

STATE OF VERMONT
BOARD OF NURSING

In re: Jane Blackwood-Day
License No. 26-24835

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}
}

Docket No. NU03-0701

SUMMARY SUSPENSION ORDER

On August 13, 2001, this case came before the Board of Nursing for a hearing on the State's request for summary suspension.

Based upon the evidence presented by the parties, the Board finds that the allegations in the request for summary suspension have been established to the necessary degree. Therefore, the Board finds that the public health, safety, or welfare imperatively require emergency action against the Respondent's license.

Pursuant to 3 V.S.A. § 814(c), Respondent Jane Blackwood-Day's nursing license is SUMMARILY SUSPENDED until a hearing on charges has been held and determined, or other resolution of this case.

BOARD OF NURSING

By: Susan Farrell
Chair

Dated: August 13, 2001

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 8-14-01

5. Respondent's license was originally issued on July 18, 1999 and it is currently Suspended and will expire on March 31, 2003.
6. The Respondent was employed at the St. Johnsbury Health and Rehabilitation Center at all times relevant.
7. Around February 5, 2001, Respondent began experiencing inattentive states of mind and/or euphoria that caused her to forget what she had done during earlier times the same day.
8. As a result, Respondent took a twelve (12) week medical leave of absence from the St. Johnsbury Health and Rehabilitation Center.
9. Respondent was admitted to the Central Vermont Hospital as a result of the above mental, physiological and/or psychological issue(s).
10. While at the Central Vermont Hospital, Respondent tested positive for amphetamines and barbiturates. *and later tested negative. (S200)*
11. Respondent returned to work on or about June 8, 2001.
12. On or about June 18, 2001, Respondent was observed by fellow nursing staff to be displaying the following behaviors:
 - a) giggling inappropriately;
 - b) unable to answer questions;
 - c) slurred speech;
 - d) red eyes;
 - e) dilated pupils.
13. Respondent left work on *February 5* ~~June 18~~, 2001, and was involved in a single automobile accident. *(S200)*

14. Respondent admitted to the investigator from the Office of Professional Regulation that she did not remember the accident when she woke the following morning.

15. Respondent admitted at Respondent's summary suspension hearing on August 13, 2001, that she currently has a mental, emotional or physical disability, the nature of which interferes with the ability to practice nursing competently, and as a result is unable to practice the profession competently.

Charges

- A. Having a mental, emotional or physical disability, the nature of which interferes with the ability to practice nursing competently is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(6).
- B. Being unable to practice the profession of nursing competently by reason of any cause is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(3).

Understandings

- C. Respondent does not wish to contest the charges filed in this matter and admits thereto.
- D. 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.
- E. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

- F. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
- G. Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.
- H. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing on the merits of the charges.
- I. Respondent agrees that the Board may enter the order set forth below.

ORDER

Based on the stipulation above it is **ORDERED AND ADJUDGED** as follows:

- J. The Board hereby finds that Respondent has committed unprofessional conduct: in violation of:
- i. 26 V.S.A. §1582(a)(6) (Having a mental, emotional or physical disability, the nature of which interferes with the ability to practice nursing competently); and
 - ii. 26 V.S.A. §1582(a)(3) (Being unable to practice the profession of nursing competently by reason of any cause).
- K. Respondent is hereby **INDEFINITELY SUSPENDED** commencing the date of entry of this order.
- L. 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).
- M. 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:

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

Dated: 10-1-01

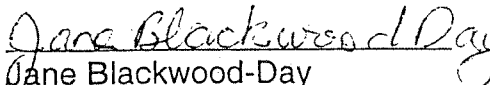
by:


George C. Haegele IV
Assistant Attorney General

RESPONDENT
JANE BLACKWOOD-DAY

Dated: 10-1-01

by:

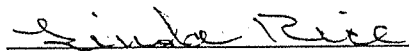

Jane Blackwood-Day

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 10-1-01

by:


Chairperson

Date of entry: 10/2/01

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

IN RE:)
JANE BLACKWOOD-DAY) Docket No. NU 03-0701
License No: 026-0024835)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward Adrian, and Respondent Jane Blackwood-Day, 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.
2. Having a mental, emotional or physical disability, the nature of which interferes with the ability to practice nursing competently is unprofessional conduct and is a basis upon which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(6).
3. Being unable to practice the profession of nursing competently by reason of any cause is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(3).

Facts

4. At all times relevant to these charges, the Respondent (whose address is

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Office of
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Montpelier, VT 05602

listed in the database of the Office of Professional Regulation as P.O. Box 186, St. Johnsbury, VT 05863) was a Registered Nurse holding license number 026-0024835.

5. Respondent's license was originally issued on June 18, 1999 and Respondent's license is currently suspended due to a Stipulation and Consent Order, dated October 2, 2001 (attached and incorporated).

6. Respondent has recently had an independent evaluation performed by a licensed Drug and Alcohol Counselor approved by the Board and Respondent now seeks to be reinstated.

7. While Respondent is competent and qualified to return to the practice of nursing, Respondent still requires monitoring regarding her mental health issues and her recent drug and alcohol addictions.

8. The Respondent agrees that the conditions below are necessary for her to return to the practice.

Understanding

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

B. 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.

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

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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.

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. Respondent admits that she requires the following conditions to protect the public.

J. Based on the above Stipulation and the Findings and Conclusions of this Board, it is **ORDERED** that **CONDITIONS** shall be imposed on any license to practice nursing issued to Respondent and the conditions shall remain **FOR A MINIMUM PERIOD OF THREE (3) YEARS** from the date of entry of this Order.

The conditions are as follows:

(1) License to be labeled "Conditioned".

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

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"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 every two (2) weeks shall be credited on a prorated basis. Respondent shall be prohibited from working more than forty-eight (48) hours per week.

(3) Written Summary.

Respondent shall provide to the Board within fourteen (14) days of the date of entry of this Order a written summary explaining how she plans to continue to address her mental health needs and how she plans to create a balance between employment and taking care of herself.

(4) Completion of Counseling and Treatment Plan.

Respondent shall enter into and continue 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 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

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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.

(5) 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.

(6) 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 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.

(7) Addiction-Specific Therapy.

Respondent shall complete ten (10) hours of addiction-specific therapy with

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a licensed/certified addictions counselor approved by the Board. During the period of treatment, Respondent shall authorize and cause her counselor to submit to the Board a written relapse plan on the counselor's professional letterhead. Respondent shall comply with the relapse plan approved by the Board.

If the Board (1) does not approve the counselor presented to the Board for approval or (2) does not approve the relapse plan presented to the Board for review and approval, Respondent must submit another counselor and/or relapse 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 counselor and/or relapse plan, Respondent shall be deemed to have violated this Consent Order.

(8) Abstain from Alcohol or Drug Use.

Respondent shall abstain completely from the consumption of alcohol or the use or possession of any drugs with the exception of prescribed medications as outlined in paragraph (9) for the period of time described in paragraph (J).

(9) 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

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

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

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

(10) Interview with the Board or its designee.

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

(11) Work Schedule Restriction

Upon obtaining reemployment in the nursing field, Respondent's work

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schedule is not to exceed thirty (30) hours per week for at least the first ninety (90) days. Upon written request by the Respondent to the Board after the ninety (90) day period, the Board will review this limit to determine whether it should be altered or removed.

(12) 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.

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.

(13) Types of Employment Prohibited.

Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency,

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or as a personal care provider during the effective period of this Consent Order.

(14) Prohibited Duties.

Respondent shall be prohibited from being a Charge Nurse 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-eight (48) hours per week.

(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.

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

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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.

(17) 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.

(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 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.

(19) 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 a consent to disclosure during the term of this Order shall be considered a violation of this

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Order.

(20) Costs.

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

(21) 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.

(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 mental health and 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.

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

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L. 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).

M. 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:

9/17/03

By:

[Signature]
Edward Adrian
State Prosecuting Attorney

JANE BLACKWOOD-DAY
RESPONDENT

Dated:

09-15-2003

By:

Jane Blackwood-Day
Jane Blackwood-Day

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated:

10-13-03

By:

Sandra Rice
Acting Chairperson

Date of Entry:

10/15/03

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nu.blackwood-day.stip