

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

IN RE:)
DAVID A. BRISTOL)
License No. 025.0007402)

M700948
Docket No. ~~NU31-1100~~

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney BetsyAnn Wrask, and the Respondent, David A. Bristol, LPN, 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. David A. Bristol (the "Respondent") of Putney, Vermont is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025.0007402. This license was originally issued on or about August 22, 1996 and is currently set to expire on or about January 31, 2010.
3. By way of history, on or about January 11, 2001 pursuant to a Specification of Charges, Stipulation and Consent Order, Respondent's license was suspended due to Respondent's admitted narcotic diversion and abuse. Attachment A.
4. Thereafter, on or about November 18, 2008 pursuant to a Stipulation and Consent Order, Respondent's license was reinstated and conditioned for three (3) years. Attachment B.
5. On or about September 27, 2009, Respondent requested that his license status be changed to Inactive-Conditioned. The Respondent indicated that at this point in time, it is difficult to finance some aspects of his conditions because he is not currently practicing as a nurse.

STATE OF VERMONT



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

Understandings

6. Respondent understands that the 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.
7. 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.
8. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
9. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
10. 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.
11. Respondent voluntarily waives his right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
12. Respondent agrees that the Order set forth below may be entered by the Board.

ORDER

Based on the Stipulation above, it is hereby **ORDERED AND ADJUDGED** as follows:

- A. The Board of Nursing hereby changes Respondent's license status to **INACTIVE-CONDITIONED, commencing with the date of entry below**. Within forty-five (45) days of any future request for reinstatement, Respondent must: 1) obtain an independent evaluation report by a licensed professional specializing in drug and alcohol abuse pre-approved by the Board; 2) the results of the report with the drug and alcohol abuse independent evaluator must indicate that the Respondent does not present a risk to the safety, health or welfare of his potential patients; 3) Respondent must submit to the Board the results of a minimum of three (3) random urine analyses, collected in an observed setting, administered by a person who has been pre-approved by the Board, and analyzed by a lab qualified to analyze samples for forensic purposes and pre-approved by the Board; and 4) the results of the random urine analyses 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. The Respondent's license shall not be reinstated until these prerequisites are met. Once reinstated, Respondent's license will be conditioned pursuant to the conditions currently in effect in Attachment B.

STATE OF VERMONT



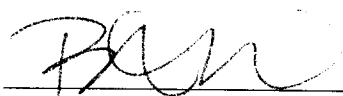
Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

- 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:

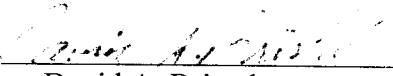
STATE OF VERMONT
SECRETARY OF STATE

Dated: 10-22-09

By: 
Betsy Ann Wrask
State Prosecuting Attorney

DAVID A. BRISTOL
RESPONDENT

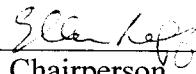
Dated: 10-20-09

By: 
David A. Bristol

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 11-9-09

By: 
Chairperson

Date of Entry: 11/10/09
nu.bristol.stip2

STATE OF VERMONT



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

STATE OF VERMONT
BOARD OF NURSING

IN RE:
David Bristol
License No: 25-7402

)
)
)
Docket No. NU31-1100

SPECIFICATION OF CHARGES, STIPULATION AND CONSENT ORDER

SPECIFICATION OF CHARGES

1. The Vermont Board of Nursing has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses and nursing assistants pursuant to 3 V.S.A. §§129, 129a; 26 V.S.A. §§1574, 1582, 1595 and 1598; the Board of Nursing's Rules and the Office of Professional Regulation's Rules.
2. Respondent David Bristol, of Brattleboro, Vermont, is a licensed practical nurse holding license number 25-7402, issued by the State of Vermont.
3. At all times relevant, he was employed by or associated with Thompson House and/or Brattleboro Mutual Aid Association, Inc., of Brattleboro, Vermont.
4. At times from about June 2000 to November 2000, "L.O.", "M.D.", "A.J.", "L.O." and/or "A.M." were patients treated by Thompson House and/or Brattleboro Mutual Aid Association, Inc.
5. On repeated occasions during about June 2000 to November 2000, while in the course of his work, Respondent diverted, without authorization, regulated medication(s), including but not necessarily limited to, Darvocet and Percocet.
6. On repeated occasions during about June 2000 to November 2000, Respondent falsely charted that said medication(s) had been administered to patients.
7. On repeated occasions during about June 2000 to November 2000, Respondent ingested said regulated medication(s).

* No patient was deprived of medication as a result of Respondent's acts.

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05601

DB
JHA

PAGE 5

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Attachment A

* At the request of Respondent, the parties in the criminal proceedings stipulated on the record that the medical records submitted to the court in support of the criminal charges be sealed, thereby preserving the patients' confidentiality.

DB
WHA
Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

by agreement,
DB WHA

8. On or about December 20, 2000, Respondent was convicted in Vermont District Court (Docket No.: 1918-12-00 Wmcr) of: 18 V.S.A. §4423(a)(1) (prescription fraud, a felony); 18 V.S.A. §4234(a)(1) (possession of narcotics, a misdemeanor); 18 V.S.A. §4210(d) (prescription fraud-false statement, a felony), and; 18 V.S.A. §4234(a)(1) (possession of narcotics, a misdemeanor). A copy of the plea agreement is attached hereto and made a part hereof. * DB WHA
9. The above acts, omissions and/or circumstances violate: Nursing Board Rules: Chapter 4, Rule IV, B.4.d (diverting supplies, equipment, or drugs for personal use or other unauthorized use) and Chapter 4, Rule IV, B.4.c (falsifying or altering clinical records or making inaccurate or misleading entries); which constitutes unprofessional conduct within the meaning of, and also further violates: 26 VSA §1582(a)(7) (engages in conduct of a character likely to deceive, defraud or harm the public) and 3 VSA § 129a(a)(3) (failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession).
10. The above acts, circumstances and/or omissions constitute unprofessional conduct, and also violate, 3 V.S.A. §129a(a)(9) (conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession).

WHEREFORE, the license of David Bristol should be disciplined.

STIPULATION

NOW COME the State of Vermont, through its Attorney General William H. Sorrell, and Respondent David Bristol, and stipulate and agree as follows:

1. The Vermont Board of Nursing has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses and nursing assistants pursuant to 3 V.S.A. §§129, 129a; 26 V.S.A. §§1574, 1582, 1595 and 1598; the Board of Nursing's Rules and the Office of Professional Regulation's Rules.
2. Respondent David Bristol, of Brattleboro, Vermont, is a licensed practical nurse holding license number 25-7402, issued by the State of Vermont.
3. At all times relevant, Respondent was employed by or associated with Thompson House and/or Brattleboro Mutual Aid Association, Inc., of Brattleboro, Vermont.
4. At times from about June 2000 to November 2000, "L.O.", "M.D.", "A.J.", "L.O." and/or "A.M." were patients treated by Thompson House and/or Brattleboro Mutual Aid Association, Inc.
5. Respondent admits that on repeated occasions during about June 2000 to November 2000, while in the course of his work, he diverted, without authorization, regulated medication(s), including but not necessarily limited to, Darvocet and Percocet.
6. Respondent admits that on repeated occasions during about June 2000 to November 2000, he falsely charted that said medication(s) had been administered to patients. *No patient was deprived of medication as a result of Respondent's acts.* PB WHA
7. Respondent admits that on repeated occasions during about June 2000 to November 2000, he ingested said regulated medication(s). *by agreement.* PB WHA
8. Respondent admits that on or about December 20, 2000, he was convicted in Vermont District Court (Docket No.: 1918-12-00 Wmer) of: 18 V.S.A. §4423(a)(1) (prescription fraud, a felony); 18 V.S.A. §4234(a)(1) (possession of narcotics, a

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* At the request of Respondent, the parties in the criminal proceedings stipulated on the record that the medical records submitted to the court in support of the criminal charges be sealed, thereby preserving the patients' confidentiality.

DB
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misdemeanor); 18V.S.A. §4210(d) (prescription fraud-false statement, a felony),
and; 18 V.S.A. §4234(a)(1) (possession of narcotics, a misdemeanor).

A copy of the plea agreement is attached hereto and made a part hereof.

9. Respondent admits the conclusions of unprofessional conduct as set forth below in the Board's Order.
11. 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.
12. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
13. Respondent waives any notification period and agrees to have this document reviewed by the Board during the next available meeting. 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.
14. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
15. 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.
16. Respondent voluntarily waives his right to charges and a contested hearing before the Board of Nursing.
17. Respondent agrees that the Board may set forth the order below.

ORDER

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

A. By engaging in the conduct above, Respondent acted unprofessionally pursuant to, and in violation of Nursing Board Rules: Chapter 4, Rule IV, B.4.d (diverting supplies, equipment, or drugs for personal use or other unauthorized use) and Chapter 4, Rule IV, B.4.c (falsifying or altering clinical records or making inaccurate or misleading entries), which constitutes unprofessional conduct within the meaning of, and also further violates: 28 V.S.A. §1582(a)(7) (engages in conduct of a character likely to deceive, defraud or harm the public); 3 V.S.A. §129a(a)(3) (failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession), and; 3 V.S.A. §129a(a)(9) (conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession).

B. The Nursing Board **SUSPENDS** the Respondent's license, commencing on the date this order is entered, continuing until he demonstrates, to the satisfaction of the Board: possession of at least entry level qualifications; specific rehabilitation; good moral character and fitness; methods of assuring public safety, and; that reinstatement would not be detrimental to the integrity of the profession or subversive of the public interest.

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.

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

by:

William H. Ahlers
Assistant Attorney General

RESPONDENT
DAVID BRISTOL

Dated: 1/5/01

by:

David Bristol
David Bristol

GWENDOLYN W. HARRIS, ESQ.

RESPONDENT'S ATTORNEY

By:

Gwendolyn W. Harris
Gwendolyn W. Harris, Esq.

VERMONT BOARD OF NURSING

Approved as to Form:

Date: 1/4/01

APPROVED AND SO ORDERED:

Dated: Jan 8, 2001

by:

Susan Farrell
Chairperson

Date of entry: 1-11-01

Office of the
ATTORNEY
GENERAL
103 State Street
Montpelier, VT
05602

STATE OF VERMONT
WINDHAM COUNTY, SS.

STATE OF VERMONT

V.

VERMONT DISTRICT COURT
UNIT 1, WINDHAM CIRCUIT
DOCKET NO. 1918-12-00 WMCR

DAVID A BRISTOL

PLEA AGREEMENT

NOW COME The State of Vermont, by and through its attorney, (Deputy) State's attorney Susan Stenrod for Windham County and the Defendant David A Bristol, personally and also by Counsel John Harris and hereby agree:

1) The Defendant, having been charged with the criminal offense(s):

Cts 1, 2, 3, 4, 5 Prescription Fraud

does offer the plea(s) of GUILTY/NO CONTEST to the offense(s) (docket no. and amendments):

Counts 1, 2, 3, 4 Counts 2+4 amended
which plea(s) and conviction(s) the State of Vermont accepts. 18 4234(a)(1)

2) The State of Vermont agrees to dismiss the charge(s) (docket numbers):

Count 5

3) The State of Vermont and defendant jointly recommend the following sentence:

Counts 1+3 per attached deferred sentence agreement

Counts 2+4 0-12 mo S+P Concurrent to each other + to counts 1+3

Conditions 1, 3, 4, 5 regarding drugs

MH Counseling as directed

Probation officer may direct employment
Fine of \$250 on each (ct 2+4)

4) PSI waived yes

5) Defendant is currently on probation no

6) Defendant understands and waives all rights under both 13 V.S.A. Sec. 7042 (a) and V.R.Cr.P. 35 (b) to move for reduction of the sentence imposed under this Agreement, except to the extent that the penalty imposed is greater than that recommended in this Agreement.

7) This Plea agreement and Waiver of Rights is the complete agreement of the parties and may not be altered or amended except in writing signed by both parties.

Dated at Brattleboro, County of Windham and the State of Vermont, this 20 day of Dec 2000.

David A Bristol
DEFENDANT

STATE OF VERMONT
Susan Stenrod
(DEPUTY) STATE'S ATTORNEY

John Harris
ATTORNEY FOR DEFENDANT

GUARDIAN AD LITEM

"THE WAIVER OF RIGHTS ON THE REVERSE SIDE OF THIS PLEA AGREEMENT IS INCORPORATE AS A PART OF THIS PLEA AGREEMENT AND MUST BE SIGNED BY THE DEFENDANT."

WAIVER OF RIGHTS

Being the defendant in this criminal case, I understand that I have certain constitutional and statutory rights. In support of my desire to change my plea to this offense(s), such change to be made in open court personally. I represent to the court that I understand these rights and make the appropriate waivers thereof. A evidence of my knowing, intelligent and voluntary waiver, my signature is at the bottom of this document, as well as on the Plea Agreement.

- (1) I understand the charge(s) against me as set forth in the information(s) and the Plea Agreement.

(3) Check whichever of the following apply.

- (a) 1 I have consulted with my attorney and discussed with my attorney my case(s), the plea agreement and this waiver of rights. I have carefully considered the advice and counsel my attorney has provided with regard to these matters. Having that advice and counsel in mind, I wish to change my plea(s) today in accord with the plea agreement. I have had a full opportunity to assess the advantages and disadvantages of a trial, as compared with those attending my plea(s) today.

- (b) _____ Although I represent myself, I understand the full charge(s) described in the Information(s) and I have considered whether it is my best interests to go forward with the Plea Agreement set forth on the reverse side of this Waiver or to insist on my right to a trial.

- (c) _____ I have discussed my plea with my Guardian Ad Litem, whose signature below indicates his/her agreement with my decision to plead today.

- (4) I understand that the State has the burden of proving me guilty beyond the reasonable doubt. I understand that I can continue with my plea(s) of not guilty and, if so, I have the following rights:

- (a) to either a trial by court or jury;
- (b) to be confronted with witnesses against me and cross examine those witnesses;
- (c) to maintain my own silence;
- (d) to present evidence and have witnesses brought to the Court for me;
- (e) to present any defenses available; and
- (f) to appeal.

- (5) No promises have been made to me by anyone from the State except those which are contained in the written Plea Agreement.

- (6) I understand that if my plea is GUILTY I am admitting the essential elements of the offense(s) with which I have been charged. I understand that if my plea is NO CONTEST I am not contesting that the State could prove that I committed the essential elements of the charge(s) contained in the Information(s) and that the State has sufficient evidence to convict me of the offense(s) with which have been charged.

I have read this waiver of rights, and consulted with my attorney about it, if I am so represented, or considered it carefully on my own, or with my Guardian Ad Litem (as indicated by my checkmarks in section 3 above), and I understand it fully. I hereby knowingly and voluntarily give up each and every one of the rights written above and I ask the Court to accept my plea(s), making no claim of innocence. I ask the Court to accept my plea(s) and to proceed to sentence me as required by law.

DATED at Brattleboro, County of Windham and the State of Vermont, this 20 day of Dec, 2000.

David A. Bunker
DEFENDANT

GUARDIAN AD LITEM

Deferred Sentence
Agreement &
Probation Warrant

District Court of Vermont
DEFERRED SENTENCE AGREEMENT
PROBATION WARRANT

State V.

Defendant DAVID A BRISTOL	Unit 1	Circuit WINDHAM	Count No. 1+3	Docket No. 1918-12-00
Date of Sentence 12/20/00	Offense Prescription Fraud x2	Date Filed/Clerk's Initials 12/20/00		

It is hereby agreed pursuant to 13 V.S.A. Sec. 7041 between the State's Attorney and the Defendant that the State's Attorney has no objection to the granting of a deferred sentence and that the defendant agrees to abide by the conditions set forth herein and to a term of probation imposed by the Vermont District Court, until further order of the Court, should the Court grant the defendant a deferred sentence. The duration of this deferred sentence agreement is from the 20th day of December, 1982 to the 19th day of December, 1985 being for a period of 5 years. A pre-sentence investigation report is on file in this case.

During the period that this deferred sentence agreement shall remain in effect, the Defendant agrees to abide by the following conditions whether or not his case is subject to probation supervision and by conditions 1-13 printed on the reverse side of this warrant:

14. A. ☒ You shall not purchase or ~~consume~~ consume prescription drug without a prescription
- B. ☐ You shall attend and participate in the next available session of the Crash program at your own expense and complete it to the satisfaction of your probation officer.
- C. ☒ You shall attend and participate in alcohol screening, counselling, treatment and rehabilitation including residential treatment as directed by your probation officer and complete the same to the full satisfaction of your probation officer.
- D. ☒ You shall allow the ~~drug~~ drug services program to disclose to the probation officer and to the court information about your attendance and participation in the program.
15. ☒ You shall actively participate in mental health counseling to the satisfaction of your probation officer.
16. ☐ Restitution shall be made as follows:

17. ☐ You shall accept a job through the RETURN-IT Program, or any job deemed appropriate by your probation officer, to pay for Condition # of this Probation Warrant as follows:

18. ☒ Probation officer may direct employment and prohibit employment deemed inappropriate.

It is understood by the defendant and all the undersigned that if the conditions of this deferred sentence agreement are violated, the Court shall impose sentence. Upon fulfillment of the terms of probation and of this deferred sentence agreement, the Court shall strike the adjudication of guilt and discharge the defendant. Upon discharge, the record of the criminal proceedings shall be expunged as if an application pursuant to section 665 of T. 33, VSA had been granted.

Defendant's Signature David A. Bristol	Date 12/20/00
Guardian Ad Litem	Date

Defendant's Attorney [Signature]	Date 12/20/00
State's Attorney Susan Kennedy	Date 12/20/00

ORDER

Based on the foregoing, a Deferred Sentence is ORDERED in accordance with the provisions of 13 V.S.A. Sec. 7014 and as above set forth for a period of year(s). The defendant is also placed on probation in the care and custody of the Commissioner of Corrections until further order of the Court.

Probation Officer	Date
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District Court Judge	Date
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PROBATION ORDER

STATE OF VERMONT
District Court of Vermont
Unit No. 1, Windham Circuit

Re: Bristol, David

Date of Order: 12/20/00

THE COMMISSIONER OF CORRECTIONS:
sentenced as follows:

The above-named defendant was convicted and

18-12-00 Wmcr 2 POSSESSION OF NARCOTICS
inc Ct 4 and 1 & 3

Minimum	Maximum	
	12 MO	All Suspended

18-12-00 Wmcr 4 POSSESSION OF NARCOTICS
inc Ct 2 and 1 & 3

Minimum	Maximum	
	12 MO	All Suspended

execution of the sentence is suspended and the defendant is placed on probation in the care and custody of the
Commissioner of Corrections until further order of the Court under the following conditions:

You shall not be convicted of another offense.
You shall work, seek employment or participate in vocational training to the full satisfaction of your probation officer.
You shall support yourself and your dependents and meet your family responsibilities.
You shall report to your probation officer in the manner and at such time and place as he or she may require.
You shall notify your probation officer within twenty-four hours of any change of address or employment.
You shall remain within the State unless granted permission to leave by your probation officer.
You shall permit a probation officer to visit you at your home or elsewhere.
You shall participate fully in any program to which you may be referred by the Court or your probation officer.
You shall live an orderly and industrious life.
You shall not engage in threatening, violent or assaultive behavior.
You shall not use alcoholic beverages to the extent they interfere with you employment or the welfare of your family,
yourself or any other person.
You shall submit to an alcohol test when requested by your probation officer or any other person authorized by your
probation officer.
You shall not purchase, possess or consume regulated drugs unless prescribed for your use by a physician. You shall submit
to urinalysis testing when requested by your probation officer or any other person authorized by your probation officer.
You shall not operate, attempt to operate or be in actual physical control of a motor vehicle on a public highway unless in
possession of a valid Vermont operator's license.

You shall actively participate in mental health counseling to the satisfaction of your probation officer.
You shall complete payment of your fine(s) of \$500. fine; \$35.00 surcharges to your probation officer by within 90 days.
You shall not purchase, possess, or consume any regulated drug and not have any in your possession without
a valid prescription.
You shall attend and participate in drug screening, counselling, treatment rehabilitation as directed by your
probation officer and complete same to the satisfaction of your probation officer.
You shall allow the drug services program to disclose to the probation officer and to the court information
about your attendance and participation in the program.
You shall attend and participate in any residential treatment program as directed by your probation officer and
complete same to the satisfaction of your probation officer.
Your probation officer may direct employment.

CE: Under the Federal Gun Control Act, any person convicted of a felony may not lawfully own, use or possess a firearm.

Order of the Court: David Surtis
Judge David Surtis

I read and understand these conditions and I agree to fulfill them. I realize that in consideration for this agreement the
has placed me on probation to give me an opportunity to lead an orderly life without confinement. I also understand that if
I violate any of these conditions, I may be brought before the Court to be further dealt with according with law.

Probation Officer

Signature

Defendant

Date

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

IN RE:

DAVID A. BRISTOL

License No. 025-0007402

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Docket No. NU31-1100

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney Edward G. Adrian, and the Respondent, David A. Bristol, who stipulate and agree as follows:

Board Authority

1. The Vermont 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 ("ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. David A. Bristol (the "Respondent") of East Dummerston, Vermont is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025-0007402. The license was originally issued on or about August 22, 1996 and expired on January 11, 2001.
3. By way of history, Respondent's license was suspended on or about January 11, 2001 due to Respondent's admitted narcotic diversion and abuse, and Respondent's license has remained suspended since that time. Attachment A.
4. In a letter to the Board dated February 8, 2007, the Respondent expressed a desire for the Board to consider reinstating his practical nursing license. In his letter, the Respondent stated that that he has participated in a drug rehab program and psychiatric drug counseling.
5. On or about April 28, 2008, the Respondent received a Certificate of Completion of Didactic Component from the Vermont Technical College LPN Re-entry Program.
6. On or about May 7, 2008, the Board received Respondent's Application for Re-entry Into Nursing Practice, dated May 2, 2008.

STATE OF VERMONT



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Office of
Professional Regulation
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Montpelier, VT
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7. On or about June 2, 2008, the Board received an independent evaluation of the Respondent performed by licensed alcohol and drug counselor Christopher Wesolowski, dated May 29, 2008. In his evaluation, Mr. Wesolowski advised that he feels the Respondent is at a low risk for resuming the use of illegal substances, and that the Respondent's opiate abuse is in full sustained remission. Moreover, Mr. Wesolowski advised that since the Respondent's drug abuse and diversion happened over seven (7) years ago and Respondent has had no other documented or reported problems with substances, Mr. Wesolowski does not feel there is a need for any treatment or intervention. Mr. Wesolowski recommended that the Respondent have his practical nursing license reinstated; however, Mr. Wesolowski recommended that the Respondent be placed in a practical nursing role where there is a low risk of encountering controlled substances.
8. On or about August 4, 2008 in a letter to Board Administrator Elizabeth Hansen, Mr. Wesolowski indicated that if the Board would like Respondent to engage in supportive counseling while Respondent is transitioning back into practice, Mr. Wesolowski would be supportive of this requirement.

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 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.

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Office of
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9 Baldwin Street
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05609-1107

ORDER

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

- A. The Board of Nursing hereby **REINSTATES** the Respondent's license to practice practical nursing and **CONDITIONS** the Respondent's 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 of 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 he 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 Board that such counseling is no longer necessary, and that Respondent shall enter into and comply with the substance abuse treatment plan approved by the Board and the treating professional.~~
~~At the time of the disposition hearing, the Respondent may argue for a different disposition.~~

(4) Notification to Treating Professional.

If substance abuse counseling is required by the Board, the 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.

If substance abuse counseling is required by the Board, the 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

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Board. The first report is due commencing the month after the date of the commencement of the conditions and subsequent reports are due **monthly** thereafter.

If substance abuse counseling is required by the Board, the 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) Participation in Recovery Groups.

If substance abuse counseling is required by the Board, the Respondent shall participate as recommended by his treating professional, in Narcotics Anonymous meetings and/or other recovery group(s).

(7) 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.

Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine screen shall cause that screen to be presumed positive. Any positive screen shall act as a violation of this Order.

(8) 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.(9) for the period of time described in A.(2).

(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 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 fourteen (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

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greater than fourteen (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) 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.

(11) 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 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.

(12) Practice Under Supervision.

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

(13) 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 a practical nurse for twelve (12) weeks for at least forty (40) hours every two weeks (or the part time equivalent) after the date of reinstatement.

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

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any such petition, the Respondent must include appropriate support from his treating professional, if applicable, 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.

(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) Interview with the Board or its Designee.

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

(16) 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.

(17) 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.

(18) Notification to Other States.

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

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

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(20) Release of Information Forms.

If substance abuse counseling is required by the Board, 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. If substance abuse counseling is required by the Board, 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.

If applicable, 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.

If applicable, this consent expires when the conditions are removed from the Respondent's registered nursing license.

If applicable, this Stipulation and Consent Order shall constitute a valid written consent pursuant to the requirements of 42 C.F.R. § 2.31.

If applicable, the Respondent understands that his treatment provider may require him to sign a separate and distinct consent meeting the requirements of 42 C.F.R. § 2.31.

(21) Costs.

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

(22) 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.

(23) 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 substance abuse rehabilitation and he must demonstrate, to the satisfaction of the Board, that he poses no danger to the public or the practice of practical nursing and that he can safely and competently perform the duties of a licensed practical nurse.

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- B. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- D. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

Dated: 9/27/08

STATE OF VERMONT
SECRETARY OF STATE

By: [Signature]

Edward G. Adrian
State Prosecuting Attorney

DAVID A. BRISTOL
RESPONDENT

By: [Signature]

David A. Bristol

Dated: 9/9/08

APPROVED AND SO ORDERED:

Dated: 11-10-08

Date of Entry: 11/18/08

VERMONT BOARD OF NURSING

By: [Signature]

Chairperson

nu.bristol.stip

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