

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

IN RE:)
Mandy Poginy) **Docket No. 2024-38**
VT RN License No. 026.0025975)
VT APRN License No. 101.0109990)

VOLUNTARY SURRENDER OF LICENSE

STIPULATION

NOW COME the State of Vermont, by and through Prosecuting Attorney George Hasselback and Respondent Mandy Progeny by and through attorney Jennifer McDonald, to hereby Stipulate and Agree as follows:

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").
2. 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 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 he engaged in the alleged misconduct.

Statement of Allegations

3. Mandy Poigny ("Respondent") of Orleans, VT is licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0025975 and as an Advanced Practice Registered Nurse ("APRN"). The RN license was originally issued on October 12, 2000, and expired on March 31, 2023. The APRN license was originally issued on February 24, 2015, and expired on March 31, 2023.
4. At times relevant to this matter, Respondent was employed as an APRN at a sleep center ("the Facility") located in the State of Vermont.
5. On or about August 25, 2021, Respondent wrote a prescription for thirty (30) tablets of "Clonazepam 1 mg" to an individual identified as "M.L."

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6. The prescription was written with four (4) refills totalling five (5) months' worth of the medication.
7. Respondent reported that this prescription was written to address M.L.'s sleep apnea.
8. Respondent reported that this prescription was written following a treatment session with M.L. at the Facility on or about August 25, 2021.
9. M.L. was not a patient of the Facility on August 25, 2021, nor was he seen by anyone at the Facility for medical treatment on that date.
10. In fact, M.L. had not visited the Facility as a patient since January 22, 2021, seven (7) months prior to Respondent writing the prescription.
11. The prescription was not recorded anywhere in M.L.'s medical records.
12. The prescription was written on a paper prescription pad.
13. The prescription was written without any corresponding treatment plan.
14. The prescription was written without any medical assessment of M.L.
15. The prescription was written without any query of VMPS.
16. The prescription was written on Respondent's last day at the Facility.
17. At the time the prescription was written, M.L. had been dating Respondent's sister for several years and lived with Respondent's sister.

Violation One: 26 V.S.A. § 1615(a)(7) Prescribing, selling, administering, distributing, ordering, or dispensing any drug legally classified as a controlled substance for his or her own use or for an immediate family member.

18. The State re-alleges and incorporates Paragraphs 2 through 16 above.
19. Vermont law prohibits APRNs from prescribing controlled substance to immediate family members.
20. Paragraphs 2 through 16 above demonstrate that Respondent prescribed a controlled substance to an immediate family member when she wrote a prescription for a five (5) month supply of Clonazepam to her sister's long-term, live-in boyfriend.
21. 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 26 V.S.A. § 1615(a)(7).

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Understandings

22. Respondent understands that this Voluntary Surrender Stipulation and Order will be reviewed and the tribunal may accept or reject the Order set forth below. If the tribunal rejects all or any portion of the Order, then this entire document shall be null and void.
23. Respondent specifically waives any claim that any disclosures made to the tribunal during its review of this agreement prejudice Respondent's right to a fair and impartial hearing if this agreement is not accepted and proceeds to a merits hearing before the same tribunal.
24. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
25. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulated Voluntary Surrender of License.
26. Respondent voluntarily enters into this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulated Voluntary Surrender of License.
27. Respondent agrees the Order set forth below may be entered, will be a binding Order upon Respondent, and will be made public.

ACCEPTANCE OF VOLUNTARY SURRENDER AND ORDER

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

- A. The Board hereby **ACCEPTS** Respondent's **VOLUNTARY SURRENDER** of Respondent's license.
- B. Any future application for licensure shall be subject to the licensing requirements of that particular profession. If a future application for licensure in the State of Vermont is approved, that license shall be conditioned pursuant to whatever terms are found to be reasonable at the time of Respondent's application for licensure, taking into account the stipulated facts above.
- C. 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).
- D. 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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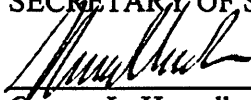
AGREED TO:

STATE OF VERMONT

SECRETARY OF STATE

Dated: 10/10/2024

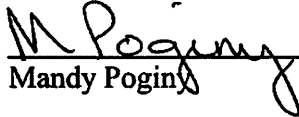
By:


George L. Hasselback
Prosecuting Attorney
George.hasselback@vermont.gov

RESPONDENT

Dated: 10/07/2024

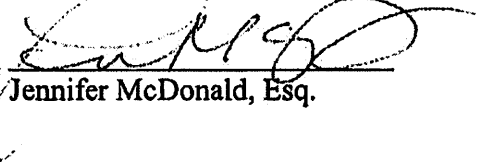
By:


Mandy Pogin

ATTORNEY FOR RESPONDENT

Dated: 10/9/2024

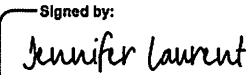
By:


Jennifer McDonald, Esq.

APPROVED AND SO ORDERED:

Dated: 12/9/24

By:

Signed by:

ED1741915718477...
Chairperson

Date of Entry: 12/10/24

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Mandy Poginy	)	Docket No. <u>2024-38</u>
VT RN License No. 026.0025975	)	
VT APRN License No. 101.0109990	)	

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and hereby makes the following charges against Respondent Mandy Poginy:

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. Mandy Poigny ("Respondent") of Orleans, VT is licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0025975 and as an Advanced Practice Registered Nurse ("APRN"). The RN license was originally issued on October 12, 2000, and expired on March 31, 2023. The APRN license was originally issued on February 24, 2015, and expired on March 31, 2023.
3. At times relevant to this matter, Respondent was employed as an APRN at a sleep center ("the Facility") located in the State of Vermont.
4. On or about August 25, 2021, Respondent wrote a prescription for thirty (30) tablets of "Clonazepam 1 mg" to an individual identified as "M.L."
5. The prescription was written with four (4) refills totalling five (5) months' worth of the medication.
6. Respondent reported that this prescription was written to address M.L.'s sleep apnea.
7. Respondent reported that this prescription was written following a treatment session with M.L. at the Facility on or about August 25, 2021.

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8. M.L. was not a patient of the Facility on August 25, 2021, nor was he seen by anyone at the Facility for medical treatment on that date.
9. In fact, M.L. had not visited the Facility as a patient since January 22, 2021, seven (7) months prior to Respondent writing the prescription.
10. The prescription was not recorded anywhere in M.L.'s medical records.
11. The prescription was written on a paper prescription pad.
12. The prescription was written without any corresponding treatment plan.
13. The prescription was written without any medical assessment of M.L.
14. The prescription was written without any query of VMPS.
15. The prescription was written on Respondent's last day at the Facility.
16. At the time the prescription was written, M.L. had been dating Respondent's sister for several years and lived with Respondent's sister.
17. At the time the prescription was written, Respondent was prescribed, and was taking, Clonazepam.

Violation One: 26 V.S.A. § 1615(a)(7) Prescribing, selling, administering, distributing, ordering, or dispensing any drug legally classified as a controlled substance for his or her own use or for an immediate family member.

18. The State re-alleges and incorporates Paragraphs 2 through 16 above.
19. Vermont law prohibits APRNs from prescribing controlled substance to immediate family members.
20. Paragraphs 2 through 16 above demonstrate that Respondent prescribed a controlled substance to an immediate family member when she wrote a prescription for a five (5) month supply of Clonazepam to her sister's long-term, live-in boyfriend.
21. 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 26 V.S.A. § 1615(a)(7).

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Violation Two: 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.

22. The State re-alleges and incorporates Paragraphs 2 through 16 above.
23. Vermont law requires APRNs to practice competently by providing safe and acceptable patient care.
24. Paragraphs 2 through 16 above demonstrate that Respondent failed to provide safe and acceptable patient care when Respondent prescribed a five (5) month supply of Clonazepam to her sister's long-term, live-in boyfriend (M.L.), without any visit with M.L., development of any treatment plan for M.L., development of any follow up plan for M.L., without the use and protection of any electronic prescription methods, without any query of VMPS, all on Respondent's last day at the sleep clinic through which she was purportedly treating M.L.
25. 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).

Violation Three: 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.

26. The State re-alleges and incorporates Paragraphs 2 through 16 above.
27. The essential standards of acceptable and prevailing practice require that an APRN follow certain minimal safety procedures when prescribing controlled substances.
28. Paragraphs 2 through 21 above demonstrate that Respondent failed to conform to essential standards of acceptable and prevailing practice when Respondent prescribed a five (5) month supply of Clonazepam to her sister's long-term, live-in boyfriend (M.L.), without any visit with M.L., development of any treatment plan for M.L., development of any follow up plan for M.L., without the use and protection of any electronic prescription methods, without any query of VMPS, all on Respondent's last day at the sleep clinic through which she was purportedly treating M.L.
29. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for suspension because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(2).

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Violation Four: 3 V.S.A. §129a(a)(7) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

30. The State re-alleges and incorporates Paragraphs 2 through 16 above.
31. Vermont law prohibits APRNs from engaging in conduct of a character likely to harm the public.
32. Paragraphs 2 through 16 above demonstrate that Respondent engaged in conduct likely to harm the public when she prescribed controlled substances without a medical assessment, treatment plan, follow-up plan, or the use of any electronic safeguards, any query of VPMS, potentially placing one-hundred and fifty (150) tablets of a highly addictive medication into circulation amongst the general population of Vermont.
33. 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(a)(7).

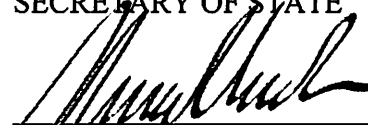
Relief Requested

WHEREFORE, Respondent's license should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 20th day of February, 2024.

STATE OF VERMONT
SECRETARY OF STATE

By:


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