

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

IN RE:

AMY M. BINGHAM

License No. 025.0008363

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Docket No. 2010-12

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney Betsy Ann Wrask, and the Respondent, Amy M. Bingham, 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. Amy M. Bingham (the "Respondent"), formerly Amy M. Beck, of Bradford, Vermont is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025.0008363. This license was originally issued on or about August 4, 2003 and is currently set to expire on or about January 31, 2012. Respondent has also been licensed as a Licensed Nursing Assistant under license number 075.0000530. Respondent's LNA license was issued on or about January 11, 1991 and expired on or about January 31, 2001.
3. By way of history, on or about October 10, 2007 pursuant to a Stipulation and Consent Order, Respondent's LPN license was conditioned by the Board. Attachment A. This discipline was due in part to Respondent's non-compliance with the Alternative Program. Attachment A.
4. To date, Respondent has failed to comply with the conditions imposed by the Board in Attachment A in part due to the following:
 - a. As of December 4, 2007, Respondent had failed to cause her treating professional to submit to the Board an acknowledgement of Respondent's Stipulation, a

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treatment plan; and a monthly treating professional report, in violation of Order A(3), (4), and (5).

- b. As of December 4, 2007, Respondent had failed to cause her employer to submit to the Board an acknowledgement of Respondent's Stipulation and a monthly employer report, in violation of Order A(6) and (7).
- c. On or about December 19, 2007, the Board received Respondent's October 2007 treating professional report, which indicated that Respondent frequently rescheduled her appointments and missed that month's appointment.
- d. On or about December 29, 2007, Respondent's urine analysis was positive for alcohol, in violation of Order A(11).
- e. On or about October 1, 2008, Respondent's urine analysis was positive for alcohol, in violation of Order A(11).
- f. As of March 12, 2008, Respondent had failed to cause her treating professional to submit to the Board a treatment plan and monthly treating professional reports for December 2007; January 2008; and February 2008, in violation of Order A(3) and (5).
- g. As of August 4, 2008, Respondent had failed to cause her treating professional to submit to the Board monthly reports for April, May, and June 2008, in violation of Order A(5).
- h. On or about February 5, 2009, Respondent's treating professional report indicated that Respondent had failed to maintain monthly attendance by missing her January 2009 appointment, in violation of Order A(3).
- i. On or about April 8, 2009, Respondent's urine analysis was positive for alcohol, in violation of Order A(11).
- j. On or about April 17, 2009, Respondent's treating professional report indicated that Respondent had failed to maintain monthly attendance by missing her March 2009 appointment, in violation of Order A(3).
- k. As of May 29, 2009, Respondent had failed to cause her treating professional to submit to the Board monthly reports for January, February, March, and April 2009, in violation of Order A(5).
- l. As of May 29, 2009, Respondent had failed to cause her employer to submit to the Board monthly reports for February, March, and April 2009, in violation of Order A(7).

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- m. As of September 11, 2009, Respondent had failed to cause her treating professional to submit to the Board monthly reports for June, July, and August, 2009, in violation of Order A(5).
 - n. As of September 11, 2009, Respondent's urine analysis frequency was increased due to missing five (5) call-ins in March 2009; four (4) call-ins in April 2009; eight (8) call-ins in May 2009; two (2) call-ins in June 2009; two (2) call-ins in July 2009; three (3) call-ins in August 2009; and three (3) call-ins from September 1 through 11, 2009, in violation of Order A(10). Moreover, Respondent's August 4, 2009 urine specimen was diluted, indicating that Respondent drank a considerable amount of fluid prior to submitting her specimen.
 - o. From on or about January 1, 2010 to on or about February 19, 2010, Respondent had missed seven (7) call-ins to FirstLab and had failed to submit to one (1) scheduled test, in violation of Order A(10).
 - p. From on or about March 17, 2010 to on or about April 23, 2010, Respondent had missed nineteen (19) call-ins to FirstLab; had failed to submit to three (3) scheduled tests; and had her FirstLab account suspended as of April 9, 2010, in violation of Order A(10).
 - q. As of April 25, 2010, Respondent's FirstLab account was active, but she failed to call in to FirstLab on that date, in violation of Order A(10).
- 5. On or about May 7, 2008, Respondent's employer report for April 2008 indicated that Respondent destroyed a narcotic without a witness.
 - 6. On or about June 1, 2009, Respondent's employer report for April 2009 indicated that Respondent committed a medication error, in that Respondent gave a resident Vicodin 5/500 instead of Percocet.
 - 7. On or about April 1, 2010, Respondent's employer report for March 2010 indicated that Respondent committed two (2) medication errors, in that Respondent's medication count was missing one (1) Lyrica, and Respondent had failed to administer one dose of Kayexalate to a patient.

Charges

- 8. 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(a)(4) (Failing to comply with an order of the board or violating any term or condition of a license restricted by the board);

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- b. 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 client, patient, 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
- c. 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

- 9. Respondent admits that the facts above are true and that the conditions below are necessary to protect the public.
- 10. 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.
- 11. 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.
- 12. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- 13. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
- 14. 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.
- 15. 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.
- 16. 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. Within forty-five (45) days of requesting reinstatement, Respondent must: 1) obtain an independent evaluation report by a licensed professional specializing in drug and alcohol abuse pre-approved by the Board and

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who has verified receipt of this Order, the results of which must indicate that the Respondent does not present a risk to the safety, health or welfare of her potential patients; 2) submit to the Board the results of a minimum of three (3) random urine analyses, collected in an observed setting; administered by FirstLab; and analyzed by a lab qualified to analyze samples for forensic purposes and pre-approved by the Board, the results of which shall be negative; failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine analysis shall cause that screen to be presumed positive; 3) enter into a treating professional agreement with a treating professional pre-approved by the Board (if recommended by the Independent Evaluator); and 4) enter into a substance abuse treatment plan approved by the Board with the pre-approved treating professional (if recommended by the Independent Evaluator). At a minimum, the Respondent's license shall not be reinstated until these prerequisites are met. Once reinstated, Respondent's license will be **CONDITIONED FOR A MINIMUM OF TWO (2) YEARS** pursuant to the conditions enumerated in Attachment A.

- 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: 5-21-10

By: [Signature]
BetsyAnn Wrask
State Prosecuting Attorney

AMY M. BINGHAM
RESPONDENT

Dated: 5/17/10

By: [Signature]
Amy M. Bingham

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APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 6-14-10

By: *Marino Can*
Chairperson

Date of Entry: 6/15/10
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SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

IN RE:

AMY M. BECK

License No. 025-0008363

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Docket No. NU48-0107

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Amy M. Beck, 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. Amy M. Beck (the "Respondent") of Bradford, Vermont is a licensed practical nurse holding license number 025-0008363, issued by the State of Vermont. This license was originally issued on or about August 4, 2003 and is set to expire on January 31, 2008.

3. On or about March 10, 2006, the Respondent enrolled in the Alternative Program (the "Program") with the Board. Based on the facts below the Respondent agrees that she failed to comply with the terms of that Program.

4. On or about November 22, 2006, the Respondent was subject to a random urine screen. The results for the Respondent's specimen were positive for EtG at a level of 910.

5. On or about December 14, 2006, Administrator Elizabeth Hansen contacted the Respondent regarding the positive specimen. The Respondent advised Administrator Hansen that two days before the specimen was collected, the Respondent had consumed alcohol. The Respondent further advised Administrator Hansen that it had been her only instance of relapse, that it occurred on her day off from work, and that it had been triggered by the anniversary of a personal loss experienced by the Respondent.

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6. In an interview with State Investigator Gregory Kelly conducted on or about March 12, 2007, the Respondent advised Investigator Kelly that she had consumed alcohol which resulted in her positive urine specimen. The Respondent further advised Investigator Kelly that she was taking the following steps in order to prevent any relapses in the future: that she attends counseling approximately twice a month; that she attends AA meeting regularly; that she has an AA sponsor; that she meets regularly with her pastor; and that she reduced the number of hours she works per week in order to reduce stress.

7. In an undated letter from the Respondent received by Investigator Kelly on or about March 26, 2007, the Respondent reiterated that she was using her relapse as a learning experience and outlined the steps she has taken to prevent a further relapse.

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)(4) (failing to comply with an order of the board or violating any term or condition of a license restricted by the board);
- ii. 3 V.S.A. § 129a(b)(2) (failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes failure to conform to the essential standards of acceptable and prevailing practice); and
- iii. 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

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

10. 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.

11. 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.

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

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

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14. 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.

15. 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.

16. 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 nursing license for a minimum period of **THREE (3) YEARS** commencing with the date of entry of this Consent Order. The conditions will be as follows:

(1) Re-issue of License.

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 practical nursing in which she works forty (40) hours every two (2) weeks as a practical 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.

(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 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.

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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 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) 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 practical 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 practical 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.

(7) Reports from Employers.

Within one (1) month of the date of entry of this Order or within one (1) month of the commencement of practical nursing employment and **monthly** thereafter, Respondent shall cause every practical 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 her 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.

(8) Practice Under Supervision.

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

(9) Participation in Recovery Groups.

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

(10) 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.



(11) 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.(12) for the period of time described in paragraph A.(2).

(12) 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.

(13) Interview with the Board or its Designee.

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

(14) 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 personal care provider during the effective period of this Consent Order.

(15) 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.

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

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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, 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) Notification to Other States.

In the event that the Respondent is licensed in nursing in any other state(s), she must inform the nursing licensing board of the state(s) in which the Respondent is licensed of the conditional status of her Vermont practical 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.

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

(19) 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 practical 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 her treatment provider may require her to sign a separate and distinct consent meeting the requirements of 42 C.F.R. § 2.31.

(20) Costs.

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

(21) Violation of this Order.



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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.

(22) 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 licensed practical 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.

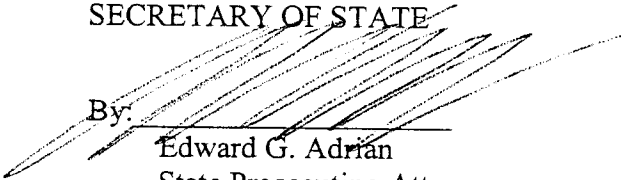
C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

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.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

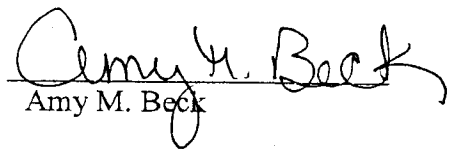
Dated: 9/16/07

By: 

Edward G. Adrian
State Prosecuting Attorney

AMY M. BECK
RESPONDENT

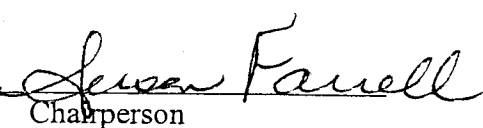
Dated: 9/21/07

By: 

Amy M. Beck

APPROVED AND SO ORDERED:
VERMONT BOARD OF NURSING

Dated: 10/08/07

By: 

Chairperson

STATE OF VERMONT



Prosecuting Attorney
Office of
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Date of Entry: 10/10/07

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