

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

IN RE:	)	
Jennifer Wolmuth	)	Docket Nos. 2022-93
License No. 026.0112733	)	2022-95
	)	2022-96

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through Prosecuting Attorney Ultan Doyle, and Respondent Jennifer Wolmuth, by and through her attorney, Sue Edwards, 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. Jennifer Wolmuth ("Respondent") of Sudbury, Vermont is licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0112733. This license was originally issued on June 25, 2015 and expires on March 31, 2023.
3. From November 13, 2015 until November 12, 2021, Respondent was employed as an RN by Porter Medical Center ("Facility 1") in Middlebury, Vermont.
4. On or about November 9, 2021, Respondent was observed by staff members at Facility 1 to have been holding onto a desk for balance, falling asleep mid-sentence, slurring her words, and having pinpoint pupils.
5. This behavior, coupled with similar behavior earlier that year, led to a decision by Facility 1 to terminate Respondent on November 12, 2021. Respondent requested the opportunity to resign, which Facility 1 agreed to.

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6. Facility 1 then filed a complaint with the Office of Professional Regulation ("OPR") based on the disciplinary action it had taken regarding Respondent's employment.
7. On November 30, 2022, Respondent told OPR investigators that she had had a substance abuse problem in the past, and that she had used heroin twice in the past year.
8. Respondent said that since 2017, she had been in a medication assisted treatment ("MAT") program, which included her undergoing counseling and submitting to regular urine analysis.
9. Respondent also said she had been prescribed Zubsolv (a drug used to treat opioid addiction) since January of 2021.
10. On April 2, 2021, Respondent renewed her RN license with OPR and attested to it being true and accurate.
11. Included in her application were the following two questions:
 - Are you currently addicted to or in any way dependent on alcohol or habit-forming drugs?
 - Are you currently participating in a supervised program or professional assistance program which monitors you in order to assure that you are not engaging in the use of alcohol or controlled substances?
12. Respondent answered "No" to both of these questions.
13. From April 27, 2022 to May 2, 2022, Respondent was employed as an RN by the VNA & Hospice of the Southwest ("Facility 2") in Rutland, Vermont.
14. On April 27, 2022, A.M., who worked as an RN at Facility 2, was assigned to be Respondent's preceptor. A.M. reported that on this day, she noticed that Respondent could not sit still and was disorganized.
15. On April 29, A.M. arrived at Facility 2 and asked Respondent to fill out a patient form, which should have taken approximately two minutes to complete.
16. A.M. then went to a supply room in Facility 2 and when she returned about 10 minutes later, Respondent had only managed to fill out the patient's name.
17. A.M. and Respondent later drove together to a patient's apartment to conduct a home visit.

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18. At the apartment, as A.M. was conducting a patient assessment, Respondent asked to use the bathroom.
19. After a while, the patient's husband noticed that Respondent had been in the bathroom a long time and said he hoped she was okay.
20. A.M. became concerned and knocked on the bathroom door, but did not receive a response. The door was locked, but the patient's husband was able to unlock it. A.M. then opened the door and saw Respondent unconscious on the toilet with her head resting on the bathroom counter. She also saw an open eyeglass case, inside of which were two open plastic containers and a brownish powder.
21. A.M. asked the patient's husband to call 911.
22. A.M. then called Respondent's name and was able to wake her up by shaking her. Respondent became alert and was immediately apologetic.
23. Respondent told A.M. that she was alright and when A.M. saw that Respondent was alert and walking shortly thereafter, she cancelled the call to the 911 operator.
24. After A.M. and Respondent left the residence, Respondent told A.M. that she had snorted caffeine powder.
25. A.M. offered to take Respondent to the ER, but Respondent declined and said that she was fine.
26. A.M. then told Respondent that they were going directly to see S.T., Facility 2's Clinical Manager, given that Respondent was impaired, at which time Respondent became weepy.
27. When the pair met with S.T., Respondent told him that she had not been sleeping well and that she had been taking NoDoz, a caffeine pill, to stay awake. S.T. directed Respondent to report what had happened to the Facility's HR Director.
28. A.M. then took Respondent to her car so that she could retrieve her belongings.
29. A.M. saw Respondent's eye glass case and asked if she could look inside it.
30. Respondent opened it up and it was empty.
31. When A.M. asked what had happened to the powder that had been in the case, Respondent said he had got rid of it.
32. On May 2, 2022, Respondent was terminated from Facility 2 for the aforementioned conduct.

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33. In a subsequent interview with OPR Investigators, Respondent denied using heroin and said she had been taking NoDoz caffeine pills to give herself a caffeine boost. Respondent told them that on the morning of April 29, 2022, she was exhausted so she had a coffee and took a NoDoz pill. Later she took a half a NoDoz pill and crushed the other half of the pill with the intention of snorting it should she need to.
34. During the home visit, Respondent said that she felt as though she was going to faint, so she excused herself and went to the bathroom, where she planned on snorting the crushed NoDoz.
35. Respondent said the next thing she remembered was A.M. yelling at her and waking her up. Respondent denied ever snorting the NoDoz powder.
36. Respondent said that she was taking Suboxone daily under the supervision of a physician and was also doing urine analysis testing.
37. Respondent admitted to using cocaine after she had lost her job a few weeks earlier, but denied ever using cocaine or heroin while working.
38. Respondent signed a release so that investigators could obtain her urine analysis results, which showed positive tests for cocaine and opiates on March 7, 2022, and for cocaine and Norfentanyl on April 19, 2022.

Violation One: 26 V.S.A. §1582(a)(1) Making or causing to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license.

39. Paragraphs 2 through 38 above are incorporated herein.
40. Respondent is required to refrain from making false statements in renewing a license.
41. Paragraphs 2 through 12 demonstrate that Respondent made a false statement in connection with the renewal of her license when she answered "no" to questions about whether she was currently addicted to or in any way dependent on alcohol or habit-forming drugs, and whether she was currently participating in a supervised program or professional assistance program which monitored her in order to assure that she was not engaging in the use of alcohol or controlled substances.
42. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct by making or causing to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license in violation of 26 V.S.A. §1582(a)(1).

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Violation Two: 3 V.S.A. §129a(a)(5) Practicing the profession when medically or psychologically unfit to do so.

43. Paragraphs 2 through 38 above are incorporated herein.
44. As an RN, Respondent is prohibited from practicing when it is medically unsafe to do so.
45. Paragraphs 13 through 38 above demonstrate that Respondent, while working as an RN, lost consciousness while locked in a patient's bathroom after snorting a substance that she claimed was a crushed caffeine pill, thereby making her medically unfit to practice.
46. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent violated 3 V.S.A. §129a(a)(5).

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

47. Paragraphs 2 through 38 above are incorporated herein.
48. As an RN, Respondent is required to refrain from engaging in conduct of a character likely to deceive, defraud, or harm the public.
49. Paragraphs 13 through 38 demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public when, while working as an RN at a patient's home, she lost consciousness after snorting a substance that she claimed was a crushed caffeine pill.
50. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent violated 26 V.S.A. §1582(a)(3).

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 obligations of the profession.

51. Paragraphs 2 through 38 above are incorporated herein.
52. 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.
53. Paragraphs 13 through 38 demonstrate that Respondent failed to exercise independent professional judgment when, while working as an RN at a patient's home, she lost consciousness after snorting a substance that she claimed was a crushed caffeine pill.

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54. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent violated 3 V.S.A. §129a(a)(15).

Understandings

55. Respondent admits that the facts above are true and the parties reach a full and final Stipulation pursuant to these Understandings and the Order below.
56. 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.
57. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced Respondent's rights to a fair and impartial hearing if this agreement is not accepted by the Board and proceeds to a contested hearing.
58. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
59. Respondent is not under the influence of any drugs or alcohol at the time Respondent signs this Stipulation and Consent Order.
60. 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.
61. Respondent voluntarily waives Respondent's right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
62. Respondent agrees that the Order set forth below may be entered by the Board.

ORDER

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

- A. The Board of Nursing hereby **INDEFINITELY SUSPENDS** Respondent's license to practice as a Licensed Practical Nurse from the date of entry below. No sooner than forty-five (45) days prior to requesting reinstatement, Respondent must, at her own cost:
1. Obtain an independent substance abuse evaluation report by a pre-approved licensed professional specializing in drug and alcohol abuse ("Independent Evaluator") who has verified receipt of the Default Order. The results of the Independent Evaluation must indicate that Respondent does not present a risk

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to the safety, health or welfare of Respondent's potential patients, as well as any recommendations that would ensure Respondent is safe to practice. The evaluation must be submitted the Enforcement Unit Case Manager.

2. Submit to the Enforcement Unit Case Manager the results of a minimum of three (3) random urine analyses:
 - a. When Respondent is ready to petition for reinstatement, Respondent shall contact the Enforcement Unit Case Manager to set-up the urine analysis process and receive instructions. Once registered with the pre-approved person or entity, Respondent will have 45 days to submit a minimum of three (3) random urine analyses. The process by which Respondent learns whether she is selected to provide a sample on any given day will be governed by the policy of the pre-approved person or entity conducting the testing at that time.
 - b. The urine analyses 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.
 - c. Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine analysis shall cause that screen to be presumed positive; and
 3. If recommended by an Independent Evaluator, enter into a treating professional agreement and substance abuse treatment plan with a pre-approved treating professional(s) and follow all recommendations.
- B. If reinstated, Respondent's license **SHALL BE CONDITIONED** pursuant to whatever terms the Board finds reasonable at the time of Respondent's reinstatement request, taking into account the independent evaluation, urinalysis results, the facts above, and anything else the Board deems relevant at that time.
- C. Notwithstanding any provision above, Respondent must continue to meet all Board requirements for maintaining a license, license renewal and license reinstatement.
- D. This Stipulated 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).
- E. 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.

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AGREED TO:

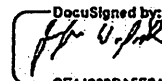
STATE OF VERMONT
SECRETARY OF STATE

Dated: 3/3/2023

By: 
Ultan Doyle
Prosecuting Attorney

JENNIFER WOLMUTH
RESPONDENT

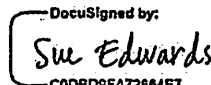
Dated: 3/3/2023

By: 
Jennifer Wolmuth
Print Name Here: _____

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

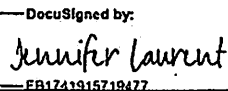
Dated: 3/2/2023

By: 
Susan T. Edwards, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 3/13/23

By: 
Board Chair

Date of Entry: 3/14/23

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BOARD OF NURSING**

IN RE: Jennifer Wolmuth License No. 026.0112733	)))	Docket Nos. 2022-93 2022-95 2022-96
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SPECIFICATION OF CHARGES

NOW COMES the State of Vermont (the "State") and makes the following charges against Registered Nurse, Jennifer Wolmuth:

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. Jennifer Wolmuth ("Respondent") of Sudbury, Vermont is licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0112733. This license was originally issued on June 25, 2015 and expires on March 31, 2023.
3. From November 13, 2015 until November 12, 2021, Respondent was employed as an RN by Porter Medical Center ("Facility 1") in Middlebury, Vermont.
4. On or about November 9, 2021, Respondent was observed by staff members at Facility 1 to have been holding onto a desk for balance, falling asleep mid-sentence, slurring her words, and having pinpoint pupils.
5. This behavior, coupled with similar behavior earlier that year, led to a decision by Facility 1 to terminate Respondent on November 12, 2021. Respondent requested the opportunity to resign, which Facility 1 agreed to.
6. Facility 1 then filed a complaint with the Office of Professional Regulation ("OPR") based on the disciplinary action it had taken regarding Respondent's employment.

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7. On November 30, 2022, Respondent told OPR investigators that she had had a substance abuse problem in the past, and that she had used heroin twice in the past year.
8. Respondent said that since 2017, she had been in a medication assisted treatment ("MAT") program, which included her undergoing counseling and submitting to regular urine analysis.
9. Respondent also said she had been prescribed Zubsolv (a drug used to treat opioid addiction) since January of 2021.
10. On April 2, 2021, Respondent renewed her RN license with OPR and attested to it being true and accurate.
11. Included in her application were the following two questions:
 - Are you currently addicted to or in any way dependent on alcohol or habit-forming drugs?
 - Are you currently participating in a supervised program or professional assistance program which monitors you in order to assure that you are not engaging in the use of alcohol or controlled substances?
12. Respondent answered "No" to both of these questions.
13. From April 27, 2022 to May 2, 2022, Respondent was employed as an RN by the VNA & Hospice of the Southwest ("Facility 2") in Rutland, Vermont.
14. On April 27, 2022, A.M., who worked as an RN at Facility 2, was assigned to be Respondent's preceptor. A.M. reported that on this day, she noticed that Respondent could not sit still and was disorganized.
15. On April 29, A.M. arrived at Facility 2 and asked Respondent to fill out a patient form, which should have taken approximately two minutes to complete.
16. A.M. then went to a supply room in Facility 2 and when she returned about 10 minutes later, Respondent had only managed to fill out the patient's name.
17. A.M. and Respondent later drove together to a patient's apartment to conduct a home visit.
18. At the apartment, as A.M. was conducting a patient assessment, Respondent asked to use the bathroom.

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19. After a while, the patient's husband noticed that Respondent had been in the bathroom a long time and said he hoped she was okay.
20. A.M. became concerned and knocked on the bathroom door, but did not receive a response. The door was locked, but the patient's husband was able to unlock it. A.M. then opened the door and saw Respondent unconscious on the toilet with her head resting on the bathroom counter. She also saw an open eyeglass case, inside of which were two open plastic containers and a brownish powder.
21. A.M. asked the patient's husband to call 911.
22. A.M. then called Respondent's name and was able to wake her up by shaking her. Respondent became alert and was immediately apologetic.
23. Respondent told A.M. that she was alright and when A.M. saw that Respondent was alert and walking shortly thereafter, she cancelled the call to the 911 operator.
24. After A.M. and Respondent left the residence, Respondent told A.M. that she had snorted caffeine powder.
25. A.M. offered to take Respondent to the ER, but Respondent declined and said that she was fine.
26. A.M. then told Respondent that they were going directly to see S.T., Facility 2's Clinical Manager, given that Respondent was impaired, at which time Respondent became weepy.
27. When the pair met with S.T., Respondent told him that she had not been sleeping well and that she had been taking NoDoz, a caffeine pill, to stay awake. S.T. directed Respondent to report what had happened to the Facility's HR Director.
28. A.M. then took Respondent to her car so that she could retrieve her belongings.
29. A.M. saw Respondent's eye glass case and asked if she could look inside it.
30. Respondent opened it up and it was empty.
31. When A.M. asked what had happened to the powder that had been in the case, Respondent said he had got rid of it.
32. On May 2, 2022, Respondent was terminated from Facility 2 for the aforementioned conduct.
33. In a subsequent interview with OPR Investigators, Respondent denied using heroin and said she had been taking NoDoz caffeine pills to give herself a caffeine boost. Respondent told them that on the morning of April 29, 2022, she was exhausted so

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she had a coffee and took a NoDoz pill. Later she took a half a NoDoz pill and crushed the other half of the pill with the intention of snorting it should she need to.

34. During the home visit, Respondent said that she felt as though she was going to faint, so she excused herself and went to the bathroom, where she planned on snorting the crushed NoDoz.
35. Respondent said the next thing she remembered was A.M. yelling at her and waking her up. Respondent denied ever snorting the NoDoz powder.
36. Respondent said that she was taking Suboxone daily under the supervision of a physician and was also doing urine analysis testing.
37. Respondent admitted to using cocaine after she had lost her job a few weeks earlier, but denied ever using cocaine or heroin while working.
38. Respondent signed a release so that investigators could obtain her urine analysis results, which showed positive tests for cocaine and opiates on March 7, 2022, and for cocaine and Norfentanyl on April 19, 2022.

Violation One: 26 V.S.A. §1582(a)(1) Making or causing to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license.

39. The State re-alleges and incorporates Paragraphs 2 through 38 above.
40. Respondent is required to refrain from making false statements in renewing a license.
41. Paragraphs 2 through 12 demonstrate that Respondent made a false statement in connection with the renewal of her license when she answered "no" to questions about whether she was currently addicted to or in any way dependent on alcohol or habit-forming drugs, and whether she was currently participating in a supervised program or professional assistance program which monitored her in order to assure that she was not engaging in the use of alcohol or controlled substances.
42. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct by making or causing to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license in violation of 26 V.S.A. §1582(a)(1).

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Violation Two: 3 V.S.A. §129a(a)(5) Practicing the profession when medically or psychologically unfit to do so.

43. The State re-alleges and incorporates Paragraphs 2 through 38 above.
44. As an RN, Respondent is prohibited from practicing when it is medically unsafe to do so.
45. Paragraphs 13 through 38 above demonstrate that Respondent, while working as an RN, lost consciousness while locked in a patient's bathroom after snorting a substance that she claimed was a crushed caffeine pill, thereby making her medically unfit to practice.
46. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent violated 3 V.S.A. §129a(a)(5).

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

47. The State re-alleges and incorporates Paragraphs 2 through 38 above.
48. As an RN, Respondent is required to refrain from engaging in conduct of a character likely to deceive, defraud, or harm the public.
49. Paragraphs 13 through 38 demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public when, while working as an RN at a patient's home, she lost consciousness after snorting a substance that she claimed was a crushed caffeine pill.
50. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent violated 26 V.S.A. §1582(a)(3).

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 obligations of the profession.

51. The State re-alleges and incorporates Paragraphs 2 through 38 above.
52. 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.
53. Paragraphs 13 through 38 demonstrate that Respondent failed to exercise independent professional judgment when, while working as an RN at a patient's home, she lost consciousness after snorting a substance that she claimed was a crushed caffeine pill.

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54. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent violated 3 V.S.A. §129a(a)(15).

Relief Requested

WHEREFORE, the State of Vermont respectfully requests that that the Board revoke, suspend, condition, or otherwise discipline Jennifer Wolmuth's RN license.

DATED at Montpelier, Vermont this 16th day of June, 2022.

STATE OF VERMONT
SECRETARY OF STATE

By: Ultan Doyle
Ultan Doyle
Prosecuting Attorney
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