

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

IN RE:
DENISE M. CARR
License No. 025.0007593

)))
Docket No. 2010-82

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney BetsyAnn Wrask, and the Respondent, Denise M. Carr, 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. Denise M. Carr (the "Respondent") of Stockbridge, Vermont is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025.0007593. This license was originally issued on or about October 20, 1997 and is currently set to expire on or about January 31, 2012.
3. By way of history, on or about December 9, 1997, the Board summarily suspended Respondent's license under docket number NU18-1197. Attachment A. Thereafter, on or about February 10, 1998 pursuant to a Stipulation and Consent Order, the Board conditioned Respondent's license for three (3) years. Attachment A. This discipline was due in part to Respondent's admission that she obtained large amounts of narcotic painkillers from more than one doctor for her personal use by not disclosing to each doctor that she was receiving prescriptions for these drugs from the other physicians, as well as Respondent's admission that she had a substance abuse problem with prescription drugs. Attachment A.
4. By way of further history, on or about January 17, 2007 pursuant to a Stipulation and Consent Order As Modified After Evidentiary Hearing, the Board suspended Respondent's license and set conditions of a minimum of three (3) years once

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Respondent obtained reinstatement. Attachment B. This discipline was due in part to Respondent's admission that she took another person's Oxycodone medication because she had run out of her own prescription and was afraid of going through withdrawal. Attachment B.

5. On or about September 30, 2009, Respondent's license was reinstated with the conditions imposed pursuant to Attachment B.
6. As of on or about January 28, 2010, Respondent was out of compliance with her conditions in part due to the following:
 - a. Respondent violated Order A(4) by not providing a copy of her Stipulation and Consent Order to her treating professional and causing her treating professional to inform the Board of receipt of the Stipulation and the ability to comply with those conditions;
 - b. Respondent violated Order A(5) by not causing her treating professional to send to the Board monthly treating professional reports; and
 - c. Respondent violated Order A(10) by failing to call in to First Lab on approximately forty-one (41) occasions, and on approximately two (2) of those occasions, Respondent missed two (2) urine screen collections;
7. On or about January 28, 2010, the Board sent Respondent a non-compliance letter regarding the non-compliance described above in ¶6.
8. As of on or about March 30, 2010, Respondent was out of compliance with her conditions in part due to the following:
 - a. Respondent violated Order A(4) by not providing a copy of her Stipulation and Consent Order to her treating professional and causing her treating professional to inform the Board of receipt of the Stipulation and the ability to comply with those conditions;
 - b. Respondent violated Order A(5) by not causing her treating professional to submit to the Board a monthly treating professional report; and
 - c. Respondent violated Order A(10) by failing to call in to First Lab on or about March 12, 2010.
9. On or about March 30, 2010, the Board sent Respondent a non-compliance letter regarding the non-compliance described above in ¶8.
10. To date, Respondent has had random urine screens test positive for alcohol on or about January 14, 2010; January 29, 2010; February 12, 2010; March 1, 2010; and March 24, 2010 in violation of Orders A(10) and (11).

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11. On or about April 2, 2010, the Board received a treating professional report dated January 4, 2010 which stated that Respondent admitted to having an alcoholic drink, in violation of Order A(11).
12. On or about April 2, 2010, the Board received a treating professional report dated January 28, 2010 which stated that Respondent admitted to having "bouts with alcohol," and her treatment provider noted that Respondent has "occasional slips with alcohol," in violation of Order A(11).
13. On or about April 2, 2010, the Board received a treating professional report dated March 11, 2010 which stated that Respondent admitted that she cannot stop using alcohol, and that she consumes approximately two (2) glasses about three (3) times a week, in violation of Order A(11).

Charges

14. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:
 - a. 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); and
 - b. 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).

Understandings

15. Respondent admits that the facts above are true and that the conditions below are necessary to protect the public.
16. 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.
17. 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.
18. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
19. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.

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20. 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.
21. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
22. 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 **INDEFINITELY SUSPENDS** the Respondent's license to practice nursing. Within forty-five (45) days of requesting 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 who has verified receipt of this Order, the results of which must indicate that the Respondent does not present a risk to the safety, health or welfare of her potential patients; 2) submit to the Board the results of a minimum of three (3) random urine analyses, collected in an observed setting; administered by a person or entity 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, the results of which 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; 3) enter into a treating professional agreement with a treating professional pre-approved by the Board; and 4) enter into a substance abuse treatment plan approved by the Board with the pre-approved treating professional. At a minimum, the Respondent's license shall not be reinstated until these prerequisites are met. Once reinstated, Respondent's license will be **CONDITIONED FOR A MINIMUM OF THREE (3) YEARS** pursuant to the conditions enumerated in Attachment B.
- 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:

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SECRETARY OF STATE

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Dated: 4.23.10

By:

Betsy Ann Wrask
State Prosecuting Attorney

DENISE M. CARR
RESPONDENT

By:

Denise M Carr
Denise M. Carr

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 5/10/10

By:

William P. Puckett, LPN
Chairperson

Date of Entry: 5/13/10
nu.carr.stip

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