

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

IN RE:	)	
STEVEN ALLEN CARVER	)	Docket No. 2020-69
Application Tracking No. LI- 352515	)	

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Benjamin E. Novogroski, and the Applicant, Steven Allen Carver, who stipulate and agree as follows:

Board Authority

1. The Vermont Board of Nursing (the “Board”), has authority to deny an applicant’s license if it finds that the applicant has engaged in unprofessional conduct in any jurisdiction. 3 V.S.A. § 129a; 26 V.S.A. § 1582; the Administrative Rules of the Vermont Board of Nursing (the “ABRN”); and the Rules of the Office of Professional Regulation (the “OPR Rules”).

Stipulated Facts

2. Steven Allen Carver (the “Applicant”) of Bennington, Vermont submitted an application for licensure as a Registered Nurse on November 13, 2019 (the “Application”). The Application was considered complete on or about June 28, 2020.
3. Applicant holds a Registered Nurse license in the State of New Mexico. This license was first issued on November 9, 2001 and expires on October 31, 2021.
4. Applicant holds a Certified Nurse Practitioner License in the State of New Mexico. This license was first issued on July 11, 2001 and expires on October 31, 2021.
5. Applicant held a Registered Nurse license in the State of Washington from October 21, 1991 through October 31, 2015.
6. Applicant held a Certified Nurse Practitioner License in the State of Washington from August 16, 2002 through October 31, 2016.
7. On the Application, Applicant answered “YES” to the question, “Has Vermont or any other state, federal authority, or other jurisdiction taken any DISCIPLINARY ACTION

against (e.g., warned, reprimanded, fined, restricted, conditioned, suspended, revoked) a license, certificate, or registration that you hold or have held in any profession or occupation?”

8. Applicant disclosed that he was disciplined in 2008 for failing to renew his National Nurse Practitioner Certification.
9. On February 13, 2008, the New Mexico Board of Nursing reprimanded and fined Applicant in the amount of \$1,250.00 for practicing beyond his scope of practice.
10. Applicant also disclosed that in 2014, while working as a nurse practitioner at the Pierce County Jail in Tacoma, Washington, he passed out at work and was taken to the hospital (the “2014 Incident”).
11. While at the hospital, a blood alcohol concentration (“BAC”) test was administered and indicated Applicant was intoxicated.
12. Applicant disclosed that, as a result of the 2014 Incident, the State of Washington Nursing Commission cited him for working in an altered state under case numbers 2015-4177RN and 2015-4178AP (collectively, the “Washington Cases”).
13. Applicant admitted to the conduct outlined in the Washington Cases.
14. On or about June 22, 2015, Applicant executed a Substance Abuse Referral Contract to enter the Washington Health Professional Services Program (the “WHPS Program”). As part of the Substance Abuse Referral Contract, Applicant agreed to abide by certain conditions for a period of up to five (5) years, which may have included:
 - a. Undergoing intensive substance abuse treatment in an approved treatment facility;
 - b. Remaining free of all mind-altering substance including alcohol except for medications prescribed by an authorized prescriber;
 - c. Completing the prescribed aftercare, which may include individual and/or group psychotherapy;
 - d. Causing the treatment counselor(s) to provide reports that include treatment prognosis and goals to the WHPS Program at specified intervals;
 - e. Submitting to random drug screening as specified by the WHPS Program;
 - f. Attending recovery support groups as specified by the WHPS Program; and
 - g. Complying with specified employment conditions and restrictions as defined by the WHPS monitoring contract to include WHPS and receiving approval prior to a change in work status, shift, employment position, or place of employment.

15. As a result of entering the WHPS Program, and in lieu of discipline on his New Mexico nursing licenses, Applicant entered the State of New Mexico Board of Nursing's Diversion Program (the "Diversion Program") on October 13, 2015.
16. Applicant contracted to be a part of the Diversion Program for a period of five (5) years.
17. Within the Diversion Program, Applicant was required to provide employer information to the Diversion Program and arrange for monthly supervisory reports to be signed by his supervisor.
18. However, during his participation in the Diversion Program between November 2016 and January 2018, Applicant was employed as a Certified Nurse Practitioner and failed to inform the Diversion Program of his employment, and also failed to provide supervisory reports.
19. As a result, on December 7, 2018, Applicant was reprimanded and fined \$500.00 for a violation of federal or state statutes, regulation or rules, among other sanctions.
20. Subsequently, while still participating in the Diversion Program, Applicant forged his employer's signature when submitting reports to the New Mexico Board of Nursing during the 2018 and 2019 calendar years.
21. As a result, on February 10, 2020, Applicant was unsatisfactorily discharged from the Diversion Program, placed on probation for one (1) year, and fined \$750.00 for conduct evidencing unethical fitness, among other sanctions.

Violation One: 26 V.S.A. § 1582(a)(3) – Engaging in a Character Likely to Deceive, Defraud, or Harm the Public.

22. Paragraphs 2 through 21 above are incorporated herein.
23. Under Vermont law, Applicant shall not engage in a character likely to deceive, defraud, or harm the public.
24. Paragraphs 2 through 21 above demonstrate that by (i) failing to renew his license and practicing outside of his scope in 2008; (ii) being intoxicated at work in 2014; (iii) failing to report employment and submit the related employer reports pursuant to the Diversion Program from November 2016 to January 2018; and (iv) forging his employer's signature on employer reports pursuant to the Diversion Program from 2018 to 2019, Applicant engaged in conduct of a character likely to deceive, defraud, or harm the public.
25. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Applicant has committed unprofessional conduct in violation of 26 V.S.A. § 1582(a)(3).

Violation Two: 3 V.S.A. § 129a(a)(15) – Failure to Exercise Independent Professional Judgment in the Performance of Licensed Activities When that Judgment was Necessary to Avoid Action Repugnant to the Obligations of the Profession.

26. Paragraphs 2 through 21 above are incorporated herein.
27. Applicant must exercise quality independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession, including, but not limited to, remaining sober while engaging in nursing activities and abiding by the agreed-to conditions of a diversion program aimed to ensure safe nursing practice.
28. Paragraphs 2 through 21 above demonstrate that by (i) being intoxicated at work in 2014; (ii) failing to report employment and submit the related employer reports pursuant to the Diversion Program from November 2016 to January 2018; and (iii) forging his employer's signature on employer reports pursuant to the Diversion Program from 2018 to 2019, the Applicant failed to exercise quality independent professional judgment in the performance of licensed activities when that judgment was necessary to avoid action repugnant to the obligations of the profession
29. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Applicant has committed unprofessional conduct in violation in violation of 3 V.S.A. § 129a(a)(15).

Violation Three: 3 V.S.A. § 129a(b)(2) – Failure to Practice Competently by Reason of Any Cause on a Single Occasion or on Multiple Occasions May Constitute Unprofessional Conduct, Whether Actual Injury to a Client, Patient, or Customer has Occurred. Failure to Practice Competently Includes: (2) Failure to Conform to the Essential Standards of Acceptable and Prevailing Practice.

30. Paragraphs 2 through 21 above are incorporated herein.
31. Under Vermont law, Applicant must practice competently by adhering to the essential standards of acceptable and prevailing practice.
32. The essential standards of acceptable and prevailing practice include, but are not limited to, being sober while engaging in nursing activities and being truthful and transparent with licensing authorities and diversion programs.
33. Paragraphs 2 through 21 above demonstrate that by (i) failing to renew his license and practicing outside of his scope in 2008; (ii) being intoxicated at work in 2014; (iii) failing to report employment and submit the related employer reports pursuant to the Diversion Program from November 2016 to January 2018; and (iv) forging his employer's signature on employer reports pursuant to the Diversion Program from 2018 to 2019, Applicant failed to conform to the essential standards of acceptable and prevailing practice.

34. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Applicant has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(2).

Violation Four: 3 V.S.A. §129a(a)(5) – Practicing the Profession When Medically or Psychologically Unfit to Do So.

35. Paragraphs 2 through 21 above are incorporated herein.
36. Under Vermont law, Applicant shall practice only when medically and/or psychologically fit to do so.
37. Paragraphs 2 through 21 above demonstrate that by being intoxicated at work in 2014 Applicant practiced the profession when medically unfit to do so.
38. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Applicant has committed unprofessional conduct in violation of 3 V.S.A. § 129a(b)(5).

Understandings

39. Applicant acknowledges that the facts above are true and that the conditions set out in the Consent Order below are appropriate and necessary to protect the public.
40. Applicant 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.
41. Applicant specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced Applicant's rights to a fair and impartial hearing if this agreement is not accepted by the Board and proceeds to a contested hearing.
42. Applicant has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
43. Applicant is not under the influence of any drugs or alcohol at the time Applicant signs this Stipulation and Consent Order.
44. Applicant 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.
45. Applicant voluntarily waives Applicant's right to a contested hearing before the Board and waives any right to appeal from this Stipulation and Consent Order.
46. Applicant 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. Applicant is granted licensure as a Registered Nurse.
- B. The Board of Nursing hereby **CONDITIONS** the Applicant's license for a **MINIMUM OF ONE (1) YEAR, commencing on the date of entry of this order**. The **CONDITIONS** shall be as follows:
 1. Re-issuance of License. Upon the commencement of these conditions (the "Conditions"), Applicant shall be issued a license labeled "conditioned."
 2. Length of Time of Conditions Imposed. The Conditions shall remain in place until Applicant has completed all Conditions ordered. Applicant shall be subject to the Conditions until Applicant completes **a minimum of one (1) year** of supervised nursing practice in which Applicant works at least forty (40) hours every two (2) weeks as a nurse. Part time hours of fewer than forty (40) hours every two (2) weeks shall be credited on a prorated basis. Applicant shall be prohibited from working more than forty (40) hours per week.
 3. Monitoring. The Office of Professional Regulation, through the Enforcement Case Manager (the "Case Manager"), shall be responsible for monitoring Applicant's compliance with these Conditions. All reports or correspondence regarding compliance with these Conditions shall be submitted to the Case Manager in accordance with the Conditions listed below.
 4. Random Drug and Alcohol Testing. Applicant shall submit to random drug and alcohol testing through the designated entity. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes. All specimens collected for tests shall be collected in an observed setting. All test results shall be negative.

Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any test shall cause that test result to be presumed positive. Any positive test result shall constitute a violation of this Order. Failure to check-in to determine whether Applicant is selected for testing on any given day, regardless of whether Applicant is actually selected that day, may be considered a violation of this Order.
 5. Abstain from Drug and Alcohol Use. Applicant shall abstain completely from the consumption or possession of alcohol and drugs.
 6. Drug Use Exception. Applicant may take scheduled/controlled medications lawfully prescribed for a bona fide illness or condition by a health care practitioner disclosed to the Case Manager in writing by Applicant within forty-eight (48) hours of the prescription. If requested by the Case Manager, Applicant's health care practitioner shall acknowledge, in

writing and on appropriate letterhead, an understanding of Applicant's substance abuse issue(s) within seven (7) days of entering into the practitioner/patient relationship. Additionally, the practitioner shall inform the Case Manager of all scheduled/controlled medications prescribed – and the anticipation of how long such prescriptions will need to be taken – within seven (7) days of the prescription.

The Case Manager may request that the practitioner document the necessity for the prescribed scheduled/controlled medications or other medications known to have abuse potential.

Applicant shall provide the Case Manager with a current medication list of any medications taken on a scheduled or as-needed basis on forms issued by the Case Manager within seven (7) days of the date of reinstatement and shall update this list within forty-eight (48) hours of any change in these medications or when requested by the Case Manager.

7. Notification to Employers/Educational Programs. Applicant shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which Applicant practices as a nurse and inform them of Applicant's conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any subsequent nursing employment, Applicant shall cause Applicant's immediate supervisor to submit to the Case Manager an employer agreement form, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

In the event Applicant is attending a nursing program which has a clinical portion that involves actual patient care, Applicant shall provide a copy of the Stipulation and Consent Order to the Program Director. Applicant shall cause the Program Director to submit to the Case Manager a nursing program agreement form provided by the Case Manager, acknowledging receipt of the Stipulation and Consent Order and the ability of the program to comply with the conditions in the Consent Order during clinical experience.

8. Practice Under Supervision. Applicant shall practice as a nurse only in a setting where Applicant is supervised for the entire shift by a licensed registered nurse that is in good standing with the Board. The level of supervision required is: On-Site Supervision. On-Site supervision means the supervising nurse is present in the same facility as Applicant.
9. Reports from Employers/Program Director. Within one (1) month of the date of licensure or within one (1) month of the commencement of nursing employment and **monthly** thereafter, Applicant shall cause every nursing employer Applicant has worked for during the month to submit to the Case Manager an evaluation of Applicant's work performance and attendance during that month. In the event Applicant is attending a nursing program, Applicant shall cause the Program Director to submit to the Case Manager, on a monthly basis, a written evaluation of Applicant's performance and attendance. These reports shall be submitted in writing on forms issued by the Case Manager. All employer reports shall indicate satisfactory performance (i.e., consistently meeting all standards of nursing practice) and attendance.

10. Types of Employment Prohibited. Applicant shall not work in a supervisory role. Applicant shall not work for a nurse registry, traveling nurse agency, float-pool, temporary nursing employment agency, or as a private duty nurse or personal care provider requiring a nursing license during the effective period of this Consent Order.
 11. Interview with the Board or its Designee. Applicant shall appear in person or by telephone for interviews with the Board or Case Manager upon request.
 12. Out-of-State Practice. Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Applicant shall first obtain approval from the Case Manager. Out-of-state nursing practice will be approved so long as Applicant can still comply with the provisions of this Consent Order. If Applicant receives discipline on a professional license held in another state during the conditioned period, Applicant must inform the Case manager of such, in writing, within ten (10) days of receiving such discipline.
 13. Notification of Place of Employment/Personal Address/Telephone Number. Within ten (10) days of the date of entry of this Consent Order, Applicant shall notify the Case Manager, in writing, of Applicant's current place of employment, personal address, email address, and telephone number. Applicant shall further notify the Case Manager, in writing, within forty-eight (48) hours of any change in employment (including resignation or termination), personal address, email address, or telephone number.
 14. Notification to Other States. In the event that Applicant is licensed in nursing in any other state(s), Applicant must inform the nursing licensing board of the state(s) in which Applicant is licensed of the conditional status of Applicant's Vermont nursing license within thirty (30) days of the date of entry of this Order.
 15. License Renewal. This Order does not automatically extend the license and Applicant must comply with the requirements for license renewal.
 16. Costs. Applicant shall bear all costs of complying with this Consent Order.
 17. Violation of this Order. If Applicant violates this Order the Board, after giving Applicant 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 Applicant during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.
 18. Completion of Conditional License Period. Applicant shall submit a petition to the Docket Clerk to remove any and all conditions from Applicant's license. The State will assent to or oppose Applicant's petition. The Board will conduct a hearing if necessary. Applicant bears the burden of proof and must present evidence that Applicant has fully complied with the terms of this Order and these conditions are no longer necessary to protect the public.
- C. Notwithstanding any provision above, the Applicant must continue to meet all Board requirements for maintaining a license, license renewal and license reinstatement.

D. 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).

E. This Stipulation and Consent Order will remain part of Applicant'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: January 8, 2021

By: /s/ Benjamin E. Novogroski
Benjamin E. Novogroski
State Prosecuting Attorney

STEVEN ALLEN CARVER
APPLICANT

Dated: 1-8-21

By: [Signature]
Steven Allen Carver

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: _____

By: _____
Chairperson

Date of Entry: 1/11/2021

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 1/8/21

By: [Signature]
Jessica L. Burke, Esq.
Burke Law