

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

IN RE:

MARTHA W. CHADWICK
License No. 026-0009302

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)
)

Docket No. NU83-0308

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Edward G. Adrian, and the Respondent, Martha W. Chadwick, 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 ("ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Martha W. Chadwick (the "Respondent") of Winooski, Vermont is a registered nurse holding license number 026-0009302, issued by the State of Vermont. The Respondent has held this license since at least April 1, 1991 and it is currently set to expire March 31, 2009. The Respondent is also licensed in the State of New Hampshire as a registered nurse.
3. The Respondent's license was indefinitely suspended by the Board pursuant to a Findings of Fact, Conclusions of Law, and Order (the "Order") entered on April 30, 2008. Attachment A. This discipline was based on the New Hampshire Board's revocation of the Respondent's New Hampshire license due to the Respondent's inappropriate handling of controlled substances. Attachment A.
4. At all relevant times, the Respondent was employed as a registered nurse at Fletcher Allen Health Care, (the "Facility"). On or about April 7, 2008 the Respondent admitted to Investigator Pamela Barney-Hango that over the time period of approximately August, 2007 – March, 2008 the Respondent had been diverting narcotic medications, principally Percocet from the Facility. The diversion would

STATE OF VERMONT



Prosecuting Attorney
Office of
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9 Baldwin Street
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often occur when an emergency room patient received a starter pack of Percocet and the Respondent would take one and give the patient the remaining four pills.

Charges

5. 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)(3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession);
 - b. 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);
 - c. 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause);
 - d. Vermont Board of Nursing Administrative Rules Chapter 4, Rule IV, II, C ("Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs, narcotics, chemicals or any other type of materials);
 - e. 26 V.S.A. § 1582(a)(5) (is habitually intemperate or is addicted to the use of habit forming drugs); and
 - f. 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public).

Understandings

6. Respondent admits the facts above are true and that the conditions below are necessary to protect the public.
7. 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.
8. 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.
9. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
10. 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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11. 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.
12. 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.
13. Respondent agrees that the Order set forth below may be entered by the Board.

ORDER

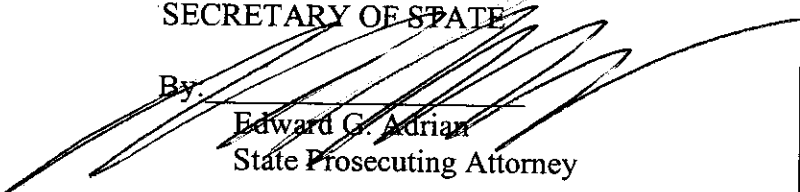
Based on the Stipulation above, it is **ORDERED AND ADJUDGED** as follows:

- A. The Board of Nursing hereby **REVOKES** Respondent's license to practice registered nursing.
- B. 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).
- C. 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: 9/4/08

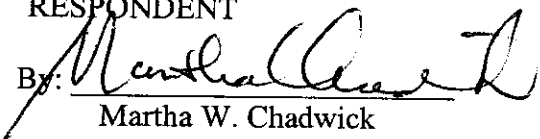
STATE OF VERMONT
SECRETARY OF STATE

By: 

Edward G. Adrian
State Prosecuting Attorney

Dated: Sept 12 2008

MARTHA W. CHADWICK
RESPONDENT

By: 

Martha W. Chadwick

APPROVED AND SO ORDERED:

Dated: 10-13-08

Date of Entry: 10/14/08

VERMONT BOARD OF NURSING

By: 

Chairperson

nu.chadwick.stip

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

<i>In re</i>	Martha Chadwick	}
License No.	026-0009302	}
Docket Nos.	NU02-0707 &	}
	NU83-0308	}

**FINDINGS OF FACT
CONCLUSIONS OF LAW & ORDER**

On 14 Monday April 2008, the Vermont Board of Nursing (Board) heard this case of alleged unprofessional conduct against the Respondent Martha Chadwick. Board members Ellen W. Leff, Donarae Metcalf, Sandra J. Norton, Linda M. Y. Rice (Chairperson), Deborah Robinson, Alan H. Weiss and William White participated in this hearing on the merits. Board member Jeanine Carr recused herself from the proceedings.

The Respondent was scheduled to appear by phone but the Board was unable to contact her. Edward G. Adrian represented the State of Vermont. Board counsel Kevin F. Leahy presided.

The following findings of fact, conclusions of law and Board order address two docket matters:

Docket NU02-0707 is a merits hearing. This case stems from a disciplinary action previously taken against the Respondent's New Hampshire license. The Board finds unprofessional conduct in Dkt. NU02-0707 and imposes a sanction of indefinite suspension on the Respondent's registered nursing license.

Docket NU83-0308 is a petition filed by the State of Vermont. The State seeks a temporary order summarily suspending the Respondent's license pursuant to 3 V.S.A. §814(c). This State's petition in Dkt. NU83-0308 raises allegations of an imminent threat to public safety that it argues requires a suspension of the Respondent's license prior to a full merits hearing. The Board denies the State's petition for extraordinary relief as moot.

**Findings of Fact &
Conclusions of Law:**

1. The Respondent holds a Board issued State of Vermont registered nursing license.
2. The Board licenses the Respondent and may exercise its disciplinary authority if the Board finds that the State has proven allegations of licensee unprofessional conduct. *See generally*, 26 V.S.A. Chapter 28; 3 V.S.A. § 129(a); the Admin. Rules for the Bd. of Nursing and the Admin. Rules for the Office of Prof. Reg.

3. The State of Vermont filed a specification of charges (the "2007 Charges") against the Respondent dated 30 November 2007 alleging unprofessional conduct.
4. The 2007 Charges arise from a disciplinary order entered by the New Hampshire Board of Nursing (the "New Hampshire Order") in June 2007.
5. Since November 2007, when the State of Vermont filed the 2007 Charges, Respondent has worked at Fletcher Allen Health Center ("FAHC") in Burlington, Vermont.
6. In a disciplinary hearing, the state has the burden of proof. To satisfy its evidentiary burden, it must "show by a preponderance of the evidence that [a licensee] has engaged in unprofessional conduct." 3 V.S.A. § 129a (c).
7. The primary factual allegation contained in the State of Vermont's 2007 Charges is that the New Hampshire Board revoked the Respondent's New Hampshire nursing license. The New Hampshire revocation resulted from findings of inappropriate handling of controlled substances. *See* Charges at ¶ 3.
8. The New Hampshire Board of Nursing based its disciplinary action on a specific finding that the Respondent "withdrew medication without first obtaining medical orders, without contemporaneously documenting [the medication's] administration to patients". *See* Charges, Exhibit A (NH Bd. of Nursing, Dkt. 07-0604-0106, Order entered 22 June 2007).
9. The New Hampshire Order also referenced documentation irregularities that were the Respondent's responsibility. *Id.* ("unaccounted for controlled substances").
10. This Board considered the findings of the New Hampshire Board's Order.
11. This Board heard no cause from either party to consider factors other than those considered by the New Hampshire Board of Nursing.
12. The Respondent submitted no evidence mitigating or contradicting the findings of the New Hampshire Board of Nursing, and the parties presented no additional evidence on any issue related to the New Hampshire Order.
13. The Vermont Board of Nursing has the authority to take disciplinary action against a Vermont licensee for professional misconduct in another jurisdiction. 3 V.S.A. §129(a)(5) (Nursing Board may "discipline any licensee . . . who has had a license . . . disciplined in another jurisdiction" if the conduct would have been unprofessional conduct under Vermont law).
14. The conduct cited by New Hampshire would have been unprofessional conduct in Vermont as well.
15. Because Respondent's actions are unprofessional conduct, the Board will exercise its authority under 3 V.S.A. §129(5) and use the New Hampshire Order as grounds to discipline the Respondent.

16. The State's Charges also contained allegations that the Respondent violated 3 V.S.A. § 129a (a)(3) and 3 V.S.A. § 129 (b)(2) in Dkt. NU02-0707. The State presented no evidence supporting these two specific charges of unprofessional conduct, and the Board does not therefore consider these two additional charges.
17. The findings of fact in the New Hampshire Order evidence a risk to the public health, safety and welfare. The New Hampshire Order therefore warrants a suspension by this Board of the Respondent's Vermont registered nursing license.
18. This Board shall therefore suspend the Respondent's license as part of its final order in Dkt. NU02-0707.
19. In addition to considering the merits and disposition of Dkt. NU02-0707, the Board also considered a request for summary suspension (Dkt. NU83-0308) filed by the State four days prior to the hearing in this matter.
20. In docket NU83-0308, the State alleges the existence of an imminent threat to the public health safety and welfare resulting from the Respondent's continued possession of a license to practice nursing. The State therefore asks the Board to take emergency action and suspend the Respondent's license temporarily pending a hearing on the merits of its claims.
21. The Board may suspend summarily a professional's license when presented with evidence that a licensee is engaged in conduct that presents an imminent threat to the public that "imperatively requires emergency action" by the Board. *See* 3 V.S.A. §814(c).
22. A summary suspension hearing is not a disciplinary hearing to consider fully the merits of State unprofessional conduct charges. The primary purpose of a summary suspension hearing is to determine whether there is an emergency requiring Board action.
23. In support of its request for a summary suspension order, the State presented evidence in the form of testimony from State investigator Pamela Barney-Hango. She testified that, based on her investigation, the Respondent had been diverting opioids from FAHC between August 2007 and March 2008.
24. The order entered pursuant to the hearing in Dkt. NU02-0707 suspends the Respondent's license indefinitely. The issue of whether a temporary order is also necessary to prevent an imminent threat to public safety is therefore moot.

ORDER

Pursuant to the above finding that the Respondent engaged in unprofessional conduct as found in the New Hampshire Order, the Vermont Board of Nursing orders as follows:

The Board SUSPENDS INDEFINITELY the Respondent's license pursuant to 3 V.S.A. §129(a)(5) in Dkt. NU02-0707.

The Board ORDERS that the Respondent may not petition for reinstatement of her Vermont nursing license prior to 15 October 2008;

The Board DISMISSES the charges of violating 3 V.S.A. §129a (a)(3) and 3 V.S.A. §129a (b)(2) as charged in Dkt. NU02-0707; and

The Board DENIES, as moot, the State's petition for a temporary order suspending the Respondent's license pursuant to 3 V.S.A. §814(c) in Dkt. NU03-0308.

- END -

(signature page to follow)

Vermont Board of Nursing:

By: Linda Rice APRN Date: 4-24-08
Linda M. Y. Rice, APRN
Board Chairperson

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 4/30/08

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Nursing.

A party aggrieved by a final decision of a Board may appeal the decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Secretary of State's Office, National Life Building, FL2, 1 National Life Drive, Montpelier, Vermont 05602-3402 within 30 days of the entry of the order.

For more information about the procedure for filing an appeal, please see the Administrative Rules for the Office of Professional Regulation, which you can find at: <http://www.vtprofessionals.org/opr1/opr/admrule.pdf> and the Rules are also available at the Office of Professional Regulation.

If you file an appeal, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The appellate officer will review the record (the tape recording, exhibits etc.) created before the board during the hearing of your case. In cases of alleged irregularities in procedure before the board, not shown in the record, proof related to that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.