

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

IN RE:)
LORIE ANN BRODIEN) Docket No. NU 81-0502
License No: 026-0022023)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State
Prosecuting Attorney, Edward G. Adrian, and Respondent
Lorie Brodien, 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. Being habitually intemperate or addicted to the use of habit-forming drugs is unprofessional conduct upon which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(5).
 3. Engaging in conduct of a character likely to deceive, defraud or harm the public is unprofessional conduct upon which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(7).
 4. Conduct of a character likely to deceive, defraud, or harm the public includes diverting supplies, equipment, or drugs for personal or other unauthorized use.
- Administrative Rules of the Board of Nursing ("ARBN"),
Chapter 4, Rule IV(II)(D)(4).

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Facts

5. Respondent, Lorie Brodien is licensed by the State of Vermont as a Registered Nurse holding license number, 026-0022023.

6. Respondent worked as a Registered Nurse in New Hampshire.

7. Respondent has admitted that she diverted controlled drugs from one of her home health care clients.

Specifically, the drugs Morphine Sulfate Elixer and Lorizipam were diverted.

8. Respondent admitted to taking the drugs she diverted. Respondent was treated at the Littleton Regional Hospital of Littleton, New Hampshire for drug intoxication by opiates and benzodiazepines (Lorizipam) belonging to one of Respondent's home health clients. Respondent was addicted to habit-forming drugs and had been abusing prescription drugs.

9. Respondent entered into an agreement with the New Hampshire Board of Nursing on 10/31/01. A copy of that agreement is attached hereto and made a part hereof as Attachment A.

10. The conduct described above is unprofessional conduct pursuant to 26 V.S.A. §§1582(a)(5); §1582(a)(7); and ARBN Chapter IV(II)(D)(4).

Understanding

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

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12. 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.

13. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced her rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.

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

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

16. 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.

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

18. Respondent agrees that the order set forth below may be entered by the Board.

ORDER

A. Based on the above Stipulation and the Findings and Conclusions of this Board, it is hereby **ORDERED** that **CONDITIONS** be placed upon Respondent's license to practice

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nursing for **A MINIMUM OF TWO (2) 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 "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 **two (2) 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 (40) hours per week.

(3) Notification to Employers.

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 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 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

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Order.

(4) Reports from Employers.

Within one (1) month of the date of entry of this Consent Order and **quarterly** thereafter, Respondent shall cause every employer Respondent has worked for during the relevant time period to submit to the Board an evaluation of Respondent's performance and attendance during that time period. This report shall be submitted in writing on forms issued by the Board.

In the event Respondent is not employed in nursing during any quarter or portion thereof, Respondent shall submit to the Board, in writing, a self-report describing other employment or activities. 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 Consent Order and ability of the program to comply with the conditions in the Consent Order during clinical experience.

Respondent shall sign a consent, upon request of the Board, to authorize Respondent's employer to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period the Consent Order is in effect.

(5) Practice Under Supervision.

Respondent shall practice only in a setting where Respondent has on-site supervision for the entire shift by

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a registered nurse that is licensed and in good standing.

(6) Completion of Substance Abuse Counseling and Treatment Plan.

Respondent shall enter into and continue counseling with a substance abuse 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. This condition may be satisfied based on the counseling Respondent is currently receiving pursuant to the agreement with the State of New Hampshire. 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 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.

(7) 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

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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.

(8) 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 **quarterly** 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.

(9) 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 (10) for the period of time described in paragraph (A).

(10) Drug Use Exception.

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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

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produce such record upon the request of the Board or its designee.

(11) Interview with the Board or its designee.

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

(12) Prohibited Duties.

Respondent shall be prohibited from being in a supervisory role during the effective period of the Consent Order. Respondent is limited to working in one assigned unit during a shift and will not float to other units. Respondent shall limit daily work hours to twelve-hour shifts, shall not work in excess of forty hours per week and shall not work night duty.

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

(14) 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

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address, or telephone number. Respondent shall provide a copy of this Consent Order to all employers, current and future, and shall inform them of the conditional status of her license.

(15) 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.

(16) 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.

(17) 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.

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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 Order.

(18) Costs.

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

(19) 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.

(20) 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

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the duties of a Registered Nurse.

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

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

D. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

STATE OF VERMONT

SECRETARY OF STATE

Dated: 9/22/03

By: [Signature]
Edward G. Adrian
State Prosecuting Attorney

LORIE ANN BRODIEN
RESPONDENT

Dated: 9/22/03

By: [Signature]
Lorie Ann Brodien

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 9-22-03

By: [Signature]
Chairperson

Date of Entry: 9/23/03

nu.brodien.stip

ATTACHMENT A

BEFORE THE
NEW HAMPSHIRE BOARD OF NURSING

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IN THE MATTER OF:
OF NURSING Lorie Brodien, RN #029613-21

SETTLEMENT AGREEMENT

THIS AGREEMENT is entered into between the New Hampshire Board of Nursing (Board) and Lorie Brodien (Respondent) a Registered Nurse in the State of New Hampshire having graduated with an associate degree from Peninsula College in Washington and licensed by endorsement in New Hampshire on April 22, 1986 and over whom the Board has jurisdiction pursuant to RSA 326-B and the Board rules.

On September 20, 2001 a complaint was received from Kathleen J. Smith, M.D., primary care physician, alleging that on September 13, 2001 she treated Respondent in the Littleton Regional Hospital, Littleton, NH emergency room for drug intoxication by opiates and benzodiazepines, medications belonging to one of Respondent's home health clients; and on October 1, 2001 a complaint was received from William E. Holmes, Administrator, representing Littleton Regional Hospital, Littleton, NH alleging that on September 13, 2001 Respondent possessed and/or ingested medications that were not her own and which may have belonged to her patients.

Respondent admits to possession and ingestion of opiates (Morphine Sulfate Elixer) and benzodiazepines (Lorazepam) which belonged to one of her home health clients, and therefore admits to violating RSA 326-B:12 II (e) "Addiction to or abuse of alcohol or other habit-forming drugs or substances which render the licensee unfit to practice nursing" and Nur 215.01 (b) (5) "Misappropriating human or material resources;" On September 14, 2001 Respondent entered into an 8-day inpatient substance abuse treatment at Riverside II in Berlin New Hampshire. Following discharge, Respondent began participation in a six-week outpatient substance abuse program and is being treated by a psychiatrist for suicidal ideation and substance abuse.

To resolve the aforementioned admission in a fair and reasonable manner, the Respondent agrees to the following terms and stipulations set forth below:

- I. Respondent's Registered Nurse license shall be **SUSPENDED FOR A PERIOD OF ONE YEAR**. Said suspension shall continue until September 20, 2002 or until Respondent successfully petitions the Board for relief from this suspension order, whichever is later.
- II. Respondent's petition for relief from this suspension order shall:
 - A. Be submitted in writing and specifically address Respondent's progress in abstaining from substance abuse;
 - B. Shall include three written character references that address Respondent's honesty, integrity, timeliness and productive work habits. If Respondent has been employed within the past year, at least one of the references must be from an employer;
 - C. Shall include an evaluation of Respondent's chemically free state by a counselor trained in substance abuse; and

- D. Respondent shall appear before the Board to present oral information in support of her petition and respond to questions from the Board regarding her fitness to resume the practice of nursing.

III. If the Board is persuaded that Respondent can safely practice nursing, it shall grant Respondent permission to begin registered nurse employment. Upon Respondent obtaining registered nurse employment, the suspension on Respondent's Registered Nurse License shall be removed, and a two-year period of license probation shall immediately commence. During this probation period the following conditions and restrictions are imposed when practicing as a registered nurse:

- A. Upon obtaining Registered Nurse employment and prior to commencing work, Respondent shall provide a copy of this Agreement to the Registered Nurse supervisor.
- B. Respondent shall notify the Board, in writing, within ten days of commencing registered nurse employment.
- C. Respondent shall practice nursing in a structured health-care environment where other health-care providers are employed.
- D. Respondent shall not practice nursing in a home care environment or be employed by a staffing agency.
- E. Respondent is limited to working in one assigned unit during a shift and will not float to other units. Respondent shall limit daily work hours to twelve-hour shifts, shall not work in excess of 40 hours per week and shall not work night duty.
- F. Within one month of commencing registered nurse employment, Respondent shall ensure that Respondent's nursing supervisor submits directly to the Board: an initial performance evaluation on a Board approved form setting forth:
1. the name and address of Respondent's employer;
 2. the duties and responsibilities to be performed by Respondent;
 3. a discussion of the quality of nursing care provided by Respondent, including a discussion of the ability of the Respondent to practice nursing with skill and safety to patients; and
 4. the nursing supervisor shall acknowledge that this Agreement was read and that the role of nursing supervisor is understood by the supervisor.
- G. Respondent shall ensure that quarterly performance evaluation reports are submitted directly to the Board by Respondent's nursing supervisor on a Board approved form, and said evaluation shall include:
- i) name and address;
 - ii) number of hours worked, timeliness and efficiency;
 - iii) quality and safety of nursing care;
 - iv) ability to safely practice nursing with reasonable skill;
 - v. adherence or failure to adhere to Board stipulations; and
 - vi. whether any substance abuse testing was conducted and the results of those tests.
- H. Should Respondent's behavior suggest substance abuse, Respondent will not be allowed to work until further evaluation to determine the cause of the behavior, and random blood/urine testing, at Respondent's expense, shall be performed per hospital policy/procedure.

- I. Respondent is responsible for notifying Respondent's immediate supervisor or other appropriate designee, and for taking action to seek assistance if Respondent or Respondent's supervisor feel that help is needed to prevent relapse. If relapse occurs, the employer shall take the following actions immediately:
 1. Cause a leave of absence from employment, with or without Respondent's concurrence; and
 2. Report the relapse to the Board of nursing in writing.
- J. Respondent shall maintain a record of attendance at AA/NA meetings if such meetings are recommended by Respondent's counselor; if Respondent independently decides to attend such meetings, self-documentation is not mandatory, but is encouraged.
- I. Respondent shall continue counseling sessions with a counselor trained in substance abuse. If and when the counselor determines that counseling is no longer necessary, Respondent shall ensure that the counselor submits a written report within 30 days of such determination summarizing Respondent's status/progress to the Respondent's employer and the Board of Nursing. Respondent shall also require the counselor to submit quarterly reports regarding the Respondent's progress to the Board. Quarterly reports shall indicate Respondent's:
 1. name and address;
 2. number and frequency of visits;
 3. progress in maintaining a safe life-style; and
 4. adherence, or failure to adhere, to Board stipulations and counselor's therapy.
- J. Said conditions and restrictions shall be in force only while the Respondent is employed in a capacity for which a Registered Nurse license is required and subject to adequate supervision approved by the Board. Respondent is required to notify the Board, in writing, within 10 days after the commencement, termination or change in role in any such employment.
- K. In the event the Board determines any complaint or written report is not favorable, pursuant to RSA 326-B:12 II and Nur 215.01 (b) and (d), it shall be considered grounds for disciplinary action pursuant to RSA 326-B:12 III and Respondent's license shall be suspended for a full 2 year period.

IV. Respondent further agrees that:

- A. Respondent shall notify the Board of address change within fifteen (15) days of such relocation.
- B. At the end of this probation period, Respondent shall petition the Board, in writing, for removal of the conditions and restrictions set forth above. Respondent shall demonstrate to the Board the ability to safely practice nursing through evidence of successful continuing rehabilitation, character references, personal and professional testimony and/or written exhibits; said evidence shall specifically include, but is not limited to:
 1. A comprehensive evaluation by Respondent's counselor addressing Respondent's progress regarding continuing abstinence from abuse of chemical substances;

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2. Three letters of reference that address Respondent's punctuality, honesty, integrity and productive work habits. If Respondent has been employed since the date of this Agreement, one letter should be from the employer; and
 3. Respondent shall appear before the Board to present oral information in support of her petition and respond to questions from the Board regarding her fitness to resume the practice of nursing without conditions and restrictions.
- C. Should Respondent apply for any New Hampshire license under RSA 326-B authority on or after the date of this Agreement, Respondent shall by the act of filing such an application, automatically waive any statute of limitations or laches defense which may otherwise be available concerning the misconduct allegations set forth above, and consents to these allegations being fully addressed in the context of her license application. Respondent shall bear the burden of proving that Respondent possesses sufficient knowledge, judgment and skills, and character qualifications to be licensed in any such future licensing proceedings.
- D. Respondent is aware of and understands the right to have a formal disciplinary hearing pursuant to RSA 326-B:13 and hereby waives those rights and requests that this Agreement be accepted with the same force and effect as an order entered as result of a formal hearing.

This Agreement is entered into by Respondent, voluntarily, after the opportunity to consult with counsel, and with full understanding of the legal consequences of this Agreement.

This Agreement constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings, and becomes a public record upon signature.

I have carefully read and fully understand the requirements, conditions and restrictions in this Agreement.

10/31/01
(Date)

Lorie Becken
(Respondent)

Do not write below this line

EXECUTED THIS 20th DAY OF November 20001

FOR THE NEW HAMPSHIRE BOARD OF NURSING

Cynthia A. Gray
Cynthia A. Gray, MBA, B.S.(n), R.N.
Executive Director
Board of Nursing

Nov. 20, 2001
Date

THIS IS A TRUE, CERTIFIED COPY:

Cynthia A. Gray
Cynthia A. Gray, MBA, BS(n), RN
Executive Director

5/13/02
Date

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STATE OF VERMONT
BOARD OF NURSING

In re: Lorie Brodien
License No. 26-22023

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Docket No. NU81-0502

SUMMARY SUSPENSION ORDER

On June 10, 2002, 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 Lorie Brodien'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: Sandra Rice APRN, FNP
Chair

Dated: 6-10-02

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 6/11/02