

State of Vermont
Vermont Board of Nursing

In re: Wendy Culligan
License Number: 026.0033328
Docket Number: 2023-61

Order to Remove Conditions

On May 13, 2024, the Vermont Board of Nursing considered Wendy Culligan's request for Removal of Conditions imposed pursuant to a Stipulation & Consent Order under Docket Number 2023-61. Ms. Culligan has met the conditions. After review of the compliance file, the State does not object to removal of all conditions.

Order:

The Board hereby removes all conditions from Wendy Culligan's RN license.

Vermont Board of Nursing

DocuSigned by:
Jennifer Laurent
ED1741915719477...
Jennifer Laurent, Chair

Date: 5/13/24

Date of Entry: 5 114 124

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

IN RE:)
WENDY CULLIGAN) Docket No. 2023-61
License No. 026.0033328)

**STATE'S RESPONSE TO RESPONDENT'S REQUEST TO REMOVE
CONDITIONS**

After review of the compliance file, the State has no objection to Respondent's request to remove all conditions on her license. Attached to this response is a proposed Order should the Board decide to grant Respondent's request.

Respectfully submitted, this 8th day of May 2024.

STATE OF VERMONT
SECRETARY OF STATE

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

STATE OF VERMONT



Prosecuting Attorney
Office of
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89 Main Street
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STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

IN RE:)
WENDY CULLIGAN) Docket No. 2023-61
License No. 026.0033328)

UNOPPOSED PETITION TO HAVE THE CONDITIONS AND
CONDITIONAL LICENSE STATUS REMOVED FROM RESPONDENT'S LICENSE

Respondent Wendy Culligan, by her attorneys, Gravel & Shea PC, hereby moves to remove any and all conditions placed on Respondent's Registered Nurse ("RN") license, license number 026.0033328, and to remove Respondent's conditional license status. Respondent has met all of the conditions placed on her RN license in the above matter. Further, Respondent has not committed any additional violations.

Prosecuting attorney, Rachel Heath, Esq., has no objections to this petition for the removal of conditions and conditional license status from Respondent's RN license.

WHEREFORE, based on the foregoing, Respondent requests that all conditions be removed from Respondent's RN license and that her conditional license status be removed.

Dated: May 8, 2024

/s/ Brooks G. McArthur
Brooks G. McArthur, Esq.
Gravel & Shea PC
76 St. Paul Street, 7th Floor, P.O. Box 369
Burlington, VT 05402-0369
(802) 658-0220
bmcarthur@gravelshea.com
Attorneys For Respondent

STATE OF VERMONT
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IN RE:)
WENDY CULLIGAN) Docket No. 2023-61
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CERTIFICATE OF SERVICE

I, Brooks G. McArthur, Esq., attorney for Respondent, certify that, on May 8, 2024, I caused to be served Respondent's Unopposed Petition to Have the Conditions and Conditional License Status Removed from License on the counsel of record as follows:

Via E-Mail

Julie Bowen
Vermont Secretary of State
Office of Professional Regulation
89 Main Street, 3rd Floor
Montpelier, VT 05620-3402
sos.docketclerk@vermont.gov

Rachel Heath, Esq.
Vermont Secretary of State
Office of Professional Regulation
89 Main Street, 3rd Floor
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rachel.health@vermont.gov

Kristin Donnelly
Vermont Secretary of State
Office of Professional Regulation
89 Main Street, 3rd Floor
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kristin.donnelly@vermont.gov

Dated: May 8, 2024

/s/ Brooks G. McArthur
Brooks G. McArthur, Esq.
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Attorneys For Respondent



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

December 11, 2023

Attorney Brooks McArthur
76 Saint Paul St.
Burlington, VT 05402-0369

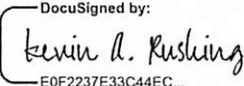
CASE: Wendy Culligan
Docket No.: 2023-61

Dear Attorney McArthur:

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:

E0F2237E33C44EC...
Kevin A. Rushing
Director

Enc: *Stipulation and Consent Order*

cc: Rachel Heath, Esq., Prosecuting Attorney
Kristin Donnelly, Case Manager
Brooks McArthur, Esq., Respondent's Attorney, First Class Mail & Email

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

IN RE:)
Wendy Culligan) **Docket No. 2023-61**
License No. 026.0033328)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney Rachel Heath, and Respondent Wendy Culligan, by and through Attorney Brooks McArthur, 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. Wendy Culligan ("Respondent") of Swanton, Vermont is licensed as a Registered Nurse ("RN") under license number 026.0033328. The State of Vermont first issued this license on June 26, 2006 and the license expires on March 31, 2025.
3. At all relevant times, Respondent worked as a school nurse at Swanton Elementary School from December 2013 to April 11, 2022, when Respondent resigned.
4. On or about April 5, 2022, a student's mother informed Respondent that she and the student's siblings had tested positive for COVID 19.
5. The student's mother asked Respondent if she would test her other child as he would not take the test for the family at home.
6. Instead of offering to give the child the test in his parent's car, Respondent asked a paraprofessional, T.G., to bring the child into the school.
7. The student has a disability, is on an IEP (Individualized Educational Plan), and experiences substantial behavioral challenges.

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8. T.G. was also the student's behavioral support person.
9. Moreover, Respondent did not wear a mask or ensure that the child have a mask before entering the school, even though she was aware that some of the child's family members had tested positive for COVID.
10. After T.G. had brought the child into the building and into Respondent's office, the child acted noncompliant in taking the test.
11. The child quickly became upset and dysregulated. At this time, Respondent decided the child should be brought to the planning room before completing the COVID test.
12. Even though Respondent did not have any training in physical intervention with children, Respondent chose to physically move the child down the hallway to the planning room.
13. Respondent was standing behind the child and was holding both of the child's wrists above his head as she directed him down the hallway.
14. At one point, Respondent let go of one of the child's arms. The child swore at Respondent and she placed her free hand over his mouth, saying something to the effect of, "You will not call me that."
15. Respondent carried the child by his wrists above his head. While doing this, his feet, at times, lifted off the ground or dragged on the ground because he refused to walk with Respondent.
16. Respondent should have allowed T.G., who is his behavior support person, to escort the child to the planning room.
17. Respondent knew she was not trained in the behavioral management program the school used, called "Handle with Care," despite having worked at the school since December 2013. Nonetheless, Respondent chose to physically move the child down the hallway.

Violation One: 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.

18. Paragraphs 2 through 17 above are incorporated herein.
19. As an RN, Respondent must provide safe and acceptable patient care.

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20. Paragraphs 2 through 17 above demonstrate that Respondent provided unsafe and unacceptable patient care by physically moving a child without the appropriate training to do so when the student's behavioral support person was present to assist.
21. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 3 V.S.A. § 129a(b)(1).

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. Failure to practice competently includes: (2) failure to conform to the essential standards of acceptable and prevailing practice.

22. Paragraphs 2 through 17 above are incorporated herein.
23. Under Vermont law, an RN must practice competently by conforming to the essential standards of acceptable and prevailing practice.
24. As an RN, Respondent is subject to the standards of acceptable care and prevailing practice, which require an RN to avoid potentially exposing others to a COVID positive patient, and to, at the very least, wear a mask when testing a patient with a known COVID exposure.
25. Essential standards of acceptable care and prevailing practice require an RN to refrain from physically moving a student when not appropriately trained in physical intervention and when the student's behavioral support person is present and available to provide support.
26. Paragraphs 2 through 17 above demonstrate that Respondent failed conform to the essential standards of acceptable and prevailing practice when she asked for the child to be brought into school even though she knew his family was positive for COVID, failed to wear a mask, and physically moved a student without the appropriate training to do so when the student's behavioral support person was present to assist.
27. 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(b)(2).

Understandings

28. 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

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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 she engaged in the alleged misconduct.

29. 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.
30. 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.
31. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
32. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
33. 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.
34. 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.
35. 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 **REPRIMANDS** Respondent's license.
- B. Respondent shall pay an **ADMINISTRATIVE PENALTY** in the amount of \$500.00. This Penalty shall be paid within 90 days of the date of entry of this Order.
- C. 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.

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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) ten hours of pre-approved coursework on de-escalation, nurse-professional judgement, and communication. 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.

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 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.
- D. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and 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 used for purposes of determining sanctions in any future disciplinary matter.

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AGREED TO:

Dated: 11/22/2023

STATE OF VERMONT
SECRETARY OF STATE
By: 1st Rachel Heath
Rachel Heath
Prosecuting Attorney

Dated: 11/21/2023

RESPONDENT
By: Wendy Culligan
Wendy Culligan

APPROVED AS TO FORM:

Dated: 11/21/2023

ATTORNEY FOR RESPONDENT
By: [Signature]
Brooks McArthur, Esq.

APPROVED AND SO ORDERED:

Dated: 12/11/2023

VERMONT BOARD OF NURSING
By: [Signature]
Chairperson

Date of Entry: 12/11/2023

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**STATE OF VERMONT
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BOARD OF NURSING**

IN RE:)
WENDY CULLIGAN) **Docket No. 2023-61**
License No. 026.0033328)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following charges against Registered Nurse Wendy Culligan:

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. Wendy Culligan ("Respondent") of Swanton, Vermont is licensed as a Registered Nurse ("RN") under license number 026.0033328. The State of Vermont first issued this license on June 26, 2006 and the license expires on March 31, 2025.
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6. Instead of offering to give the child the test in his parent's car, Respondent asked a paraprofessional, T.G., to bring the child into the school.
7. The student has a disability, is on an IEP (Individualized Educational Plan), and experiences substantial behavioral challenges.
8. T.G. was also the student's behavioral support person.

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9. Moreover, Respondent did not wear a mask or ensure that the child have a mask before entering the school, even though she was aware that some of the child's family members had tested positive for COVID.
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18. The State re-alleges and incorporates Paragraphs 2 through 17 above.
19. As an RN, Respondent must provide safe and acceptable patient care.
20. Paragraphs 2 through 17 above demonstrate that Respondent provided unsafe and unacceptable patient care by physically moving a child without the appropriate training to do so when the student's behavioral support person was present to assist.

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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. Failure to practice competently includes: (2) failure to conform to the essential standards of acceptable and prevailing practice.

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Relief Requested

WHEREFORE, the State of Vermont respectfully requests that the Board warn, reprimand, suspend, revoke, limit, condition, or otherwise discipline Wendy Culligan's Registered Nurse license.

DATED at Vermont this 11th day of April 2023.

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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