

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

IN RE:)
WILLIAM HUGH BUTTERFIELD) Docket No. NU43-0107
License No. 026-0021121)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, William Hugh Butterfield, who stipulate and agree as follows:

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. William Hugh Butterfield (the "Respondent") of Essex Junction, Vermont is a registered nurse holding license number 026-0021121, issued by the State of Vermont. This license was originally issued on or about July 8, 1993 and is set to expire on March 31, 2007.

3. During all relevant times the Respondent was practicing as a Registered Nurse at Fletcher Allen Health Care (the "Facility") in Burlington, Vermont.

4. Between approximately April 15, 2006 and November 15, 2006 the Respondent was involved in approximately 54 instances where narcotics or controlled substances were involved and charting discrepancies or distribution irregularities were apparent. The Respondent claims that these were simple charting errors and due to a number of life stressors including several deaths to individuals close to him and his wife's disability. The Respondent told the State's investigator that during the relevant time period he would break down and "weep every morning" before work.

5. On or about April 19, 2006 the Respondent took an unused portion of Lorazepam out of the Facility. The Respondent claims that he discarded this medication. When questioned about this by the Facility administration the Respondent replied "I knew you were going to find that one."

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6. On or about August 8, 2006, a hospital pharmacist had expressed concern over the Respondent's private and repeated requests for loperamide, an antidiarrheal medication, for his personal usage. On information and belief this medication is non-prescription, thus the Respondent could have obtained it from any pharmacy if he had thought to get it in advance of working hours. Bowel disturbances may be indicative of narcotics abuse/withdrawal. Based on this fact, the Respondent's usage report from the prior month was obtained and no discrepancies were found in the records reviewed.

7. On or about November 15, 2006 the Respondent failed to administer an antibiotic to a leukemia patient with a life threatening infection. The dose of medicine that should have been administered was found on a windowsill 48 hours later.

8. On or about November 13, 2006 a patient was ordered a one time dose of 5 mg Oxycodone. PYXIS indicates that the Respondent withdrew a 30 mg dose. The Respondent claimed to have received and administered the 5mg dosage. The State's position is that either the patient was given a dosage six times the one prescribed or the medication was diverted, because it was a one time order and there was no pain notation to support the order.

9. By way of history, the Respondent's license was conditioned on March 11, 1998 for medication errors and destroying Facility documentation in an effort to cover up one of the medication errors.

10. The Respondent admits that over this period of time he made numerous and serious medication documentation errors and mistakes involving narcotic medications. The parties agree that if this matter were litigated before the Board of Nursing, that the Board could find that either the Respondent diverted medications or that he did not divert medications. The Respondent denies diverting medications. This Stipulation is neither an admission of liability by the Respondent, not a concession by the State of Vermont that its charges are not well founded. To avoid delay, uncertainty, inconvenience, and expense of protracted litigation of the charges above the Parties reach a full and final Stipulation pursuant to these understandings and the Order below.

Non

Relief Requested

11. The above acts and circumstances, alone or in combination, violate:

- i. 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause);
- ii. 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to harm the public).

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Understandings

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 his 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 he 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 his right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
18. Respondent agrees that the Order set forth below may be entered by the Board.

ORDER

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

A. The Board of Nursing hereby **SUSPENDS** the Respondent's license to practice nursing for a **MINIMUM OF THREE (3) MONTHS**. Before applying 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; and (2) the results of the treatment with the drug and alcohol abuse evaluator must indicate that the Respondent does not present a risk to the safety, health or welfare of his potential patients. The Respondent's license shall not be reinstated until these prerequisites are met, regardless of whether more than three (3) months have passed since the suspension went into effect. Once reinstated, Respondent's license will be **CONDITIONED FOR THREE (3) YEARS**. The conditions will be 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 three (3)

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years of supervised registered nursing practice in which Respondent works at least forty (40) hours every two (2) weeks as a registered nurse. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis.

(3) Documentation Course.

Respondent shall complete (i.e., receive a passing grade, if applicable) a course focusing on documentation, with prior approval by the Board or its designee, and then submit written documentation (certificate of completion, etc.) to verify same to the satisfaction of the Board or its designee. This course must be completed within six (6) months of the date of entry of this Stipulation and Consent Order.

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

This provision will not be necessary if not recommended by the independent substance abuse evaluation. 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 Nursing Board that such counseling is no longer necessary. Respondent shall enter into and comply with the substance abuse treatment plan approved by the Board and the treating professional.

(5) Notification to Treating Professional.

Respondent shall provide a copy of this Stipulation and Consent Order to his treating professional and cause his treating professional to inform the Board, in writing and on professional letterhead, of receipt of the Stipulation and Consent Order and the treating professional's ability to comply with the conditions related to treatment and with all other terms of this Consent Order.

(6) Reports from Treating Professional.

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

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

(7) Participation in Recovery Groups.

This provision will not be necessary if not recommended by the independent substance abuse evaluation. Respondent shall participate as recommended by his treating professional, in Narcotics Anonymous meetings and/or other recovery group(s).

(8) 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

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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.

(9) 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.(10) for the period of time described in paragraph A.(2). At the Disposition Hearing the State and the Respondent may propose an alternative this condition to the Board.

(10) Drug Use Exception.

The Respondent shall not take controlled substances unless necessary. Respondent may take scheduled/controlled medications lawfully prescribed for a bona fide illness or condition by a physician, dentist, or nurse practitioner whose identity shall be made known to the Board in writing by Respondent within forty-eight (48) hours of the establishment of the practitioner/patient relationship. Respondent shall ensure that the physician, dentist or nurse practitioner informs the Board, in writing and on appropriate letterhead, of knowledge of Respondent's substance abuse issue(s) within one (1) week of entering into the practitioner/patient relationship. Respondent shall inform the Board in writing of all scheduled/controlled medications prescribed, including the name of the prescribing practitioner, within forty-eight (48) hours of receiving the prescription.

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

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

(11) Interview with the Board or its Designee.

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

(12) Notification to Employers/Nursing School.

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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 registered 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 registered 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.

(13) Reports from Employers.

Within one (1) month of the date of entry of this Order or within one (1) month of the commencement of registered nursing employment and monthly thereafter, Respondent shall cause every registered 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.

(14) Practice Under Supervision.

Respondent shall practice as a registered nurse only in a setting where Respondent has direct supervision for the entire shift by a registered nurse who is licensed and in good standing.

(15) 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.

(16) Administration of Medications.

Respondent is prohibited from administering any controlled substances. This condition may be removed only by the Respondent filing a petition with the Board after he has worked as nurse for twelve (12) weeks for at least 40 hours 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 any such petition, the Respondent must include appropriate support from his treating professional and employer or nursing school administrator and a description of the documentation and inventory control procedures in place.

(17) Notification of Place of Employment/ Personal Address/Telephone Number.

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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) 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.

(19) 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 registered nursing license within thirty (30) days of the date of entry of this Order. If the Respondent fails to provide such notification, it will be considered a violation of this Order.

(20) License Renewal.

If the Respondent's license expires while this Order is still in effect, this Order does not automatically extend the license. In that situation, in order to continue to practice as a registered 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.

(21) Release of Information Forms.

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. 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.

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.

This consent expires when the conditions are removed from the Respondent's registered nursing license.

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

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.

(22) Costs

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

(23) Violation of this Order

If the Respondent violates the terms of this Order in any respect, the Board, after giving the Respondent notice and an opportunity to be heard, may rescind or modify this Order and impose additional appropriate disciplinary actions. If a complaint of unprofessional conduct is made against the Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

(24) Completion of Conditional License Period

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on his license. The Respondent must present proof that he has fully complied with the terms of this Order and that he can safely and competently perform 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).

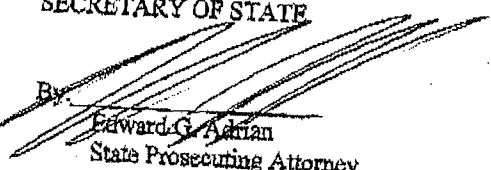
D. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

Dated:

4/5/07

STATE OF VERMONT
SECRETARY OF STATE

By: 
Edward G. Adrian
State Prosecuting Attorney

WILLIAM HUGH BUTTERFIELD
RESPONDENT

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Dated: 4/5/7

By: William Hugh Butterfield
William Hugh Butterfield

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 4/5/07

By: John L. Pacht
John L. Pacht, Esq.

APPROVED AND SO ORDERED:
VERMONT BOARD OF NURSING

Dated: 4-9-07

By: Sinda Rice
Chairperson
(Acting)

Date of Entry: 4/11/07

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

In re: William Hugh Butterfield }
License No. 26-0021121 }
Docket No. NU43-0107 }

ENTRY ORDER

On Monday 12 March 2007 this matter came to the Vermont Board of Nursing after receipt of a petition for a temporary order filed by State of Vermont on Friday 9 March 2007 pursuant to 3 V.S.A. § 814 (summary suspension).

At the hearing, the State withdrew its petition for summary suspension and the two parties instead made a joint motion to the board. After hearing the motion, the Board voted to adopt the request of the parties as its own motion. As a result, the Board voted to suspend Respondent William Butterfield's license for a period of one month effective immediately. The order issued by the Board on 12 March 2007 has the following terms:

1. The Board suspends Respondent's license as of 12 March 2007. The license shall remain suspended until the conclusion of the next regularly scheduled Board of Nursing meeting, which is currently set for Monday 9 April 2007.

2. This one month suspension (between the 12 March and the 9 April hearing dates) will allow the State of Vermont to bring either a request for summary suspension, the parties to submit a joint stipulation, the State to bring professional conduct charges against the Respondent or some other action deemed appropriate by the State.

3. This temporary order shall expire at the conclusion of the next regularly scheduled Vermont Board of Nursing Hearing. The next currently scheduled Board hearing date is 9 Monday April 2007. If, for any reason, the Board is unable to meet on 9 April 2007, the license shall remain suspended until the Board's next scheduled meeting.

Vermont Board of Nursing:

By: *Susan O. Farrell*
Susan O. Farrell, RN
Board Chairperson

Date: *March 26, 2007*

OFFICE OF PROFESSIONAL REGULATION
DATE OF ENTRY: *3/27/07*