

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

IN RE:)
MICHAEL J. BYERS)
License No. 025.0007983)

Docket No.: 2012-279

STIPULATION AND CONSENT ORDER

Stipulation

NOW COME the State of Vermont, by and through State Prosecuting Attorney Gabriel M. Gilman, and the Respondent, Michael J. Byers, who stipulate and agree as follows:

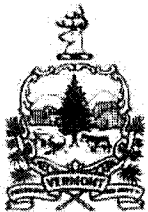
Board Authority

1. The Vermont Board of Nursing 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.
2. In a case involving noncompliance with a statute or rule relating to administrative duties not related to patient, client, or customer care, a board or hearing officer may determine that ordering a monetary civil penalty does not constitute a finding of unprofessional conduct. 3 V.S.A. § 129(a)(3).

Statement of Facts

3. Michael J. Byers ("Respondent") of White River Junction, Vermont is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025.0007983. This license was originally issued on or about September 19, 2000 and expires on or about January 31, 2014.
4. On or about February 1, 2012 the Respondent's license lapsed for failure to renew. While his license was inactive, Respondent worked as a LPN Case Manager at Valley Terrace Assisted Living. On or about April 30, 2012, Respondent renewed his license. The time period the Respondent worked while his license was lapsed was approximately three months. The lapse was inadvertent, and Respondent cured it immediately upon learning of it.

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Noncompliance with Administrative Duties

5. By committing the act(s) and/or omission(s) described above, Respondent has violated 26 V.S.A. § 1584(a)(3) ("It shall be violation of this chapter for any person, including any corporation, association, or individual, to practice nursing unless duly registered and currently licensed to do so under the provisions of this chapter."). This violation did not relate to patient care.

Understandings

6. Respondent understands that the Board of Nursing 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 him 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 **ORDERED AND ADJUDGED** as follows:

- A. Whereas this violation occurred only in respect to the Respondent's noncompliance with administrative duties, the Board of Nursing does NOT make a finding of unprofessional conduct, but rather imposes a **MONETARY CIVIL PENALTY IN THE AMOUNT OF TWO HUNDRED DOLLARS (\$200)** on the Respondent. This penalty is to be paid within ninety (90) days of the date of entry of this Order.

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- B. Notwithstanding any provision above, the Respondent must continue to meet all Board of Nursing 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: 2/14/13

By: 
Gabriel M. Gilman
State Prosecuting Attorney

MICHAEL J. BYERS
RESPONDENT

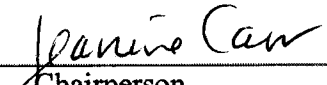
Dated: 2-8-13

By: 
Michael J. Byers

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 3/4/13

By: 
Chairperson

Date of Entry: 3/4/13

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