

Wallengford

STATE OF VERMONT
BOARD OF NURSING

In re: Arnold T. Burke
License No. 026-0023051

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}

Docket No. NU65-0304

Appearances:

Petitioner, State of Vermont: Edward G. Adrian

Respondent: Did not appear

Presiding Officer: Larry S. Novins

DEFAULT ORDER

The Board held a hearing on the above matter on March 14, 2004 at the Central Vermont Medical Center in Berlin, Vermont. The Respondent did not attend and was not represented.

Findings of Fact

1. Respondent is subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 26 V.S.A. §§ 1595 and 1598, the Administrative Rules of the Board of Nursing and the Rules of the Office of Professional Regulation. Certified mail to him during that proceeding was returned "unclaimed."
2. Mr. Burke's license was summarily suspended on August 10, 2004.
3. The Respondent was sent notice of the Charges against him by certified mail on December 15, 2004 at his last known address.
4. The notice was returned "unclaimed."
5. Mr. Burke has not filed an answer to the charges against him.
6. Notice of the default hearing scheduled for March 14, 2005 was sent via certified mail to the respondent.
7. There is no indication in the file whether Mr. Burke did or did not receive the notice of this hearing.
8. The Respondent still has not answered the charges against him.
9. Upon hearing the State's presentation and taking notice of its own file, the Board finds the Respondent to be in default. The allegations contained in the State's Specification of Charges dated December 8, 2004(copy attached) are therefore treated as the facts on which the Board's order is based. OPR Rule 3.4, 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

Conclusions of Law

The Respondent has received adequate notice of the charges against him as indicated by the Board's file and the State's presentation. Because the Respondent has failed to answer the charges against him, the State's factual allegations are treated as if proved. O.P.R. Rule 3.4. Accordingly, the Board finds, in the default hearing held pursuant to 3 V.S.A. §809(d), that the Respondent has engaged in the unprofessional conduct alleged in the State's Specification of Charges.

Order

In accordance with the above findings of fact and conclusions of law, the license of the Respondent is hereby REVOKED, effective as of the entry of this order.

Appeal Rights

This is a final administrative determination by the Vermont State Board of Nursing. You may appeal by sending a notice of appeal in writing to the Director of the Office of Professional Regulation within 30 days of the date of entry of this order. If you wish to request a stay of the Board's decision, please refer to the attached stay instructions.

By: Susan Farrell
Susan Farrell, R.N.
Chair

Date: March 25, 2005

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 3/31/05

IN RE: ARNOLD T. BURKE) DOCKET No. NU65-0304
License No. 026-0023051)

Board Authority

- ## Statement of Facts



8. On or about March 26, 2004 the Respondent met with Corporal Steven S. Schutt and admitted that he had taken a prescription medication (Diphenoxylate with Atropine) from E.B., a person that he was providing care for in a home setting and administered it to M.G., another person he was providing care for in a home setting. The purpose of this medication is to prevent diarrhea and can have the effect of constipation. When arrested on April 16, 2004 the Respondent stated "I know I shouldn't have done it. It can't hurt anyone."
9. The Respondent had entered into a agreement to provide personal care to M.G. from March 12-22, 2004. M.G. was 93 years of age at the time and in frail health. As part of this agreement the Respondent was paid and in turn provided personal care, monitored the health and administered medications to M.G.
10. On or about March 14, 2004, while the Respondent was caring for M.G., the Respondent went with P.K. (M.G.'s grandson), to the Bleachers Bar in West Rutland and drank several mixed drinks. While out, P.K. inquired with the Respondent about leaving M.G. alone and going out to drink. The Respondent stated "don't worry about her (M.G.) I double dosed her." The Respondent and P.K. continued to go out and consume alcohol several times throughout the week of March 12, 2004. The bartender at Bleachers confirmed that the Respondent came in three or four times during the week of March 12, 2004 and that each time the Respondent consumed 3-4 vodka drinks.
11. During the time that the Respondent was providing personal care to M.G. he was administering the medications Risperadol, Lexapro and Ativan, all of which had been prescribed to M.G.
12. The Respondent was providing personal care to M.G. along with LNA D.S. during the March 12-22, 2004 dates. D.S. reports that during this time period she observed the Respondent to be intoxicated. D.S. reported that during this time period the Ativan counts for M.G. were off.
13. On or about June 24, 2004 the Respondent admitted to Investigator Gloria Danforth that he 1) had worked unsupervised at the facility; 2) administered Ativan to M.G. and 3) left M.G. alone. The Respondent refused to answer the questions of whether he had gone out drinking at Bleachers and whether he had given M.G., E.B.'s medication.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Request for Relief

14. The facts as set out above establish that in order to protect the public health, safety or welfare of the people of the State of Vermont emergency action is imperative.
15. The above acts and circumstances, alone or in combination, violate: 3 V.S.A. § 129a(a) (3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession); 3 V.S.A. § 129a(a)(4)(failing to comply with an order of the board or violating any term or condition of a license restricted by the board); 3 V.S.A. § 129a(a)(7)(willfully making or filing false reports or records in the practice of the profession); 3 V.S.A. § 129a(b)(1)(failure to practice competently by any reason of any cause on a single occasion or on multiple occasions . . . performance of unsafe or unacceptable patient care); 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause); 26 V.S.A. § 1582(a)(5) (is habitually intemperate); 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public); Vermont Board of Nursing Administrative Rule (the "Rules") Chapter 4, Rule IV, II, B, 1; (performance of unsafe or unacceptable patient care); and Rule Chapter 4, Rule IV, II, D. 10 (aiding, abetting or assisting any person in any act in violation of this chapter or acts against the best interest of the public).

WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. § 814, the Respondent's nursing license number 026-0023051 be summarily suspended.

DATED at Montpelier, Vermont this 26th day of July, 2004.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

NU057.sum.susp.lit.wpd

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

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

IN RE: ARNOLD T. BURKE
License No. 026-0023051

) DOCKET No. NU65-0304
)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Arnold T. Burke, R.N.:

Board Authority

1. The Vermont Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by Nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28 and; the rules of the Board and the Vermont Office of Professional Regulation.

Statement of Facts

2. Arnold T. Burke (the "Respondent") of Wallingford, Vermont is a registered nurse holding license number 026-0023051 issued by the State of Vermont. This license was originally issued on or about August 13, 1996 and is set to expire on March 31, 2005.
3. The Respondent's license was summarily suspended by the Board of Nursing on August 9, 2004 based upon the facts below.
4. The Respondent's license was conditioned for a period of three (3) years commencing on September 10, 2002. Attachment A. The conditions require in part that the Respondent: a) abstain from the consumption of alcohol and/or the use or possession of any drugs; b) that the Respondent practice in a setting with on-site supervision; c) that the Respondent is prohibited from administering controlled substances until this privilege is restored by the Board; and d) that the Respondent is prohibited from working as a personal care provider. See, Attachment A.
5. The Respondent was practicing as a registered nurse and worked at the Loretto Home/St. Joseph Kervick Residence (the "Facility") located in Rutland, Vermont from November 3, 2003 until he was terminated on March 15, 2004.
6. While working at the Facility the Respondent worked shifts without supervision. When the Respondent worked during these unsupervised shifts he had access to the narcotic cart and keys to the cart.
7. The Respondent was convicted of the offense of DWI First Offense on or about August 8, 2000. The Respondent answered "no" to the question of "have you been

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

convicted of a crime other than a minor traffic violation" in his nursing renewal application dated March 31, 2003.

8. On or about March 26, 2004 the Respondent met with Corporal Steven S. Schutt and admitted that he had taken a prescription medication (Diphenoxylate with Atropine) from E.B., a person that he was providing care for in a home setting and administered it to M.G., another person he was providing care for in a home setting. The purpose of this medication is to prevent diarrhea and can have the effect of constipation. When arrested on April 16, 2004 the Respondent stated "I know I shouldn't have done it. It can't hurt anyone."
9. The Respondent had entered into a agreement to provide personal care to M.G. from March 12-22, 2004. M.G. was 93 years of age at the time and in frail health. As part of this agreement the Respondent was paid and in turn provided personal care, monitored the health and administered medications to M.G.
10. On or about March 14, 2004, while the Respondent was caring for M.G., the Respondent went with P.K. (M.G.'s grandson), to the Bleachers Bar in West Rutland and drank several mixed drinks. While out, P.K. inquired with the Respondent about leaving M.G. alone and going out to drink. The Respondent stated "don't worry about her (M.G.) I double dosed her." The Respondent and P.K. continued to go out and consume alcohol several times throughout the week of March 12, 2004. The bartender at Bleachers confirmed that the Respondent came in three or four times during the week of March 12, 2004 and that each time the Respondent consumed 3-4 vodka drinks.
11. During the time that the Respondent was providing personal care to M.G. he was administering the medications Risperadol, Lexapro and Ativan, all of which had been prescribed to M.G.
12. The Respondent was providing personal care to M.G. along with LNA D.S. during the March 12-22, 2004 dates. D.S. reports that during this time period she observed the Respondent to be intoxicated. D.S. reported that during this time period the Ativan counts for M.G. were off.
13. On or about June 24, 2004 the Respondent admitted to Investigator Gloria Danforth that he 1) had worked unsupervised at the facility; 2) administered Ativan to M.G. and 3) left M.G. alone. The Respondent refused to answer the questions of whether he had gone out drinking at Bleachers and whether he had given M.G., E.B's medication.

Charges

14. The above acts and circumstances, alone or in combination, violate: 3 V.S.A. § 129a(a) (3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession); 3 V.S.A. § 129a(a)(4)(failing to comply

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

with an order of the board or violating any term or condition of a license restricted by the board); 3 V.S.A. § 129a(a)(7)(willfully making or filing false reports or records in the practice of the profession); 3 V.S.A. § 129a(b)(1)(failure to practice competently by any reason of any cause on a single occasion or on multiple occasions . . . performance of unsafe or unacceptable patient care); 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause); 26 V.S.A. § 1582(a)(5) (is habitually intemperate); 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public); Vermont Board of Nursing Administrative Rule (the "Rules") Chapter 4, Rule IV, II, B, 1; (performance of unsafe or unacceptable patient care); and Rule Chapter 4, Rule IV, II, D. 10 (aiding, abetting or assisting any person in any act in violation of this chapter or acts against the best interest of the public).

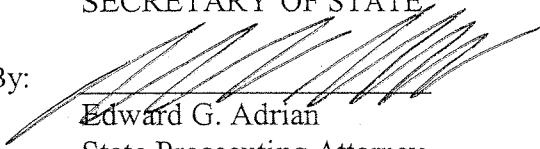
Request for Relief

WHEREFORE, the Respondent's license should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 8th day of December, 2004.

STATE OF VERMONT
SECRETARY OF STATE

By:


Edward G. Adrian
State Prosecuting Attorney

nu.burke.soc.wpd

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

STATE OF VERMONT
BOARD OF NURSING

In re: Arnold Burke
License No. 26-23051

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Docket No. NU65-0304

SUMMARY SUSPENSION ORDER

On August 9, 2004, this case came before the Board of Nursing for a hearing on the State's request for summary suspension.

Based upon the evidence presented at the hearing, the Board finds that there is sufficient evidence to establish to the necessary degree 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 Arnold Burke'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: 
Christopher Winters, Presiding Officer
for Board Chair Susan Farrell, RN

Dated: August 9, 2004

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 8/10/04

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

IN RE:
ARNOLD BURKE
License No. 026-0023051

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Docket No: NU 69 - 0698

STIPULATION AND CONSENT ORDER

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

Board Authority

1. The Vermont State Board of Nursing ["the Board"] has authority to issue warnings or reprimands, suspend, revoke, limit, condition or prevent the renewal of current or lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. §129(a)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a).
2. Failure to comply with the provisions of state statutes or rules governing the practice of the profession is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(3).
3. Engaging in conduct of a character likely to harm the public is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(7).
4. Inability to practice nursing competently by reason of any cause is unprofessional conduct upon which the Board can base disciplinary action. 26V.S.A. §1582(a)(3).
5. Inability to practice nursing competently includes performance of unsafe or unacceptable patient care and failure to conform to the essential standards of acceptable and prevailing nursing practice. Administrative Rules of the Board of Nursing ("ARBN") Chapter 4, Rule IV(B).
6. Inability to practice nursing competently includes the use of drugs and/or narcotics. ARBN, Chapter 4, Rule IV(B)(3).

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

ATTACHMENT A.

Facts

7. The Respondent is licensed as a Registered Nurse under License Number 026 – 0023051.

8. Respondent's license was originally issued on August 13, 1996 and his license lapsed on March 31, 1999.

9. Respondent has not practiced as a Registered Nurse since his license has lapsed in 1999.

10. On or about July 10, 2000, Respondent's license was revoked due to a default order entered as a result of Respondent's failure to respond to the charges filed on March 30, 2000.

11. Upon information and belief, around 1998 Respondent's use of lawfully prescribed medication(s) resulted in his practicing incompetently due to his use.

12. Since November 2001, Respondent has been in counseling with a Licensed Alcohol and Drug Counselor. Upon information and belief, Respondent has complied with all aspects of treatment as ordered by his counselor.

13. Upon information and belief, Respondent is no longer taking any lawfully prescribed medications.

14. Respondent's counselor has provided an opinion concerning Respondent's prognosis and the counselor's opinion is that Respondent is currently able to return to the practice of the profession and can safely perform those duties and responsibilities of a Registered Nurse.

Understanding

15. Respondent admits the "facts" as set forth above.

16. Respondent admits the conclusions of unprofessional conduct as set forth below in the Board's Order.

17. 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.

18. 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.

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

20. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Order.
21. 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.
22. Respondent voluntarily waives his right to charges and a contested hearing before the Board of Nursing.
23. 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. By engaging in the conduct described above, Respondent violated 3 V.S.A. §129a(a)(3)(failing to comply with provisions of federal or state statutes or rules governing the practice of the profession) and as such engaged in unprofessional conduct pursuant to 26 V.S.A. §1582(a)(7) (engaging in conduct of a character likely to harm the public is unprofessional conduct upon which the Board can base disciplinary action) and 26V.S.A. §1582(a)(3)(inability to practice nursing competently by reason of any cause is unprofessional conduct upon which the Board can base disciplinary action) and Administrative Rules of the Board of Nursing ("ARBN") Chapter 4, Rule IV(B)(inability to practice nursing competently includes performance of unsafe or unacceptable patient care and failure to conform to the essential standards of acceptable and prevailing nursing practice) and ARBN, Chapter 4, Rule IV(B)(3)(inability to practice nursing competently includes the use of drugs and/or narcotics).

B. Based on the above stipulation and on the above Findings and Conclusions of this Board, it is **ORDERED** follows:

Based on the above, it is **ORDERED** that **CONDITIONS** shall be imposed on any license to practice nursing issued to Respondent. The conditions are as follows:

- (1) 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 Respondent works at least forty (40) hours every two (2) weeks as a nurse. Part-time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis. Respondent shall be prohibited from working more than forty-eight (48) hours per week. Respondent's license is additionally conditioned as follows.

(2) Completion of Counseling and Treatment Plan.

Respondent shall enter into and continue counseling with the treating professional approved by the Board until the treating professional shall certify, in writing, to the Nursing Board that such counseling is no longer necessary.

Respondent shall enter into and comply with the treatment plan approved by the Board and/or the Board's designee and the treating professional.

(3) Substance Abuse Therapy and Notification to Treating Professional.

Respondent shall provide a copy of this Stipulation and Consent Order to Respondent's treating professional and cause Respondent's 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.

(4) Reports from Treating Professional.

Respondent shall authorize and cause Respondent's 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 and shall be accompanied by a cover letter on the treating professional's letterhead. The first report is due commencing the month after the date of entry of this Consent Order and subsequent reports are due every month thereafter. The first report shall be accompanied by a comprehensive evaluation, acceptable to the Board or its designee, submitted, in writing, on forms issued by the Board and based on the criteria to be developed by the Board or its designee.

Respondent shall authorize Respondent's treating professional to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period this Consent Order is in effect.

(5) Participation in Support Group.

Respondent shall participate, at least weekly or as recommended by Respondent's treating professional, in Alcoholics Anonymous and/or Narcotics Anonymous or a similar support group.

(6) Random Alcohol/Drug Testing.

Respondent shall submit to random alcohol and drug screening at the request of the Board. Respondent shall ensure that Respondent's treating professional or employer or both shall administer random alcohol or drug tests as required by the Board or its designee. All testing shall be done on a random, unannounced basis, and analyzed by a lab qualified to analyze samples for forensic purposes. All screens shall be negative except for drugs prescribed for

Respondent under the care of a physician, dentist, or nurse practitioner, subject to the limitations below. (See paragraph 8, Drug Use Exception.)

(7) 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 below in paragraph 8 for the period of time described above in paragraph 1.

(8) Drug Use Exception.

Respondent shall not take any scheduled substances unless necessary. Respondent may take scheduled 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 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 medications if the term potentially exceeds 14 days. This includes medications to be administered as

necessary or *PRN*. It is not anticipated that Respondent would be prescribed scheduled medication, during the term of this Consent Order, for an extended period of time, which includes any period greater than 14 days. If Respondent is prescribed medications for an extended period of time, then such conduct creates a prima facie case that the Respondent has violated these conditions, as listed, and Respondent shall have the burden of showing Respondent is currently fit and safe to practice under the medications as prescribed.

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

(9) Interview with the Board or its Designee.

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

(10) Re-issue of License.

Upon the imposition of these conditions, Respondent shall be issued a license labeled "conditioned".

(11) 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.

(12) 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 Respondent's current place of nursing employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in nursing employment, personal address, or telephone number. Respondent shall provide a copy of this Consent Order to all employers, current and future, and shall inform them of the conditional status of Respondent's license.

(13) 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 Order.

(14) Reports from Employers.

Within one (1) month of the date of entry of this Consent Order and every month thereafter, Respondent shall cause every employer Respondent has worked for during the month to submit to the Board an evaluation of Respondent's performance and attendance during that month. This report shall be submitted in writing on forms issued by the Board. In the event Respondent is not employed in nursing during any month 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 provide a copy of the Consent Order to the Program Director. 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.

(15) Practice Under Supervision.

Respondent shall practice only in a setting where Respondent has on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing.

(16) Administration of Medications.

The Respondent is prohibited from administering any controlled substance for a minimum period of three (3) months from the entry of this order. Thereafter, Respondent may petition the Board for gradual reinstatement as follows:

- a. This condition may be modified or removed only by the Respondent filing a petition with the Board after Respondent has worked as a nurse for three (3) months at a minimum of 40 hours work every two weeks (or the part-time equivalent) after the entry date of this Order; and,
- b. The Board does not receive any complaints concerning Respondent while the prohibition is in effect.

If Respondent presents satisfactory evidence of the above, then Respondent, subject to approval by the Board, shall be allowed to administer controlled substances under direct supervision for a period of three (3) months. Thereafter, Respondent may petition the Board for on-site supervision based on the same criteria above. Thereafter, Respondent may apply for full reinstatement based on the above criteria.

(17) 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.

(18) License Renewal.

In the event Respondent's license is scheduled to expire during the period this Consent Order is in effect, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualifications to practice nursing in the State of Vermont.

(19) Release of Information Forms.

Upon the establishment of all practitioner/patient relationships with (1) treating professionals for substance abuse treatment, and with (2) treating professionals who prescribe any medication to Respondent, Respondent shall execute all release of information forms which are necessary to authorize those practitioners to release information described in this Consent Order to the Board of Nursing, its investigators, and the Attorney General's Office. All information disclosed to the Board shall be made available to its investigators and the Attorney General's Office. Respondent shall specifically execute a consent to disclosure form which meets the requirements of 42 C.F.R. §2.31 to permit disclosure of all information regarding Respondent's substance abuse treatment to the Nursing Board, its investigators, and the Attorney General's Office. Any revocation by Respondent of such a consent to disclosure during the term of this Consent Order shall be considered a violation of this Consent Order.

(20) Costs.

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

(21) Violation of the Consent Order.

If Respondent violates the terms of this Consent Order in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke the terms of the conditional license and take further disciplinary action. If a complaint or charges are filed against Respondent during the term of this Consent Order, the conditional license period shall be extended until the matter is final.

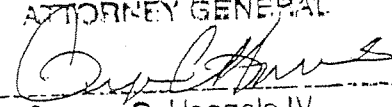
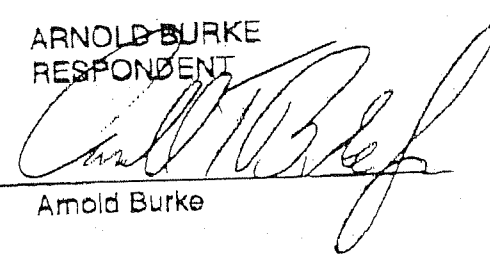
(22) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on Respondent's license and after formal review by the Board, Respondent's nursing license may be fully restored by appropriate Board action. Respondent, however, must present proof of successful substance abuse rehabilitation and demonstrate, to the satisfaction of the Nursing Board, that Respondent poses no danger to the practice of nursing and that Respondent can safely and competently perform the duties of a nurse. Such proof shall include appropriate support from Respondent's treating professional, employer, and/or nursing school administrator. Furthermore, Respondent shall demonstrate, to the Board's satisfaction, that Respondent fully complied with all the terms of this Consent Order.

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)(8).

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:

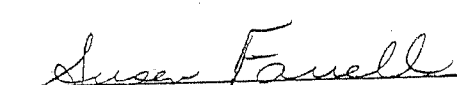
Dated: 9/5/02STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERALBy: George C. Haegle IV
Assistant Attorney GeneralDated: 9/04/02ARNOLD BURKE
RESPONDENTBy: 

Arnold Burke

APPROVED AND SO ORDERED:

Dated: 9.9.02

VERMONT BOARD OF NURSING

By: 

Chairperson

Date of Entry: 9/10/02