

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

IN RE:)
RICHARD ABETE)
License No. 026.0023878)

Docket No. M2009-203 (NU)

**REINSTATEMENT AND MODIFICATION STIPULATION
AND CONSENT ORDER**

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney S. Lauren Hibbert, and the Respondent, Richard Abete, who 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. § 1582; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Richard Abete (the "Respondent"), of Clifton Park, New York is licensed by the State of Vermont as a Registered Nurse under license number 026.0023878. This license was originally issued on or about April 10, 1998 and expired on or about March 31, 2009. The Respondent is currently suspended.
3. On or about May 12, 2008, pursuant to a Stipulation and Consent Order under docket number NU65-0407, the Board indefinitely suspended the Respondent for a minimum of six (6) months. See Attachment 1. Prior to seeking reinstatement the Respondent needed to obtain a report for an independent evaluator which states that the Respondent does present a risk to the safety, health or welfare of his patients, and six (6) months of urine analysis that are negative. This discipline was the result of the Respondent's conviction of a misdemeanor (Depressant/Stimulant/Narcotic - Possession less than 100x Dose) on or about October 30, 2006 while he was on a conditioned license under docket number APPNU06-1096. See Attachment A (which is contained in Attachment 1).
4. The Respondent has complied with the requirements of Board's Stipulation and Consent Order under docket number NU65-0407 and is asking for reinstatement.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

Understandings

5. Respondent admits the facts above are true and that the conditions below are necessary to protect the public.
6. 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.
7. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
8. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
9. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
10. 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.
11. Respondent voluntarily waives his right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
12. 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 **CONDITIONS** Respondent's license to practice nursing **FOR A MINIMUM OF THREE (3) YEARS from the date of entry below**. The conditions are as stated in Attachment 1 under docket number NU65-0407; with the exception of (15) which is modified as follows:

(15) Administration of Medication:

Respondent is prohibited from administering any controlled substances. This condition may be removed only by the Respondent filing a petition with the Board after he has worked as a nurse for six (6) months for at least 40 hours every two weeks (or the part time equivalent) after the date of reinstatement.

In any such petition, the Respondent must demonstrate, to the satisfaction of the Nursing Board, that he can safely and competently administer such medications. In any such petition, the Respondent must include appropriate support from his

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treating professional and employer or nursing school administrator and a description of the documentation and inventory control procedures in place.

- B. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- 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.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 9/28/11

By: S. Lauren Hibbert

S. Lauren Hibbert
State Prosecuting Attorney

RICHARD ABETE
RESPONDENT

Dated: 9/28/11

By: Richard Abete

Richard Abete

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 10-10-11

By: G. DeRuff

Chairperson

Date of Entry: 10/10/11

nu.abete.reinstatement.stip

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

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

IN RE:
RICHARD ABETE
License No. 026-0023878

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Docket No. NU65-0407

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Richard Abete, R.N., who 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, 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. §1582; the Administrative Rules of the Board of Nursing (ARBN); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Richard Abete (the "Respondent") of Burlington, Vermont is a registered nurse holding license number 026-0023878, issued by the State of Vermont. This license was originally issued on or about April 1, 1998 and is set to expire March 31, 2009. The Respondent's license is currently conditioned pursuant to an Order entered by this Board on April 1, 1998. Attachment A.
3. Section A(9) of the Order requires the Respondent to abstain completely from the consumption of alcohol or the use or possession of any drugs during the conditioned time period, with the exception of prescribed medications.
4. On or about October 30, 2006 the Respondent was convicted of Depressant/Stimulant/Narcotic - Possession Less Than 100x Dose (misdemeanor) in the Vermont District Court for Chittenden County. These charges were the result of the Respondent's attempt to alter a valid prescription from his treating physician for Suboxone as set out below.
5. By way of background, on or about June 15, 2006, the Respondent presented a prescription for Suboxone from his treating physician to pharmacy staff at the Fletcher Allen Outpatient Pharmacy (the "Pharmacy"). Pharmacy staff noticed that the date of the

prescription appeared to be altered, indicating a refill date of June 15, 2006. Pharmacy staff contacted the Respondent's treating physician to verify the refill date of the prescription. The Respondent's treating physician advised that the prescription refill date was actually June 19, 2006.

6. In an interview conducted by State Investigator Amy Carlson on or about July 24, 2007, the Respondent admitted to Investigator Carlson that he had changed the date on his Suboxone prescription from June 19th to June 15th.

7. The Respondent's last place of employment was at an agency that reviews worker's compensation claims, however he has not worked at that agency for most of the last year.

Charges

8. The acts, omissions and/or circumstances described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:

- i. 3 V.S.A. § 129a(a)(3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession);
- ii. 3 V.S.A. § 129a(a)(4) (failing to comply with an order of the board or violating any term or condition of a license restricted by the board);
- iii. 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause);
- iv. Vermont Board of Nursing Administrative Rules Chapter 4, Rule IV, II, C ("Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs, narcotics, chemicals or any other type of materials);
- v. 3 V.S.A. § 129a(a)(10) (Conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession); and
- vi. 26 V.S.A. § 1582(a)(2) (Whether or not committed in this state, has been convicted of a crime related to the practice of nursing or a felony which evinces an unfitness to practice nursing).

Understandings

9. 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.

10. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.

11. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

12. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.

13. 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.

14. Respondent voluntarily waives his right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.

15. 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** the Respondent's license to practice nursing. This suspension shall remain in place for a minimum of six months from the date of entry below before the Respondent reapplies for reinstatement. Before applying for reinstatement, Respondent must (1) obtain an independent evaluation report by a licensed professional specializing in drug and alcohol abuse pre-approved by the Board; (2) the results of the treatment with the drug and alcohol abuse evaluator must indicate that the Respondent does not present a risk to the safety, health or welfare of her potential patients; and (3) the Respondent must undergo random drug and alcohol testing. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes and approved in advance by the Board. All urine specimens collected for tests shall be collected in an observed setting. The testing service shall be instructed by the Board to perform a minimum number of random testes per month. The Respondent may not apply for reinstatement until he receives a minimum of six months of negative drug tests.

The Respondent's license shall not be reinstated until these prerequisites are met, regardless of whether more than six (6) months have passed since the suspension went into effect. Once reinstated, Respondent's license will be **CONDITIONED FOR THREE (3) YEARS**. The conditions will be as follows:

(1) License to be labeled "Conditioned".

Any license issued to the Respondent by this Board shall be labeled "Conditioned".

(2) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent completes **three (3) years** of supervised registered nursing practice in which Respondent works at least forty (40) hours every two (2) weeks as a registered nurse. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis.

(3) Completion of Substance Abuse Counseling and Treatment Plan.

Respondent shall enter into and continue substance abuse counseling with a treating professional approved by the Board until the treating professional shall certify in writing to the Nursing Board that such counseling is no longer necessary. Respondent shall enter into and comply with the substance abuse treatment plan approved by the Board and the treating professional

(4) Notification to Treating Professional.

Respondent shall provide a copy of this Stipulation and Consent Order to his treating professional and cause his treating professional to inform the Board, in writing and on professional letterhead, of receipt of the Stipulation and Consent Order and the treating professional's ability to comply with the conditions related to treatment and with all other terms of this Consent Order.

(5) Reports from Treating Professional.

Respondent shall authorize and cause his treating professional to submit to the Board evidence of satisfactory progress with the treatment plan during the effective period of this Consent Order. These reports shall be submitted in writing on forms issued by the Board. The first report is due commencing the month after the date of the commencement of the conditions and subsequent reports are due **monthly** thereafter.

Respondent shall authorize his treating professional to provide all information requested by the Nursing Board, either orally or in writing, at any time during the period this Consent Order is in effect.

(6) Participation in Recovery Groups.

Respondent shall participate as recommended by his treating professional, in Narcotics Anonymous meetings and/or other recovery group(s).

(7) Random Drug and Alcohol Testing.

Respondent shall submit to random drug and alcohol screenings at the request of the Board or its designee. Respondent shall designate a person, who has been approved by the Board or its designee, to administer random drug and alcohol screens. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes and approved by the Board. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative.

(8) Abstain from Drug and Alcohol Use.

Respondent shall abstain completely from the consumption or possession of alcohol and drugs with the exception of medications as outlined in paragraph A.(9) for the period of time described in paragraph A.(2).

(9) Drug Use Exception.

The Respondent shall not take controlled substances unless necessary. Respondent may take scheduled/controlled medications lawfully prescribed for a bona fide illness or condition by a physician, dentist, or nurse practitioner whose identity shall be made known to the Board in writing by Respondent within forty-eight (48) hours of the establishment of the practitioner/patient relationship. Respondent shall ensure that the physician, dentist or nurse

practitioner informs the Board, in writing and on appropriate letterhead, of knowledge of Respondent's substance abuse issue(s) within one (1) week of entering into the practitioner/patient relationship. Respondent shall inform the Board in writing of all scheduled/controlled medications prescribed, including the name of the prescribing practitioner, within forty-eight (48) hours of receiving the prescription.

The Board or its designee may request at any time that the practitioner document the continued necessity for the prescribed scheduled/controlled medications if the term exceeds 14 days. This includes medications to be administered as necessary. It is not anticipated that Respondent would be prescribed scheduled/controlled medication during the term of this Consent Order for a period greater than 14 days, but if so, then the conditions herein may be revoked by the Board.

Respondent shall keep a written record of all medications taken, including over the counter drugs, and produce such record upon the request of the Board or its designee.

(10) Interview with the Board or its Designee.

Respondent shall appear in person for interviews with the Board or its designee upon request.

(11) Notification to Employers/Nursing School.

Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which Respondent practices as a registered 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 registered nursing employment, Respondent shall cause Respondent's immediate supervisor to write to the Board, on the employer's letterhead, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

In the event the Respondent is attending a nursing program, Respondent shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Stipulation and Consent Order and ability of the program to comply with the conditions in the Consent Order during clinical experience.

(12) Reports from Employers.

Within one (1) month of the date of entry of this Order or within one (1) month of the commencement of registered nursing employment and **monthly** thereafter, Respondent shall cause every registered nursing employer the Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. This report shall be submitted in writing on forms issued by the Board.

In the event the 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 his performance and attendance. This report shall be submitted in writing on forms issued by the Board and accompanied by a cover letter on the school's letterhead.

(13) Practice Under Supervision.

Respondent shall practice as a registered nurse only in a setting where Respondent has direct supervision for the entire shift by a registered nurse who is licensed and in good standing. This condition shall not apply if the Respondent resumes employment in Medical Case Management pursuant to State of Vermont Worker's Compensation Laws and Rules.

The Respondent shall notify the Board if he is engaged in such employment pursuant to paragraph 12 above.

(14) Types of Employment Prohibited.

Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency, or as a personal care provider during the effective period of this Consent Order.

(15) Administration of Medications.

Respondent is prohibited from administering any controlled substances. This condition may be removed only by the Respondent filing a petition with the Board after she has worked as nurse for twelve (12) weeks for at least 40 hours every two weeks (or the part time equivalent) after the date of reinstatement.

In any such petition, the Respondent must demonstrate, to the satisfaction of the Nursing Board, that he can safely and competently administer such medications. In any such petition, the Respondent must include appropriate support from his treating professional and employer or nursing school administrator and a description of the documentation and inventory control procedures in place.

(16) Notification of Place of Employment/ Personal Address/Telephone Number.

Within five (5) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of his 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, personal address, or telephone number.

(17) Out of State Practice/Residence.

Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board prior to Respondent leaving the State of Vermont. If Respondent fails to receive such approval before leaving the State, none of the time spent out-of-state will be credited toward the fulfillment of the terms and conditions of this Consent Order. The Board will approve out-of-state practice so long as the Respondent can still comply with the provisions of this Consent Order.

(18) Notification to Other States.

In the event that the Respondent is licensed in nursing in any other state(s), he must inform the nursing licensing board of the state(s) in which the Respondent is licensed of the conditional status of his Vermont registered nursing license within thirty (30) days of the date of entry of this Order. If the Respondent fails to provide such notification, it will be considered a violation of this Order.

(19) License Renewal.

If the Respondent's license expires while this Order is still in effect, this Order does not automatically extend the license. In that situation, in order to continue to practice as a registered nurse, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that he has otherwise complied with the requirements for license renewal.

(20) Release of Information Forms.

The conditions of this Order require the Respondent to authorize drug and/or alcohol treatment providers to report information in verbal and/or written format and/or to discuss the Respondent and any and all treatment rendered to the Respondent for drugs and/or alcohol with the Board or its designee. The conditions of this Order must allow any and all information from the Respondent's treatment providers to also be provided to the Office of Professional Regulation investigators and that the information may be used for further prosecutions if so warranted or if the Office of Professional Regulation determines that said information violates the terms of this Order or any rules or laws governing the profession of nursing.

The Respondent is entitled to revoke this consent at any time. However, any revocation by the Respondent of such consent to disclosure during the term of this Order shall be considered a violation of this Order.

This consent expires when the conditions are removed from the Respondent's registered nursing license.

This Stipulation and Consent Order shall constitute a valid written consent pursuant to the requirements of 42 C.F.R. § 2.31.

The Respondent understands that his treatment provider may require him to sign a separate and distinct consent meeting the requirements of 42 C.F.R. § 2.31.

(21) Costs.

The Respondent shall bear all costs of complying with this Consent Order.

(22) Violation of this Order.

If the Respondent violates the terms of this Order in any respect, the Board, after giving the 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 the Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

(23) Completion of Conditional License Period.

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on his license. The Respondent must present proof that he has fully complied with the terms of this Order and that he can safely and competently perform the duties of a registered nurse.

B. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal, and license reinstatement.

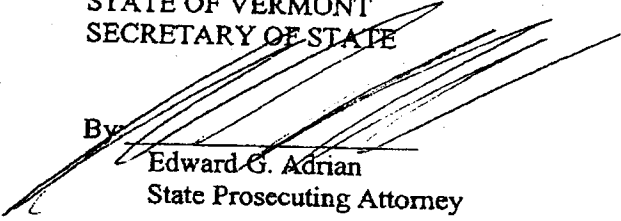
C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

- 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.
E. This Stipulation and Consent Order supersedes the prior Stipulation and Consent Order

AGREED TO:

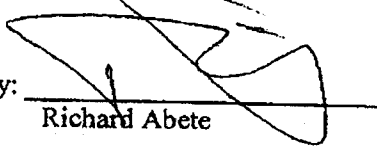
Dated: 5/9/08

STATE OF VERMONT
SECRETARY OF STATE

By: 
Edward G. Adrian
State Prosecuting Attorney

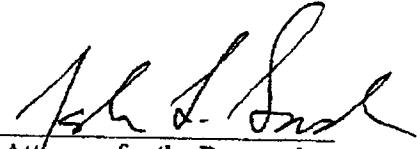
RICHARD ABETE
RESPONDENT

Dated: 5/9/08

By: 
Richard Abete

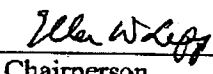
APPROVED AS TO FORM:

Dated: 5/6/08

By: 
Attorney for the Respondent
Joshua L. Simonds, Esq.

APPROVED AND SO ORDERED:
VERMONT BOARD OF NURSING

Dated: 5.12.08

By: 
Chairperson

Date of Entry: 5/12/08

nu.abete.stip

STATE OF VERMONT
BOARD OF NURSING

IN RE:

Richard Abete

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Case No. APPNU06-1096

STIPULATION AND CONSENT ORDER

STIPULATION

1. Pursuant to statute, the Board of Nursing has the authority to deny an application for licensure, discipline or in other ways condition the practice of a registrant or licensee upon due notice and an opportunity for hearing if the person has been convicted of a crime related to the practice of nursing or is habitually intemperate. 26 V.S.A. §§ 1582(a)(2) and (5).
2. At its February 9, 1998 hearing, the Board decided to issue Richard Abete ("Applicant") a conditioned license for the reasons set forth in the attached letter.
3. The applicant has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
4. Applicant is not under the influence of alcohol or drugs at the time he signs this Stipulation and Consent Order.
5. Applicant voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.
6. Applicant voluntarily waives his right to a contested hearing before the Nursing Board.
7. Applicant understands that he must review and accept all of the terms as approved by the Nursing Board. If he rejects any portion of the document, the entire document shall become null and void.
8. The parties agree that the Order set forth below may be entered by the Board.

ORDER

A. The Nursing Board hereby **CONDITIONS** the applicant's license for a **minimum period of THREE (3) YEARS** commencing with the date this Order is entered by the Vermont Board of Nursing. The **CONDITIONS** on applicant's license are as follows:

(1) Length of Time Conditions Imposed.

The conditions shall remain in place until applicant has completed three (3) years of supervised nursing practice in which the applicant works at least forty (40) hours every two (2) weeks in nursing. Part time hours of less than (40) hours every two (2) weeks shall be credited on a prorated basis.

(2) Administration of Medications.

The applicant's license is conditioned for a period of three (3) months to prohibit the applicant from administering any medications. This condition may be removed only by the applicant petitioning the Board for its removal no sooner than three (3) months (during which time the applicant works at least 40 hours every two weeks in nursing) from the date of entry of this consent order or the date the applicant returns to work as a nurse, whichever is later. In petitioning the Board the applicant agrees to demonstrate, to the satisfaction of the Nursing Board, that the applicant can safely and competently administer narcotic medications. Such proof shall include appropriate support from the applicant's treating professional and employer or nursing school administrator.

The removal of the prohibition against administering narcotic medications shall not result in automatic reinstatement of all medication privileges. Rather, the Board may gradually restore those privileges through the following intermediary step: full permission to administer nonnarcotic medications along with permission to administer narcotic medications only under supervision.

(3) Approval of Changes of Treating Professional.

Applicant shall obtain prior approval from the Board of all changes of treating professional. Failure to obtain prior approval of a change of treating professional may be grounds for a charge of violation of this Order.

(4) Completion of Counseling and Treatment Plan.

Applicant shall enter into and continue counseling with the treating professional approved by the Board until the Board and treating professional agree that such counseling is no longer necessary. Applicant shall comply with the treatment plan approved by the Board.

(5) Substance Abuse Therapy and Notification to Treating Professional.

Applicant shall provide a copy of this Order to the approved treating professional and cause the treating professional to inform the Board, in writing and on professional letterhead, of receipt of the Order and the treating professional's ability to comply with the conditions related to treatment and with all other terms of this Order.

(6) Reports from Treating Professional.

Applicant shall authorize and cause the treating professional to submit to the Board evidence of satisfactory progress with the treatment plan during the effective period of this Order. These reports shall be submitted in writing on forms issued by the Board and shall be accompanied by a cover letter on the treating professional's professional letterhead. The first report is due commencing the month after the date of entry of this Order and subsequent reports are due every month thereafter.

Applicant shall authorize the treating professional to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period this Order is in effect.

(7) Participation in NA/AA.

Applicant shall participate in one or more substance abuse support group programs such as Alcoholics Anonymous or Narcotics Anonymous, at least three times weekly or as recommended by the treating professional.

(8) Random Drug Testing.

Applicant shall submit to random drug and alcohol screening at the request of the Board. Applicant shall ensure that the treating professional or employer or both shall administer random alcohol or drug tests as required by the Board or its designee. All screens shall be negative except for drugs prescribed under the care of a physician, dentist, or nurse practitioner. (See paragraph 10, Drug Use Exception.)

(9) Abstinence from Alcohol or Drug Use.

Applicant shall abstain completely from the consumption of alcohol or the use or possession of any drugs with the exception of prescribed medications as outlined in paragraph (10).

(10) Drug Use Exception.

Applicant may take medications lawfully prescribed for a bona fide illness or condition by a physician, dentist, or nurse practitioner whose identity shall be made known to the Board in writing by applicant within forty-eight (48) hours of the establishment of the practitioner/patient relationship. Applicant shall ensure that the physician, dentist, or nurse practitioner informs the Board, in writing and on appropriate letterhead, of knowledge of applicant's chemical dependency within one (1) week of entering into the practitioner/patient relationship. Applicant shall inform the Board in writing of all medications prescribed, including the name of the prescribing practitioner, within forty-eight (48) hours of receiving the prescription. The Board or its designee may request at any time that the practitioner document the continued need for prescribed medications. Applicant shall keep a written record of medications taken, including over-the-counter drugs, and produce such record upon the request of the Board or its designee.

(11) Interview With the Board or Its Designee.

Applicant shall appear in person for interviews with the Board or its designee upon request.

(12) Issuance of License.

Applicant's license shall be labelled "conditioned."

(13) Out-of-State Practice/Residence.

Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, applicant shall first obtain approval from the Board. If the applicant fails to receive such approval, none of the time spent out-of-state will be credited toward fulfillment of the terms and conditions of this Order.

(14) Notification of Place of Employment/Personal Address/Telephone Number.

Within five (5) days of the date of entry of this Order, applicant shall notify the

Board, in writing, of the applicant's current place of employment, personal address, and telephone number. Applicant shall further notify the Board, in writing, within forty-eight (48) hours of any change in employment, personal address, or telephone number.

(15) Notification to Employers/Nursing School.

Applicant shall provide a copy of this Order to all employers in any current or future setting in which the applicant practices as a nurse and shall inform them of the conditional license status. Within ten (10) days of the date of entry of this Order or of any subsequent employment, applicant shall cause the applicant's immediate supervisor to write to the Board, on the employer's letterhead, acknowledging receipt of the Order and the ability to comply with the conditions in the Order. In the event applicant is attending a nursing program, the applicant shall provide a copy of the Order to the Program Director. Applicant shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Order and ability of the program to comply with the conditions in the Order during clinical experience.

(16) Reports from Employers/Nursing School.

Within one (1) month of the date of entry of this Order and every month thereafter, applicant shall cause every employer worked for during the month to submit to the Board an evaluation of applicant's performance and attendance during that month. This report shall be submitted in writing on forms issued by the Board and accompanied by a cover letter on the employer's letterhead. In the event applicant attends nursing school, applicant shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of performance and attendance. This report shall be submitted in writing on forms issued by the Board and accompanied by a cover letter on the school's letterhead.

Applicant shall authorize employers and nursing school administrators to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period the Order is in effect.

(17) Practice Under Supervision.

Applicant shall practice only in a setting where there is on-site supervision for the entire shift by a licensed nurse in good standing with the Vermont Board of Nursing.

(18) Prohibited Duties

Applicant shall not work as a charge nurse or in any supervisory capacity.

(19) Types of Employment Prohibited.

Applicant shall not work for a nurse registry, home health care agency, temporary nursing employment agency, or as a personal care provider during the effective period of this Order.

(20) Prohibited Hours of Work

Applicant shall only work the day or evening shift during the effective period of this Order. Applicant shall not work the night shift during the effective period of this Order.

(21) License Renewal.

In the event applicant's license is scheduled to expire during the period this Order is in effect, applicant shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualifications to practice nursing in the State of Vermont.

(22) Release of Information Forms.

Upon the establishment of all practitioner/patient relationships with (1) treating professionals for substance abuse treatment, and with (2) treating professionals who prescribe any medication to applicant, applicant shall execute all release of information forms which are necessary to authorize those practitioners to release information described in this Order to the Board of Nursing, its investigators, and the Attorney General's Office. All information disclosed to the Board shall be made available to its investigators and the Attorney General's Office. Applicant shall specifically execute a consent to disclosure form which meets the requirements of 42 C.F.R. § 2.31 to permit disclosure of all information regarding applicant's substance abuse treatment to the Nursing Board, its investigators, and the Attorney General's Office. Any revocation by applicant of such a consent to disclosure during the term of this Order shall be considered a violation of this Order.

(23) Costs.

Applicant shall bear all costs of complying with this Order.

(24) Violation of the Order.

If applicant violates the terms of this Order in any respect, the Board, after giving applicant notice and an opportunity to be heard, may revoke the terms of the conditional

license and take further disciplinary action. If a complaint or charges are filed against applicant during the term of this Order, the conditional license period shall be extended until the matter is final.

(25) Re-Evaluation of Conditions.

In the event applicant does not work in nursing within three (3) years of the date of entry of this Order, the applicant may appear before the Board for reevaluation of the conditions of this Order.

(26) Completion of Conditional License Period.

Upon completion of the conditional license period, applicant may petition the Board to remove any and all conditions on the license and after formal review by the Board, applicant's nursing license may be fully restored by appropriate Board action. Applicant, however, must present proof of successful substance abuse rehabilitation and demonstrate, to the satisfaction of the Nursing Board, that the applicant poses no danger to the practice of nursing and can safely and competently perform the duties of a licensed nurse. Such proof shall include appropriate support from treating professionals, all employers or nursing school administrator. Furthermore, applicant shall demonstrate, to the Board's satisfaction, full compliance with all the terms of this Order.

B. If the Board (1) does not approve the treating professional presented to the Board for approval, or (2) does not approve the treatment plan presented to the Board for review and approval, applicant must submit another treating professional or treatment plan for the Board's approval prior to the next regularly scheduled monthly meeting of the Board. If applicant fails to comply with this paragraph of the Board again rejects the proposed treating professional or treatment plan, applicant shall be deemed to have violated this Order.

C. Notwithstanding any provision above, applicant must meet all Nursing Board requirements for license renewal and license reinstatement.

D. This Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. § 129(a)(7).

E. This Order will remain part of applicant's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

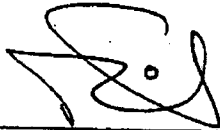
APPROVED AND SO ORDERED,

Catherine McGee

Catherine McGee, Acting Board Chair

Feb 9, 1998

Dated



Richard Abete, Applicant

2/11/98

Dated

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 4-1-98