

VERMONT SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

In re: Christina Appleby }
License No. 026-0015449 }
Docket No. NU 19-0900 }

FINDINGS OF FACT
CONCLUSIONS OF LAW & ORDER

Introduction:

On Monday 8 October 2007, this matter came before the Vermont Board of Nursing on a petition submitted by Christina Applebee.

Petitioner seeks reversal of a preliminary denial of her request for modifications of the conditions currently in place on her registered nursing license. The conditions on the Petitioner's license are the result of a "Stipulation and Consent Order" entered 3 May 2004 (the "2004 Order"). The license conditions resulted from discipline given by the state of New Hampshire in November 2003 for unprofessional conduct occurring in New Hampshire. New Hampshire has since removed any conditions on Petitioner's license.

Board members Kenneth W. Bush, Ellen Leff, Donarae Metcalf, Sandra Norton, Laurey M. Tyo, DeAnn Welch and Alan Weiss participated in the hearing of this matter. Edward G. Adrian represented the State. The Petitioner appeared on her own behalf. Board counsel Kevin F. Leahy presided.

Findings of Fact &
Conclusions of Law:

The Petitioner initially sought to have conditions on her license modified or removed. A review committee of the Board preliminarily denied the request as stated in a letter to the Petitioner dated 27 August 2007. This appeal followed.

A Petitioner bears the burden of proof. 3 V.S.A. § 129(e). It is therefore incumbent upon the Petitioner to demonstrate to the Board good cause to warrant a change in conditions.

The Board reviewed and considered the evidence presented at the hearing by the Petitioner, which included her testimony. The Petitioner has eight months left on her conditions until she is eligible to have them removed. Currently Petitioner is working at Brookside Health and Rehabilitation in White River Vermont. Petitioner has demonstrated three years of safe practice and has complied with the terms of the 2004 Order.

Based on the evidence presented at the hearing, the Board finds it in the best interests of public and the Petitioner to remove the requirement set forth in ¶ 7 of the 2004 Order, which requires that the Petitioner practice only where she has on-site supervision for the entire shift. The Board shall therefore remove the requirements of ¶7 relative to the Petitioner's current employer, Brookside Health and Rehabilitation in White River Junction.

Therefore, while working at her current employer, Petitioner may work without the supervision requirements set forth in the 2004 Order. If Petitioner changes employer, then ¶7 shall apply unless otherwise ordered.

ORDER

The Board VACATES the 27 August 2007 preliminary denial of Petitioner's request to modify license conditions, and the Board GRANTS Petitioner's request to have her license conditions modified as follows:

The Board REMOVES the requirements contained in Paragraph 7 of the 2004 Order relative to the Petitioner's current employer.

Vermont Board of Nursing:

By: Laurey M. Tyo
Laurey M. Tyo, RN
Board Secretary

Date: 10-26-07

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 11/2/07

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Nursing.

A party aggrieved by a final decision of a Board may appeal the decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Secretary of State's Office, National Life Building, FL2, 1 National Life Drive, Montpelier, Vermont 05602-3402 within 30 days of the entry of the order.

If you file an appeal, the Director of the Office of Professional Regulation will assign the case to an appellate officer. The appellate officer will hear the appeal and make a decision based on the record of evidence created before the Board of Nursing. In cases of alleged mistakes in the procedure followed before the board, which is not shown in the record, the appellate officer may allow proof on that particular issue. 3 V.S.A. §§ 129(d) and 130a.

BETHEL

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

IN RE:)
CHRISTINA LYONS APPLEBY) Docket No: NU 19-0900
License No. 026-0015449)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and Respondent Christina Lyons Appleby, R.N., who stipulate and agree as follows:

Board Authority

1. The Vermont State Board of Nursing ("the Board") has authority to approve consent orders, 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)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a); Administrative Rules of the Board of Nursing.

Facts

2. The Respondent is licensed in the State of Vermont as a Registered Nurse under license number 026-0015449.
3. The Respondent's license was originally issued on January 3, 1984. The Respondent's license is currently suspended pursuant to the Default Order entered by the Board of Nursing on January 23, 2001. The charges against the Respondent were based upon unprofessional conduct which had occurred in New Hampshire whereby Respondent reported to work under the influence of alcohol. (See Attachment A).
4. The Respondent's New Hampshire license was reinstated and conditioned for a one year probationary period on November 21, 2003. (See Attachment B). The Respondent now seeks to have her Vermont license reinstated.

Charges

5. The above acts, omissions and/or circumstances described above, constitute grounds for discipline because Respondent violated:

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

i. 26 V.S.A. §1582(a)(3) (Inability to practice nursing competently by reason of any cause). Any cause includes, but is not limited to, use of drugs, narcotics, chemicals or any other type of materials pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(C); and

iii. 3 V.S.A. §129a(a)(3) (Failure to comply with the provisions of state statutes or rules governing the practice of the profession).

Understandings

6. Respondent admits the facts above are true and that the conditions below are necessary to protect the public.

7. 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.

8. 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.

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

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

11. 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.

12. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing.

13. 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** the Respondent's license to practice nursing for a minimum period of **THREE (3) YEARS** commencing with the date of entry of this Stipulation and Consent Order. The conditions are as follows:

(1) Re-issue of License.

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Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Upon the commencement of these conditions, Respondent shall be issued a license 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 nursing practice in which she works forty (40) hours every two (2) weeks as a nurse. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis. Respondent shall be prohibited from working more than forty (40) hours per week. Respondent's license is additionally conditioned as follows.

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

Respondent shall enter into and continue alcohol 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 alcohol 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 her treating professional and cause her 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 her 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 every month thereafter.

Respondent shall authorize her 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) Reports from Employers.

Within one (1) month of the date of the commencement of the conditions or within one (1) month of the commencement of nursing employment and **monthly** thereafter, Respondent shall cause every nursing employer Respondent has worked for during the relevant time period to submit to the Board an evaluation of Respondent's work performance and attendance during that time period. 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 write to the Board, on school letterhead,

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Montpelier, VT 05602

acknowledging receipt of the Consent Order and ability of the program to comply with the conditions in the Consent Order during clinical experience.

(7) Practice Under Supervision.

Respondent shall practice only in a nursing setting where Respondent has on-site supervision for the entire shift by a Registered Nurse that is licensed and in good standing with the Board.

(8) Participation in Recovery Group.

Respondent shall participate as recommended by her treating professional, in Alcoholics Anonymous meetings and/or other recovery group.

(9) Random Alcohol Testing.

Respondent shall submit to random 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 alcohol screens. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative.

(10) Abstain from Alcohol Use.

Respondent shall abstain completely from the consumption or possession of alcohol.

(11) Interview with the Board or its Designee.

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

(12) Types of Employment Prohibited.

Respondent shall not work as a supervising nurse. 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.

(13) 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.

(14) 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 her current place of employment, personal address,

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Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

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.

(15) 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 nursing, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that she has otherwise complied with the requirements for license renewal.

(16) Release of Information Forms.

In fulfilling the conditions of this Order which require the Respondent to authorize various persons to report information or to discuss the Respondent with the Board, the Respondent must execute a consent to disclose form which meets the requirements of 42 C.F.R. §2.31. The authorization must allow the information to also be provided to the Office of Professional Regulation investigators. Any revocation by the Respondent of such consent to disclosure during the term of this Order shall be considered a violation of this Order.

(17) Costs.

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

(18) 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.

(19) Completion of Conditional License Period.

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on her license. The Respondent must present proof that she has fully complied with the terms of this Order. The Respondent must also present proof of successful alcohol abuse rehabilitation and she must demonstrate, to the satisfaction of the Nursing Board, that she poses no danger to the public or the practice of nursing and that she 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).

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Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

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: 4/15/04

By: [Signature]
Edward G. Adrian
State Prosecuting Attorney

CHRISTINA LYONS APPLEBY
RESPONDENT

Dated: 4/5/04

By: Christina Lyons Appleby
Christina Lyons Appleby

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 4/26/04

By: Alan H. Weiss
Chairperson *acting*

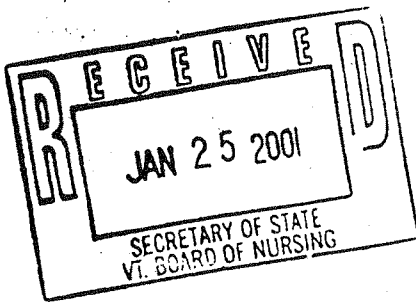
Date of Entry: 5/3/04

nu.appleby.stip

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602



OFFICE OF PROFESSIONAL REGULATION
VERMONT BOARD OF NURSING

IN RE: Christina Appleby)
Case File No. NU19-0900) DEFAULT ORDER
License No. 26-15449)

Introduction

The Board of Nursing held a default hearing in the above matter on January 8, 2001 at 81 River Street in Montpelier, Vermont. Board members Larry Kingsbury, Linda Rice, Louise Lamphere, Diane Dowgiewicz, Susan Farrell, Louise Hamilton and Raymond Phillips participated in the decision. Assistant Attorney General George Haegele appeared for the State. The Respondent was not present.

The Board took official notice of its own files in making the default determination.

Findings of Fact

1. The Respondent was sent notice of the Charges against her by certified mail on November 20, 2000 to her last known address on file with the Nursing Board.
2. Those Charges were delivered and received by the Respondent on November 24, 2000, as evidenced by her signature on the return receipt which came back to the Office of Professional Regulation.
3. A notice of the default hearing was also sent by certified mail to the same address on December 21, 2000 but has not been returned to the Office as of the date of the hearing.
4. Respondent has not contacted the Office of Professional Regulation regarding her absence.
5. The Respondent has been contacted by the Attorney General's Office but has expressed no desire to contest the Charges in Vermont.
6. Upon hearing the State's presentation and taking notice of its own file, the Board found the Respondent to be in default. The allegations contained in the

State's specification of charges dated October 17, 2000 (copy attached) are therefore treated as the facts on which the Board's order is based.

Conclusions of Law

The Respondent has received adequate notice of the charges against her as indicated by the Board's file and the State's presentation. Because the Respondent has failed to answer the charges against her, the State's factual allegations are treated as if proved. Accordingly, the Board finds, in the default hearing held pursuant to 3 V.S.A. §809(d), that the Respondent has engaged in the unprofessional conduct alleged in the State's specification of charges.

Order

In accordance with the above findings of fact and conclusions of law, the license of the Respondent is hereby INDEFINITELY SUSPENDED.

The Respondent may apply for reinstatement at any time by petitioning the Board and demonstrating that she is able to return to the practice of nursing by addressing the five reinstatement factors found in the Board's Administrative Rules, Chapter 4, Rule (IV)(IV)(C)(1).

The suspension is effective as of the date of entry of this Order, below.

Appeal Rights

This is a final administrative determination by the Vermont State Board of Nursing. You may appeal by sending a notice of appeal in writing to the Director of the Office of Professional Regulation within 30 days of the date of entry of this order. If you wish to request a stay of the Board's decision, please refer to the attached stay instructions.

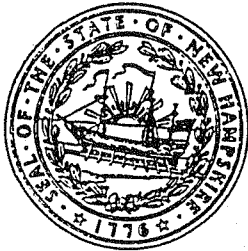
By:

Susan Farrell
Susan Farrell
Chair

Date: Jan 16, 2001

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 1-23-01



STATE OF NEW HAMPSHIRE
NEW HAMPSHIRE BOARD OF NURSING

78 REGIONAL DRIVE, BLDG. B
PO BOX 3898
CONCORD NH 03302-3898

COPY

Webpage: <http://www.state.nh.us/nursing>

TDD Access: Relay NH 1-800-735-2964

Nursing 603-271-2323

Nurse Asst. 603-271-6282

November 21, 2003

Christina Appleby
1608 North Rd
Bethel VT 05032

Dear Ms. Appleby:

At its November 20, 2003 meeting, Board members unanimously to reinstate your Registered Nurse license privileges.

Upon the reinstatement of Respondent's Registered Nurse license and obtaining employment as a Registered Nurse, a **Probation period shall commence and continue for 1 year**, or until Respondent successfully petitions the Board for termination of probation, whichever is later. During this probation period the following restrictions and conditions are imposed:

1. Respondent shall practice nursing in a structured health-care environment where other health-care providers are employed;
2. Respondent shall not practice nursing in a unsupervised educational setting, home care environment or be employed by a staffing agency;
3. Upon obtaining registered nurse employment, Respondent shall notify the Board in writing of such employment within ten days and provide a copy of this Agreement to the registered nurse supervisor. Within one (1) month after beginning such employment, said nursing supervisor shall submit a report directly to the Board, in writing, setting forth:
 - a. the name and address of Respondent's employer;
 - b. the duties and responsibilities to be performed by Respondent;
 - c. a discussion of the quality of nursing care provided by Respondent, including a discussion of the ability of the Respondent to practice nursing with skill and safety to patients; and
 - d. the nursing supervisor shall acknowledge that this Agreement was read and that the role of the nursing supervisor is understood;
4. Respondent shall submit to the Board on a quarterly basis work performance evaluations from Respondent's nursing supervisor on a Board-provided form. Said evaluation shall include:
 - a. name and address;
 - b. number of hours worked, timeliness and efficiency;
 - c. quality and safety of nursing care;
 - d. ability to safely practice nursing with reasonable skill;
 - e. adherence or failure to adhere to Board stipulations.
 - f. whether any substance abuse testing was conducted and the results of those tests.

Attachment B

5. Respondent is limited to working in one assigned unit during a shift and will not float to other units. Respondent shall limit daily work hours to no more than 12-hours, shall not work in excess of 40 hours per week and shall not work after 11:30 PM.
6. Should Respondent's behavior suggest substance abuse, Respondent will not be allowed to work until further evaluation to determine the cause of the behavior, and random blood/urine testing, at Respondent's expense, shall be performed per hospital policy/procedure.
7. If Respondent or Respondents' immediate supervisor observes behaviors that evidence that Respondent is likely to relapse from sobriety, then the Respondent shall seek immediate assistance in the form of counseling or other more appropriate treatment to prevent such relapse. If it appears relapse is likely to occur, the employer shall the following actions immediately:
 - a. Cause a leave of absence from employment, with or without Respondent's concurrence, and
 - b. Report the occurrence to the Board of nursing in writing.
8. Respondent shall maintain a record of attendance at AA/NA meetings if such meetings are recommended by Respondent's counselor; if Respondent independently decides to attend such meetings, self-documentation is not mandatory, but is encouraged;
9. Respondent shall continue counseling sessions with a counselor trained in substance abuse. If and when the counselor determines that counseling is no longer necessary, Respondent shall ensure that the counselor submits a written report within 30 days of such determination summarizing Respondent's status/progress to the Respondent's employer and the Board of Nursing. Respondent shall also require the counselor to submit quarterly reports regarding the Respondent's progress to the Board. Quarterly reports shall indicate Respondent's:
 - a. name and address;
 - b. number and frequency of visits;
 - c. progress in maintaining a safe life-style;
 - d. adherence, or failure to adhere, to Board stipulations and counselor's therapy.
10. Said restrictions and conditions shall be in force only while the Respondent is employed in a capacity for which a Registered Nurse license is required and subject to adequate supervision approved by the Board. Respondent is required to notify the Board, in writing, within 10 days after the commencement, termination or change in role in any such employment;
11. In the event the Board determines that any complaint or negative written report is substantiated and is a violation of RSA 326-B and/or the Board rules, it shall be considered grounds for disciplinary action pursuant to RSA 326-B:12 III. The complaint or report shall be reviewed by the Executive Director who shall determine whether immediate suspension or other action is warranted and take such action.

Respondent shall notify the Board of address change within fifteen (15) days of such relocation;

At the end of this probation period, Respondent may, in a letter to the Board, petition the Board for termination of probation and removal of the restrictions and conditions set forth above. Respondent shall demonstrate to the Board the ability to safely practice nursing through evidence of successful continuing rehabilitation, character references, personal and professional testimony and/or written exhibits; said evidence shall specifically include, but is not limited to:

1. A comprehensive evaluation by Respondent's counselor addressing Respondent's progress regarding continuing abstinence from abuse of chemical substances.
2. Three letters of reference that address Respondent's punctuality, honesty, integrity and productive work habits. If Respondent has been employed since the date of this Agreement, one letter should be from the employer.
3. Documentation of successful attendance or completion of programs or activities that have been recommended to Respondent by the counselor; and
4. Respondent shall appear before the Board to provide an oral presentation in support of the petition.

Respondent shall notify all nurse-licensing boards, where currently licensed, of this Settlement Agreement, within 30 days of receipt of the NH Board-executed copy of this Agreement. Respondent shall also provide a copy of this Agreement to all nurse-licensing Boards for which she makes future applications for licensure, at the time of application.

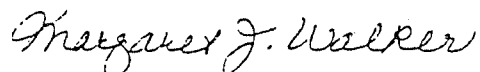
Should Respondent apply for any New Hampshire license under RSA 326-B authority on or after the date of this Agreement, Respondent shall by the act of filing such an application, automatically waive any statute of limitations or laches defense which may otherwise be available concerning the misconduct allegations set forth above, and consents to these allegations being fully addressed in the context of her license application.

You will want to contact JoAnn Francis at the Office of the Inspector General, telephone # (410) 786-0404 to request the reinstatement of your Medicare, Medicaid privileges.

You must contact Susan Goodness, Administrative Supervisor at the Board, (603) 271-3823 when you have obtained employment, so the appropriate pre-dated, Board approved reporting forms can be mailed to you.

If you have any questions, please call the Board office, (603) 271-2323.

FOR THE BOARD:


Margaret J. Walker, MBA, BS, RN
Executive Director

MJW/sg

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

IN RE:

CHRISTINA APPLEBY
License No. 026-0015449

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Docket No: NU19-0900

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Christina Appleby, RN:

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)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a).
2. The use of drugs, narcotics, chemicals or any other type of materials constitute a reason that a nurse is unable to practice nursing competently and is a basis on which the Board can impose disciplinary action, including a summary suspension. Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(3); 26 V.S.A. §1582(a)(3).
3. Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is a basis on which the Board can impose disciplinary action, including a summary suspension. 3 V.S.A. §129a(a)(3).

Facts

5. The Respondent (whose address is listed in the database of the Office of Professional Regulation as RR #2, Box 485, Bethel, Vermont, 05032) is a Registered Nurse under License Number 026 – 0015449.
6. Respondent's license has a current expiration date of March 31, 2001.
7. At all times relevant to these charges, the Respondent worked at Dartmouth Hitchcock Medical Center in Lebanon, NH.

8. On or about April 21, 2000, the New Hampshire Board of Nursing suspended the New Hampshire nursing license of Respondent for one year for reporting to work under the influence of alcohol. (In the Matter of: Christina Appleby, R.N., Docket No.: 036568-21)(attached and incorporated).
9. The above allegation was confirmed by a Breathalyzer test consisting of both a screening test and a confirming test.
10. Respondent admitted in the above-mentioned matter that her addiction or abuse of alcohol rendered her unfit to practice nursing.

Claims

11. The use of drugs, narcotics, chemicals or any other type of materials constitute a reason that a nurse is unable to practice nursing competently and is a basis on which the Board can impose disciplinary action. Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(3); 26 V.S.A. §1582(a)(3).
12. Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is a basis on which the Board can impose disciplinary action. 3 V.S.A. §129a(a)(3).

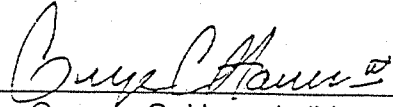
Relief Requested

WHEREFORE, the license of Christina Appleby, RN, should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 20th day of November 2000.

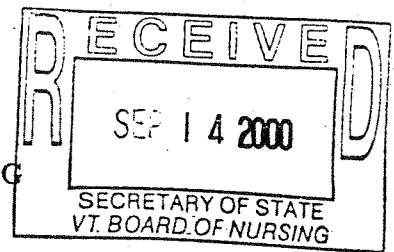
STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 
George C. Haegle IV
Assistant Attorney General

Office of the
ATTORNEY
GENERAL
State Street
Montpelier, VT
05609

BEFORE THE
NEW HAMPSHIRE BOARD OF NURSING



IN THE MATTER OF:

Christina Appleby, R.N., #036568-21

SETTLEMENT AGREEMENT

THIS AGREEMENT is entered into between the New Hampshire Board of Nursing (Board) and Christina Appleby (Respondent) a registered nurse in the state of New Hampshire over whom the Board has jurisdiction pursuant to RSA 326-B and the Board rules.

On January 19, 2000, a complaint was received from Kathleen Stark, R.N. representing Dartmouth Hitchcock Medical Center, Lebanon, NH alleging respondent reported to work while under the influence of alcohol, which was confirmed by breathalyzer, both the Screening Test and the Confirming Test.

On February 28, 2000 during a conference held at the Board of Nursing offices with Attorney M. Lee Leppanen, Investigator/Prosecutor, Respondent admitted to reporting for duty while under the influence of alcohol..

Respondent admits violating **RSA 326-B:12 II (e)** "Addiction to or abuse of alcohol.... which render the licensee unfit to practice nursing;"

- I. To resolve the aforementioned admission in a fair and reasonable manner, the Respondent agrees to the following terms and stipulations set forth below:
 - a. Respondent's registered nurse practice privileges shall be suspended for a period of 1 year.
 - b. Respondent shall not seek reinstatement of her practice privileges before January 7, 2001.
- II. Upon the petition for reinstatement of her registered nurse practice privileges, Respondent shall:
 - a. Provide the Board with three character references related to her honesty, integrity, timeliness and productive work habits;
 - b. Provide the Board with an evaluation of her chemically free state by a counselor trained in substance abuse;
 - c. Provide the Board, through oral arguments, with a comfort level that Respondent is able to safely practice nursing.
- III. Upon the reinstatement of Respondent's practice privileges, said practice privileges shall be suspended for two years. Said suspension shall be stayed with stipulations to be determined at that time
- IV. Respondent further agrees and concurs that:
 - a. Respondent shall notify the Board of address change within fifteen (15) days of such relocation and gives consent to the Board that it may notify the Board of Nursing or comparable regulatory agency in any state to which Respondent relocates of the existence and terms of this Agreement;

- b. Should Respondent apply for any New Hampshire license under RSA 326-B authority on or after the date of this Agreement, Respondent shall by the act of filing such an application, automatically waive any statute of limitations or laches defense which may otherwise be available concerning the misconduct allegations set forth above, and consents to these allegations being fully addressed in the context of her license application. Respondent shall bear the burden of proving that she possesses sufficient knowledge, judgment and skills, and character qualifications to be licensed in any such future licensing proceedings;
- c. Respondent is aware of and understands the right to have a formal disciplinary hearing pursuant to RSA 326-B:13 and hereby waives those rights and requests that this Agreement be accepted with the same force and effect as an order entered as result of a formal hearing;
- d. This Agreement is entered into by Respondent, voluntarily, after the opportunity to consult with counsel, and with full understanding of the legal consequences of this Agreement;
- e. This Agreement constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings, and becomes a public record upon signature.

I have carefully read and fully understand the conditions of this Agreement:

3/31/00
(Date)

Christine Appleby R.N.
Respondent

EXECUTED THIS 21st DAY OF April 2000

M. Lee Leppanen
M. Lee Leppanen, Esquire
Investigator/ Prosecutor
New Hampshire Board of Nursing