

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

IN RE:
JASON BRAASCH
Applicant

)

Docket No: APP-NU06-0704

)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and Respondent Jason Braasch, L.P.N., who stipulate and agree as follows:

MODIFICATION

Based on the above referenced matter, the Board of Nursing hereby modifies the Respondent's license as follows:

A. (9) Practice Under Supervision.

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

shall be modified to:

A. (9) Practice Under Supervision.

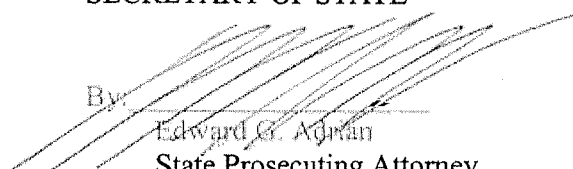
Respondent shall practice only in a nursing setting where Respondent has **on-site supervision** for the entire shift by a Registered Nurse that is licensed and in good standing with the Board.

B. All other conditions contained in Respondent's Stipulation and Consent Order entered into on October 15, 2004 remain **UNMODIFIED**.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 1/23/06

By: 

Edward G. Adrian
State Prosecuting Attorney

STATE OF VERMONT



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

JASON BRAASCH
RESPONDENT

Dated: 1/19/06

By: J. Braasch
Jason Braasch

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: Feb. 13, 2006

By: Susan Farrell
Chairperson

Date of Entry: 2/15/06

app.nu.braasch.stip.mod

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Winooski

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

025-8638

IN RE:
JASON BRAASCH
Applicant

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Docket No. APP-NU-06-0704

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Angela B. Stanski, and the Respondent, Jason Braasch, who stipulate and agree as follows:

Board Authority

1. The Vermont Board of Nursing ("the Board") has jurisdiction to investigate complaints of unprofessional conduct and discipline nursing license applicants pursuant to 3 V.S.A. §129(a)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a); the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.

Facts

2. On May 25, 2004, the Vermont Board of Nursing received from the Respondent an Application for Licensure by Examination as a Practical Nurse. The Respondent graduated on June 17, 2004 and he passed the NCLEX-PN examination on September 2, 2004.

3. On his application for licensure, the Respondent stated "Yes" to the question of "Have you ever been convicted of a crime other than a minor traffic violation?"

4. Attached to the application, the Respondent provided the court documents for several convictions against him. According to court records, on July 13, 2001, Respondent was convicted in the Washington County District Court of two counts of Burglary, which are felony convictions. On, September 25, 1998, Respondent was convicted in the Washington County District Court of one count of Petit Larceny, which is a misdemeanor conviction, and he was also found to have violated the terms of his probation. On June 23, 1997, Respondent was convicted in the Washington County District Court of one count of Violation of Conditions of Release, which is a misdemeanor conviction. On June 23, 1997, Respondent was convicted in the Chittenden County District Court of one count of Buying, Receiving, Selling, Possessing, Concealing Stolen Property, which is a misdemeanor conviction. On

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

June 17, 1997, Respondent was convicted in the Washington County District Court of one count of Marijuana Possession, one count of Buying, Receiving, Selling, Possessing, Concealing Stolen Property, and one count of Attempted Sale of Marijuana, which are felony convictions.

5. By way of letter dated April 14, 2004, the Respondent advised the Board that these convictions were the product of his addiction to opiates from 1996-2000. He states that he has since completed a one year intensive inpatient treatment program and a follow-up 90 day outpatient counseling. He continues to attend NA/AA meetings on a regular basis and he has been clean since December 2000.

6. The Respondent received a sentence of three to ten years incarceration for the July 13, 2001 burglary convictions. He was released on parole on October 3, 2003 and he is currently on probation. In recommending the Respondent for parole, the Parole Board stated that he "has demonstrated that he is serious about his sobriety and dedicated to staying clean from other substances. He has attainable goals, and is self-motivated to get these things accomplished (completed ISAP [Intensive Substance Abuse Program], staying clean, starting college, getting driver's license reinstated)."

7. On July 14, 2004, the Board received an independent evaluation of the Respondent from Holly Katherine Tuck, MS, LADC, LCMHC, who has evaluated the Respondent on five separate occasions between May 25, 2004 and June 21, 2004. Ms. Tuck advised in her report that the Respondent has maintained sustained sobriety from any controlled substances since December 11, 2000. She advises that the Respondent attends a minimum of two NA/AA meetings a week and that his parole officer has never received a positive urinalysis from the Respondent since his release. Ms. Tuck states that all parties with whom she spoke with spoke positively about the Respondent and confirmed her "impression that he is committed to his new life in recovery and to his new career path".

Charges

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

- i. 26 V.S.A. §1582(a)(3) (Inability to practice nursing competently by reason of any cause). Any cause includes, but is not limited to, use of drugs, narcotics, chemicals or any other type of materials pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(C); and
- ii. 26 V.S.A. §1582(a)(2) (Whether or not committed in this state, being convicted of a crime related to the practice of nursing or a felony which evinces an unfitness to practice nursing); and
- iii. 3 V.S.A. §129a(a)(3) (Failure to comply with the provisions of state statutes

STATE OF VERMONT



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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 his 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 he 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 his right to charges and a contested hearing before the Board of Nursing.
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 license to practice nursing for a minimum period of **THREE (3) YEARS** commencing with the date of entry of this Stipulation and Consent Order. The conditions are as follows:

(1) Issuance 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 nursing practice in which he works forty (40)

STATE OF VERMONT



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hours every two (2) weeks as a nurse. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis. Respondent shall be prohibited from working more than forty (40) hours per week. Respondent's license is additionally conditioned as follows.

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

Respondent shall enter into and continue drug 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 drug 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 his treating professional and cause his 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 his treating professional to submit to the Board evidence of satisfactory progress with the treatment plan during the effective period of this Consent Order. These reports shall be submitted in writing on forms issued by the Board. The first report is due commencing the month after the date of the commencement of the conditions and subsequent reports are due every month thereafter.

Respondent shall authorize his 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 during the conditioned period in which Respondent practices as a nurse and inform them of Respondent's conditional license status.

Within ten (10) days of the commencement of nursing employment and of any subsequent 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 Respondent is attending a nursing program which has a clinical portion which involves actual patient care, he shall provide a copy of the Stipulation and Consent Order to the Program Director. 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 its conditions during clinical experience.

STATE OF VERMONT



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(7) Reports from Employers.

Within one (1) month of the commencement of nursing employment and **monthly** thereafter, Respondent shall cause every nursing employer Respondent has worked for during the 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 his 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) 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 he has worked as nurse for twelve (12) weeks for 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 he can safely and competently administer such medications. In any such petition, the Respondent must include appropriate support from his 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.

(9) Practice Under Supervision.

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

(10) Participation in Recovery Group.

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

(11) Random Drug Testing.

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

(12) Abstain from Drug Use.

STATE OF VERMONT



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Respondent shall abstain completely from the consumption or possession of drugs with the exception of prescribed medications as outlined in paragraph A.(13) for the period of time described in paragraph A.(2).

(13) 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, 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.

(14) Probation.

Respondent shall comply with all terms of his probation resulting from the above convictions. He shall sign written authorizations upon request authorizing the Board, its designees, investigators and the Office of Professional Regulation to communicate with, and receive documents from, his probation officer(s).

(15) Interview with the Board or its Designee.

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

(16) Types of Employment Prohibited.

Respondent shall not work as a supervising nurse, with the exception of supervising LNAs and other unlicensed assistive persons. 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.

(17) 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

STATE OF VERMONT



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Office of
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Montpelier, VT 05602

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.

(18) 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 his 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.

(19) Notification to Other States.

In the event that the Respondent is licensed as a nurse in any other state(s), he must inform the nurse licensing board of the state(s) in which the Respondent is licensed of the conditional status of his Vermont 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.

(20) 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 he has otherwise complied with the requirements for license renewal.

(21) Release of Information Forms.

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

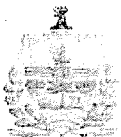
(22) Costs.

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

(23) 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.

STATE OF VERMONT



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(24) Completion of Conditional License Period.

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on his license. The Respondent must present proof that he has fully complied with the terms of this Order. The Respondent must also present proof of successful drug abuse rehabilitation and he must demonstrate, to the satisfaction of the Nursing Board, that he poses no danger to the public or the practice of nursing and that he can safely and competently perform the duties of an L.P.N.

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: 10/4/04

By: Angela B. Stanski
Angela B. Stanski
State Prosecuting Attorney

JASON BRAASCH
RESPONDENT

Dated: 10/4/04

By: Jason Braasch
Jason Braasch

APPROVED AND SO ORDERED

VERMONT BOARD OF NURSING

Dated: 10/11/04

By: Lise Farrell
Chairperson

Date of Entry: 10/15/04

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Office of
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Montpelier, VT 05602