

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

IN RE:

NANCY MARIE AUCOIN

License No. 026.0026259

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Docket No. 2009-22

STIPULATION AND CONSENT ORDER

**STIPULATION**

NOW COME the State of Vermont, by and through State Prosecuting Attorney Betsy Ann Wrask, and the Respondent, Nancy Marie Aucoin, RN, 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. Nancy M. Aucoin (the "Respondent") of North Falmouth, Massachusetts is licensed by the State of Vermont as a Registered Nurse under license number 026-0026259. This license was originally issued on or about April 12, 2001 and is currently set to expire on or about March 31, 2011.
3. By way of history, pursuant to a Stipulation and Consent Order entered by the Board on or about March 10, 2009, Respondent's license was warned. Attachment A. This discipline was due to Respondent's failure to reveal her March 6, 2006 Careless or Negligent Vehicle Operation conviction in her March 2, 2007 RN renewal application. Attachment A.
4. At all times relevant, Respondent was employed as a Registered Nurse at Birchwood Terrace (the "Facility"), located in Burlington, Vermont.
5. On or about December 31, 2008, Facility Director of Nursing S.F. reported to Chief Investigator Amy Carlson suspicious narcotic handling by Respondent.

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6. On or about January 13, 2009 in an interview with State Investigator Jamie Palmisano, S.F. advised in part that an audit of the Facility's narcotic sheets showed several occasions when Respondent administered narcotics when she was not assigned to the medication cart, and that during some of those occasions, Respondent failed to provide documentation to support the administration of the narcotics. Moreover, S.F. stated she learned that some medication nurses had been surrendering the medication cart keys to Respondent while Respondent was working as Charge Nurse. S.F. advised that the duties of Charge Nurse do not typically include the administration of medication.

7. The results of S.F.'s audit are enumerated in part below.

**Statement of Facts re: Patient D.K.**

8. On or about December 3, 2008, Respondent was not assigned to the medication cart. At approximately 18:15, Respondent signed out two (2) Percocet tablets for D.K. on the Controlled Drug Record. However, Respondent failed to provide documentation to support the administration of the medication in the Pain Management Flowsheet or the reason for administering this medication in the Nurse's Medication Notes.
9. On or about December 29, 2008, Respondent was assigned to the medication cart and signed out two (2) Percocet tablets at 15:30, and signed out two (2) more Percocet tablets at 21:30. However, Respondent failed to provide documentation to support the administrations of the medication in the Pain Management Flowsheet.
10. On or about April 14, 2009 in an interview with Investigator Palmisano, Respondent stated that on December 3, 2008, she was covering for the medication nurse when she administered D.K. Percocet. Respondent admitted that she failed to complete the patient's pain flow chart. Respondent stated that she did not complete the pain chart because it was the responsibility of the medication nurse to do so upon that nurse's return from break. Regarding her documentation on December 29, 2008, Respondent admitted that she was assigned to the medication cart, but stated she believed she was very busy during that shift and that she forgot to correctly document the administration of the medication.

**Statement of Facts re: Patient G.M.**

11. On or about December 17, 2008 and December 26, 2008, Respondent documented in the Controlled Drug Record and Medication Record that she administered two (2) Vicodin tablets to G.M. However, Respondent failed to document the administration of this medication on these two dates in the Nurse's Notes or in the Pain Management Flowsheet.
12. On or about April 14, 2009 in an interview with Investigator Palmisano, Respondent admitted that she failed to document in the pain flow sheet, but stated the pain flow sheet is not a priority and was omitted as she was engaged in hectic shifts.

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**Statement of Facts re: Patient R.S.**

13. On or about December 19, 2008, Respondent was not assigned to the medication cart. At 16:30, and again at 18:30, Respondent documented in the Controlled Drug Record that she administered three (3) Percocet tablets to R.S. However, Respondent failed to document the administration of these medications in the Resident Progress Notes.
14. On or about April 14, 2009 in an interview with Investigator Palmisano, Respondent stated that she believed she was assisting the medication nurse pass medications; admitted that she did not complete the nursing notes to support the administration; but stated it was the medication nurse's responsibility to complete the nursing notes to document the administration.

**Statement of Facts re: Patient V.H.**

15. Patient V.H.'s prescription ordered that V.H. be administered one (1) Roxicet 5/325 three (3) times daily for pain.
16. On or about February 11, 2009 at 16:00, Respondent documented in the Controlled Drug Record that she administered one (1) Roxicet to V.H., but documented in the Pain Management Flowsheet that she administered two (2) Roxicet at 16:00.
17. Moreover, on or about February 11, 2009 at 20:00, Respondent documented in the Controlled Drug Record and Pain Management Flowsheet that she administered two (2) Roxicet to V.H., which was in excess of V.H.'s prescription.
18. On or about April 14, 2009 in an interview with Investigator Palmisano, Respondent admitted that she administered V.H. an additional dose of the medication. Respondent stated she believed V.H.'s prescription ordered two (2) tablets of the medication.

**Statement of Facts re: Patient I.D.**

19. Patient I.D.'s prescription ordered one (1) tablet Vicodin 5/500 every eight (8) hours as needed for pain.
20. On or about February 11, 2009 at 15:30, and again, four and a half (4.5) hours later at 20:00, Respondent documented in the Controlled Drug Record that she administered one (1) tablet Vicodin 5/500 to I.D. Therefore, Respondent documented administration of Vicodin 5/500 to I.D. in excess of I.D.'s prescription.
21. On or about April 14, 2009 in an interview with Investigator Palmisano, Respondent admitted that she administered I.D. an extra dose of Vicodin. Respondent stated that during the first administration of Vicodin, she responded to an emergency with

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another patient, without documenting I.D.'s Vicodin administration. Respondent stated that when she resumed her medication pass, she administered the second, extra dose of Vicodin to I.D. because she forgot she had already administered the first dose.

22. In an effort to resolve this matter, on or about June 3, 2010, Respondent submitted to the first of a series of four (4) sessions with Licensed Alcohol and Drug Counselor B.W. for an independent evaluation. B.W. concluded that Respondent presented no substance abuse problem or dependence; that Respondent did not require any treatment for alcohol or drug abuse and/or dependence; and that Respondent poses no risk to the safety, health, or welfare of her potential patients.
23. In an effort to resolve this matter, Respondent also submitted to random urine screens through FirstLab. Urine screens collected on or about July 13, 2010, July 30, 2010, and August 13, 2010 resulted in the detection of no narcotics.

### **Charges**

24. 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:
- a. 3 V.S.A. § 129a(b)(1) and (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 patient, client, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and
  - b. 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).

### **Understandings**

25. This Stipulation is neither an admission of liability by the Respondent nor a concession by the State of Vermont that its charges are not well-founded. To avoid delay, uncertainty, inconvenience, and expense of protracted litigation of the charges above, the Parties reach a full and final Stipulation pursuant to these Understandings and the Order below. The Respondent does not dispute that the State could prove these charges by a preponderance of the evidence if this matter went to a hearing and agrees that the conditions below are necessary to protect the public.
26. 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.
27. Respondent specifically waives any claims that any disclosures made to the full

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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.

28. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
29. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
30. 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.
31. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
32. 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 changes Respondent's registered nursing license status to **INACTIVE-CONDITIONED, commencing with the date of entry below**. If, in the future, Respondent requests and is granted reinstatement of her registered nursing license, her license will be **CONDITIONED FOR A MINIMUM OF EIGHTEEN (18) MONTHS commencing with the date of reinstatement**. The conditions will be as follows:

(1) Re-issue of License.

Upon the imposition 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 eighteen (18) months of supervised nursing practice in which she works at least 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. The Respondent shall be prohibited from working more than forty (40) hours per week during the conditioned period.

(3) Documentation Course.

Respondent must successfully complete (i.e., receive a passing grade, if applicable) a documentation course focusing on documentation with prior approval by the Board or its designee, and then submit written documentation of completion (certificate of completion,

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etc.) to verify the same to the satisfaction of the Board or its designee. This course must be completed within ninety (90) days of the date of license reinstatement.

(4) Medication Administration Course.

Respondent must successfully complete (i.e., receive a passing grade, if applicable) a medication administration course focusing on medication administration with prior approval by the Board or its designee, and then submit written documentation of completion (certificate of completion, etc.) to verify the same to the satisfaction of the Board or its designee. This course must be completed within ninety (90) days of the date of license reinstatement.

(5) 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 nurse and inform them of Respondent's conditional license status.

Within ten (10) days of the date of license reinstatement or of any subsequent nursing employment, Respondent shall cause Respondent's immediate supervisor to submit to the Board an employer agreement form approved by the Board, 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 which has a clinical portion that involves actual patient care, Respondent shall provide a copy of the Stipulation and Consent Order to the Program Director. Respondent shall cause the Program Director to submit to the Board a nursing program agreement form approved by the Board, acknowledging receipt of the Stipulation and Consent Order and the ability of the program to comply with the conditions in the Consent Order during clinical experience.

(6) Reports from Employers/Program Directors.

Within one (1) month of the date of reinstatement or within one (1) month of the commencement of nursing employment and **monthly** thereafter, Respondent shall cause every 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. Moreover, on a **quarterly** basis, these reports shall include the results of the employer's medication audits of Respondent's medication administration and practices. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance (i.e., consistently meeting all standards of nursing practice) and attendance.

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 her performance and attendance. These reports shall be submitted in writing on forms issued by the Board. All nursing program reports shall indicate satisfactory performance (i.e., consistently meeting all standards of nursing practice) and attendance.

(7) Practice Under Supervision.

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Respondent shall practice nursing only in a setting where Respondent has direct supervision for the entire shift by a registered nurse that is licensed and in good standing with the Board.

(8) Types of Employment Prohibited.

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

(9) Out-of-State Practice.

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

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

Within ten (10) 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, 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.

(11) 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.

(12) Costs.

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

(13) 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 may extend, after hearing, until the unprofessional conduct matter is concluded.

(14) 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.

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- 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: 9.10.10

By:   
Betsy Ann Wrask  
State Prosecuting Attorney

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NANCY MARIE AUCOIN  
RESPONDENT

Dated: 9/3/10

By: Nancy M Aucoin  
Nancy Marie Aucoin

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 9/7/10

By: John L. Pacht, Esq.  
John L. Pacht, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 9-13-10

By: JL Pacht  
Chairperson

Date of Entry: 9-14-2010  
nu.aucoin2.stip

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SECRETARY OF STATE  
OFFICE OF PROFESSIONAL REGULATION  
BOARD OF NURSING

IN RE:  
NANCY M. AUCOIN  
License No. 026-0026259

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Docket No. NU80-0308

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Edward G. Adrian, and the Respondent, Nancy M. Aucoin, RN, 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. Nancy M. Aucoin (the "Respondent") of Underhill, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026-0026259. This license was originally issued on or about April 12, 2001 and is currently set to expire March 31, 2009.
3. At all times relevant, Respondent was employed as a registered nurse under the title "Head Nurse" at Pine Ridge School (the "School") located in Williston, Vermont.
4. On or about March 6, 2006, Respondent was convicted of Careless or Negligent Vehicle Operation (a misdemeanor) in Chittenden County District Court of Vermont.
5. On or about March 2, 2007 in Section D of a Registered Nurse Renewal Application, Respondent answered "NO" to the question "Have you been convicted of a crime other than a minor traffic violation?"

### Charges

6. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 3 V.S.A. § 129a(a)(3) (Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession).

### Understandings

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 and waives any right to appeal from this Stipulation and Consent Order.
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 **WARNS** Respondent's license to practice registered nursing.
- B. 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).
- C. 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.

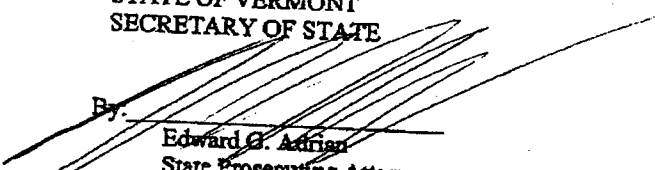
AGREED TO:

Dated:

3/6/09

STATE OF VERMONT  
SECRETARY OF STATE

By:

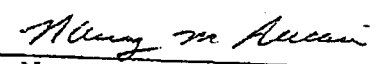
  
Edward G. Adrian  
State Prosecuting Attorney

NANCY M. AUCOIN  
RESPONDENT

Dated:

2/25/09

By:

  
Nancy M. Aucoin

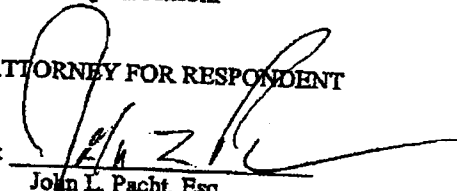
APPROVED AS TO FORM:

Dated:

3/6/09

ATTORNEY FOR RESPONDENT

By:

  
John L. Pacht, Esq.

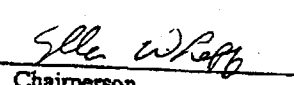
APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated:

3-9-09

By:

  
Chairperson

Date of Entry:  
m.aucoin.stp

3/10/09