patient was as follows:

Due to the amount of pain the patient was in and the length of time he had slept without having any additional morphine combined with the clear uncertainty in [the Facility], I made the decision to administer the whole 4mg vial of morphine to the patient in hopes that it would help his pain until he could have another dose or they could get the morphine pump in place.

STATE OF VERMONT



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

Violation One: 3 V.S.A. §129a(a)(13) Performing treatments or providing services that the licensee is not qualified to perform or that are beyond the scope of the licensee's education, training, capabilities, experience, or scope of practice.

20. Paragraphs 2 through 19 above are incorporated herein.
21. As an RN, Respondent is required to refrain from performing treatments or providing services that she is not qualified to perform or that are beyond the scope of her education, training, capabilities, experience, or scope of practice.
22. Paragraphs 2 through 19 demonstrate that Respondent performed a treatment that was beyond the scope of her education, training, capabilities, experience, or scope of practice when she administered 4mg of Morphine to the Patient instead of 2mg of Morphine as set forth in the provider's order.
23. 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 3 V.S.A. §129a(a)(13).

Violation Two: 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.

24. Paragraphs 2 through 19 above are incorporated herein.
25. As an RN, 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.
26. Paragraphs 2 through 19 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 documenting that she had wasted 2mg of Morphine when she had not; and documenting that she had administered 2mg of Morphine when she had actually administered 4mg.
27. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct by willfully making and filing false reports in the practice of the profession and willfully impeding or obstructing the proper making or filing of reports or records in violation of 3 V.S.A. §129a(a)(7).

STATE OF VERMONT



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

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.

28. Paragraphs 2 through 19 above are incorporated herein.
29. As an RN, 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.
30. Paragraphs 2 through 19 demonstrate that Respondent failed to exercise independent professional judgment by administering 4mg of Morphine to the Patient instead of 2mg of Morphine as set forth in the provider's order; documenting that she had wasted 2mg of Morphine when she had not; and documenting that she had administered 2mg of Morphine when she had actually administered 4mg.
31. 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 Four: 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.

32. Paragraphs 2 through 19 above are incorporated herein.
33. Vermont law requires RNs to practice competently by providing safe and acceptable patient care.
34. Paragraphs 2 through 19 above demonstrate that Respondent failed to provide safe and acceptable patient care when she administered 4mg of Morphine to the Patient instead of 2mg of Morphine as set forth in the provider's order; documented that she had wasted 2mg of Morphine when she had not; and documented that she had administered 2mg of Morphine when she had actually administered 4mg.
35. 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)(1).

STATE OF VERMONT



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

Violation Five: 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.

36. Paragraphs 2 through 19 above are incorporated herein.
37. The essential standards of acceptable and prevailing practice require that an RN follow providers orders when administering medication and accurately document patient records.
38. Paragraphs 2 through 19 above demonstrate that Respondent failed to conform to essential standards of acceptable and prevailing practice when she administered 4mg of Morphine to the Patient instead of 2mg of Morphine as set forth in the provider's order; documented that she had wasted 2mg of Morphine when she had not; and documented that she had administered 2mg of Morphine when she had actually administered 4mg.
39. 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).

Understandings

40. Respondent admits that the facts above are true and that the conditions below are necessary to protect the public.
41. 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.
42. 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.
43. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
44. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
45. 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.
46. 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.

STATE OF VERMONT



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

47. 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.
48. 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.

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 and the reinstatement of Respondent's license, 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 as ordered. Respondent shall be subject to the conditions until Respondent completes a **minimum of one (1) year** of RN practice in which Respondent works at least eighty (80) hours every calendar month as a nurse. Part time hours of fewer than eighty (80) hours every calendar month shall be credited on a prorated basis.
 3. 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.
 4. 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 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), appropriate nursing documentation, and attendance.

STATE OF VERMONT



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

5. Notification to Employers/Nursing School. Respondent shall provide a copy of this Reinstatement 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 Reinstatement 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 Reinstatement 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 Reinstatement Stipulation and Consent Order and the ability of the program to comply with the conditions in the Consent Order during clinical experience.

6. Interview with the Board or its Designee. Respondent shall appear in person for interviews with the Board or its designee upon request.
7. 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.
8. 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 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.
9. 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.
10. License Renewal. This Order does not automatically extend the license and Respondent must comply with the requirements for license renewal.
11. Costs. Respondent shall bear all costs of complying with this Consent Order.

STATE OF VERMONT



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

- C. 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.
- D. Notwithstanding any provision above, Respondent must continue to meet all requirements to maintain licensure, for license renewal, and for license reinstatement.
- E. 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).
- F. 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:

Dated: June 6, 2022

STATE OF VERMONT
SECRETARY OF STATE

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

Dated: 5-24-2022

AUGUST BROWN
RESPONDENT

By: August L. Brown
August Brown

APPROVED AS TO FORM:

Dated: 05/26/2022

TODD W. REED
ATTORNEY FOR RESPONDENT

By: Todd W. Reed
Todd W. Reed, Esq.

APPROVED AND SO ORDERED:

Dated: 6/13/2022

VERMONT BOARD OF NURSING

By: Jennifer Laurent
Chairperson

Date of Entry: 6/13/2022

