

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

In re:	Sarah F. Benson	}	
License No.	026-0024192	}	Docket No. NU47-1205
		}	

SUMMARY SUSPENSION ORDER

On 9 January 2006, this matter came before the Vermont State Board of Nursing on the prosecution's Request for Summary Suspension pursuant to 3 V.S.A. § 814(c). The Board has authority to summarily suspend a license pending further proceedings if it determines that public health, safety or welfare imperatively require emergency action.

Findings of Fact & Conclusions of Law:

Based on a review of the evidence presented to the Board at the hearing on this matter, the Board finds:

The Respondent is licensed by and subject to the disciplinary authority of this Board. 26 V.S.A. Chapter 28, 3 V.S.A. § 129(a), and the Administrative Rules of the Office of Professional Regulation.

2. The State filed a "Request for Summary Suspension" dated 4 January 2006 alleging that Respondent diverted meperidine on two occasions (16 and 22 Nov. 2005), while employed as a nurse at the Springfield Hospital. The state further alleges that the Respondent admitted to diverting the meperidine.
3. The State argues that public health, safety or welfare imperatively requires emergency action, and the state asks this Board to suspend summarily the Respondent's license.
4. At the hearing on the State's motion, the Board considered evidence related to the allegations in the State's Request for Summary Suspension.
5. The Board finds that the State's presentation of evidence meets its burden, to the necessary degree, of showing the need for emergency action to protect the public health, safety and welfare.

Order:

Pursuant to 3 V.S.A. § 814(c), the Board issues the following order which shall remain in effect until further action by the Board.

The Vermont Board of Nursing GRANTS the State of Vermont's Request for Summary Suspension. The Respondent's license is summarily suspended pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

Vermont Board of Nursing

By: Susan O. Farrell
Susan O. Farrell, RN, Chairperson

Dated: 9 January 2006

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 1/12/06

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 this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, 26 Terrace Street, Montpelier, Vermont 05609-1101 within 30 days of the entry of this order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.

To request a stay of the Board's decision, please refer to the attached stay instructions.

IN RE: SARAH F. BENSON) **DOCKET No. NU47-1205**
License No. 026-0024192)

Board Authority

- ## Statement of Facts

- STATE OF VERMONT



**Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107**

Request for Relief

8. The facts as set out above establish that in order to protect the public health, safety or welfare of the people of the State of Vermont emergency action is imperative.
9. The above acts and circumstances, alone or in combination, violate: 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); 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause); 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). 26 V.S.A. § 1582(a)(5) (is addicted to the use of habit forming drugs); 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public);

WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. § 814(c), the Respondent's nursing license number be summarily suspended, pending a hearing on the merits.

DATED at Montpelier, Vermont this 4th day of January, 2006.

STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

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Prosecuting Attorney
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9 Baldwin Street
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**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING**

IN RE:)
SARAH F. BENSON, R.N.) **Docket No. NU11-0803**
License No: 026-0024192)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney,
Edward G. Adrian, and Respondent Sarah F. Benson, who stipulate and agree as
follows:

Board Authority

1 The Board of Nursing has jurisdiction to investigate complaints of unprofessional
conduct and approve consent orders pursuant to 3 V.S.A. §§129 and 129a, and 26
V.S.A. §§1574 and 1582.

Facts

2 Sarah F. Benson (the "Respondent") of Putney, Vermont is a licensed registered
nurse holding license number 026-0024192, issued by the State of Vermont. This
license was originally issued on or about July 31, 1998 and is currently set to expire on
March 31, 2005.

3 At all times relevant, the Respondent was practicing as a registered nurse and
worked at the Springfield Hospital located in Springfield, Vermont.

4 On or about July 3, 2003, the Respondent altered a prescription for Percocet
written for her personal use, from 40 tablets to 90 tablets.

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Office of
Professional Regulation
Montpelier, VT 05602

5. The Respondent's personal physician confirmed that the Respondent changed the prescription as indicated above.

6. On or about August 7, 2003, the Respondent admitted to Office of Professional Regulation Investigator Stephen Kennedy that she had changed the Percocet prescription from 40 tablets to 90 tablets.

Understandings

A.

constitute

B.

*e
(
b*

[Signature]

Consent Order shall be null and void.

C. 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.

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

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

F. 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.

G. Respondent voluntarily waives her right to charges and a contested hearing before the Board of Nursing.

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H 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:

I. The Board of Nursing hereby ~~SUSPENDS THE RESPONDENT'S LICENSE~~
UNTIL OCT 13, 2003
INDEFINITELY. Before applying for reinstatement, Respondent must obtain treatment with a substance abuse counselor pre-approved by Board and Respondent must be able to show at a minimum 1) that the Respondent has been completely drug free for the entire period between the date of entry of this Stipulation and the request for reinstatement; and 2) that the results of the treatment with the substance abuse counselor indicate that the Respondent does not present a risk to the safety, health or welfare of her patients.

Additionally, if Respondent Benson seeks reinstatement ~~at a future time~~, once reinstated, the following conditions will apply: *[Signature]*

The Respondent's license shall be **CONDITIONED** for a period of **THREE (3) YEARS** and the following conditions shall apply:

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 three (3) years 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

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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 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.

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, Respondent must submit another treating professional and/or treatment plan for the Board's approval prior to the next regularly scheduled monthly meeting of the Board. If Respondent fails to comply with this paragraph or the Board should again reject the proposed treating professional or treatment plan, Respondent shall be deemed to have violated this Consent Order.

(4) Substance Abuse Therapy and 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.

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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 entry of this Consent Order 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) Abstain from Drug Use.

Respondent shall abstain completely from the use or possession of any drugs with the exception of prescribed medications as outlined in paragraph (7) for the period of time described in paragraph (J).

(7) Drug Use Exception.

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,

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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.

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

(9) 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 or at least 40 hours work every two weeks (or the part time equivalent) after the entry date of this Order.

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

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The removal of this prohibition shall not automatically result in the reinstatement of all medication privileges. The Board may gradually restore those privileges through whatever intermediary steps it determines are appropriate.

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.

(11) Prohibited Duties.

Respondent shall be prohibited from working in a supervisory role during the effective period of the Consent Order. Respondent shall be prohibited from working the night shift during the effective period of the Consent Order. Respondent shall not work more than forty (40) hours per week.

(12) 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

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(13) 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 nursing employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in nursing employment, personal address, or telephone number. Respondent shall provide a copy of this Consent Order to all employers, current and future, and shall inform them of the conditional status of her license.

(14) Random Drug Testing.

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

(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

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also be provided to the Office of Professional Regulation investigators. Any revocation by the Respondent of such a 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 substance 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.

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

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reinstatement.

K. 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).

L. 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: 9/22/03

SARAH F. BENSON
RESPONDENT

Dated: 9/22/03

By: Sarah F. Benson
Sarah F. Benson

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 9-22-03

By: Lanny M. Tyde
Chairperson

Date of Entry: 9/23/03

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nu.benson.stip



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