

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

IN RE:

GINGER CHIAPPETTA

License No. 026-0024725

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Docket No. NU77-0308

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney Edward G. Adrian, and the Respondent, Ginger Chiappetta, 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. Ginger Chiappetta (the "Respondent") of Cornish, New Hampshire is a registered nurse holding license number 026-0024725, issued by the State of Vermont. This license was originally issued on or about April 26, 1999, and 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 New Hampshire license was placed on a two year period of probation by the New Hampshire Board of Nursing (the "N.H. Board") pursuant to a Findings of Fact, Conclusions of Law and Sanctions entered by the N.H. Board on or about February 25, 2008. Attachment A. This discipline was based on the N.H. Board's finding and conclusions that 1) the Respondent failed to disclose the disciplinary action taken in Vermont at the time that the Respondent renewed her New Hampshire license in September, 2006; 2) that the Respondent committed at least three Medication Administration Record Documentation errors when she documented that she withdrew and administered medications that the patients denied receiving; and 3) that the Respondent failed to comply with the investigation of the New Hampshire Board. Attachment A.

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4. In a July 18, 2008 email from N.H. Board Executive Director Margaret Walker to Vermont Board Executive Director Mary Botter, Ms. Walker stated that the N.H. Board summarily suspended the Respondent's New Hampshire license to practice registered nursing in or around June 2008 after the N.H. Board received reports that Respondent had not complied with terms of her New Hampshire conditioned license and a complaint from Respondent's supervising nurse regarding possible drug diversion and poor work performance issues.

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. § 129(a)(5) (In addition to any other provisions of law, a board may exercise the following powers: . . . (5) Discipline any licensee or refuse to license any person who has had a license revoked, suspended, limited, conditioned or otherwise disciplined by a licensing agency in another jurisdiction for an offense which would constitute unprofessional conduct in this state, or has surrendered a license while under investigation for unprofessional conduct);
 - b. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause) which includes failure to conform to the essential standards of acceptable and prevailing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(2); and reasons of physical or mental disability or use of drugs, narcotics, chemicals or any other type of materials pursuant to ARBN Chapter 4, Rule IV(II)(C);
 - c. 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 failure to conform to the essential standards of acceptable and prevailing practice); and
 - d. 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

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.

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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.
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 **INDEFINITELY SUSPENDS** the Respondent's license to practice registered nursing. Before applying for reinstatement, Respondent at a minimum must obtain documentation from the Respondent's current substance abuse counselor confirming that the Respondent is safe to re-enter the practice of nursing and does not present a risk to the safety, health, or welfare of her potential patients. The Board may continue this period of suspension indefinitely until it is satisfied that the Respondent is capable of re-entering the practice of the profession without compromising the safety, health, or welfare of her potential patients. Upon the recommendation of the Respondent's substance abuse counselor and if the Respondent applies for reinstatement in the future, the Board or its designee will determine whether it is appropriate to reinstate the Respondent's license, which will be conditioned and limited pursuant to the Laws of the State of Vermont and the Rules of this Board.
- 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.

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09/04/2008 14:51 5430557

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 9/5/08

By: [Signature]

Edward G. Adrian
State Prosecuting Attorney

GINGER CHIAPPETTA
RESPONDENT

Dated: 9/3/08

By: [Signature]

Ginger Chiappetta

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 9/8/08

By: [Signature]

Chairperson

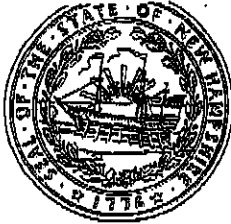
Date of Entry: 9/10/08

no.chiappetta.stip

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STATE OF NEW HAMPSHIRE
NEW HAMPSHIRE BOARD OF NURSING
21 S FRUIT ST STE. 16
CONCORD NH 03301-2431

COPY

Webpage: <http://www.state.nh.us/nursing>

TDD Access: Relay NH 1-800-735-2964

Nursing 603-271-2323

Nurse Asst. 603-271-6282

Received

GINGER CHIAPPETTA

RN # 024909-21

DOCKET # 08-0130-0150

MAR - 3 2008

Vermont Secretary of State
Board of Nursing

FINDINGS OF FACT, CONCLUSIONS OF LAW AND SANCTIONS

A hearing chaired by the Board chairperson, Robert Duhaime, RN, was held on February 21, 2008 at the Board of Nursing's office, 21 S. Fruit St., Concord, N.H. for Ginger Chiappetta, (Respondent) pursuant to the February 1, 2008 Notice of Disciplinary Hearing.

Present at the hearing were: Respondent

Witnesses: W. Kohut, LADAC Coordinator, NH Board of Nursing

S. Goodness, Administrative Supervisor, NH Board of Nursing

Board members: M. Potter, S. Dyer, C. Naas, and L. Elliott, N. Fortin, and K. Baranowski

Board members absent: B. Brown, H. Featherston

Board staff: S. Goodness, K. Dickson.

Atty. N. Patenaude, Prosecutor for the Board of Nursing

Following presentation of oral or written statements and exhibits the Board found for the following:

FINDINGS OF FACT

1. In the interest of public safety, the Board of Nursing (Board) has jurisdiction over nursing practice pursuant to RSA 326-B and the Board's administrative rules, Nur 100-800. Respondent **Ginger Chiappetta** is a registered nurse in the State of New Hampshire having been admitted to practice by examination on March 19, 1982 and over whom the Board has jurisdiction.
2. The Vermont Board of Nursing issued a Consent Order on October 26, 2005 that conditioned the respondent's license for one year because of medication administration and documentation errors and omissions. The conditions included supervision, an MAR course, a prohibition against out-of-state practice without the approval of the Vermont BON, and disclosure of the Order to employers.
3. According to the respondent's online renewal application in August 2006, she did not truthfully answer the question about having a disciplinary history in another state.
4. In July 2007 DHMC filed a complaint alleging diversion of controlled substances by documenting the administration of medications which the patients did not receive and the respondent provided an explanation by letter dated October 4, 2007.

Attachment A

Findings of Fact, Conclusions of Law and Sanctions
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5. On July 20, 2007 the respondent wrote to the Board executive director and asked for a meeting to discuss the complaint.
6. In August 2007 the respondent was referred to the Board's Road to Recovery Program as an alternative to discipline but she never entered into a written contract despite several requests and attempts to contact her on the part of the Board's substance abuse program coordinator.
7. In September 2007 the respondent entered into a substance abuse program at DHMC.
8. In November 2007 the respondent's employer at the time, Dartmouth-Hitchcock Medical Center in Lebanon, NH informed the NH BON executive Director of the Vermont Order and of the respondent's failure to disclose it to DHMC when she was hired in November 2005.
9. On December 7, 2007 the Board's executive director wrote to the respondent and asked her to explain why she failed to disclose her discipline in Vermont when she renewed her NH license.
10. In January 2008 the executive director referred this matter to the administrative prosecutor for failing to disclose the Vermont Order and for violating her recovery program by diverting a controlled substance at DHMC.
11. On January 25, 2008 the Board's administrative prosecutor notified the respondent of the referral and pending disciplinary proceedings and recommended a voluntary surrender of her license until such time as she could demonstrate complete fitness for practice.
12. The Notice of Hearing was sent on February 4, 2008 by certified mail with return receipt requested as well as by regular first-class mail with postage prepaid to the last address of record provided by the respondent.
13. During a telephonic interview on February 13, 2008 the nursing supervisor, Sally Parton, expressed her support for the respondent and believed that the respondent had complied with the terms and conditions of the R2R Program. The supervisor's issue was the respondent's failure to disclose the Consent Agreement from Vermont.

CONCLUSIONS OF LAW

1. Based on the evidence of record the respondent failed to disclose the Consent Order issued by the Vermont Board of Nursing in October 2005 when she renewed her NH license in September 2006. This behavior, if substantiated, constitutes unethical and unprofessional conduct in violation of RSA 326-B:37, II (d), (r), Nur 402.04 (b)(15), Nur 501.02 (b) and (d).
2. Based on the evidence of record the respondent committed at least three MAR documentation errors and omissions at DHMC when she falsely charted that she withdrew and administered medications for patients who denied receiving them between June 27, 2007 and July 1, 2007. This behavior, if substantiated, would constitute unethical and unprofessional conduct in violation of the Nurse Practice Act, RSA 326-B:37, II (e), (h)(1), (k), (m), (n), (p)(2).
3. Based on the evidence of record the Respondent failed to cooperate with a Board investigation and provide information requested by the Board or its agents by not responding to telephone calls or correspondence from administrative staff. This behavior, if substantiated, would

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constitute unethical and unprofessional conduct for failure to cooperate with a lawful investigation conducted by the Board or its agents in violation of RSA 326-B:37, II (m).

DISCIPLINARY SANCTIONS

1. For (a) deviating from practice standards on MAR documentation, (b) failing to cooperate with a lawful investigation of the Board, and (c) failing to disclose the Consent Agreement with the Vermont BON, the Board imposes a 2-year probation period and a monetary penalty of \$750 to deter future misconduct and to defray the costs associated with the investigation and prosecution of this case to be paid within 90 days from the effective date of the Board's order in one single payment by certified bank check or postal money order payable to the "NH Board of Nursing". Failure to pay the penalty by the deadline will cause the penalty to be reported to credit reporting services for inclusion on the respondent's credit record. If the Board determines that collection action including court proceedings are necessary to enforce this obligation, the Board will petition the Court to assess the respondent with all costs including reasonable legal fees and accrued interest at the prevailing government rate.
2. During this probation period the following restrictions and conditions are imposed:
 - A. Respondent shall practice nursing in a structured health-care environment where other health-care providers are employed and shall not practice nursing in a home care environment or be employed by a staffing agency;
 - B. Respondent shall not work more than 8 hours/day or 40 hours/week, shall not work after 11:30 PM, shall not rotate shifts, shall work on one unit per shift, and shall not rotate to other units during a shift.
 - C. Respondent shall provide a copy of this Board Order to all nurse-licensing boards where currently licensed and schools of nursing where currently enrolled within 30 days of receipt of the NH Board-executed copy. Respondent shall also provide a copy of this Board Order to all nurse-licensing Boards or schools of nursing for which Respondent makes future application, at the time of such application.
 - D. Upon obtaining registered nurse employment, Respondent shall notify the Board in writing of such employment within ten days and provide a copy of this Agreement to the registered nurse supervisor. Within one (1) month
 - E. After beginning such employment, said nursing supervisor shall submit a report directly to the Board, in writing, setting forth:
 - 1) the name and address of Respondent's employer;
 - 2) the duties and responsibilities to be performed by Respondent;
 - 3) a discussion of the quality of care provided by Respondent;
 - 4) a report of Respondent's attendance and punctuality; and
 - 5) the nursing supervisor shall acknowledge that this Agreement was read and that the role of the nursing supervisor is understood by the supervisor.

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- F. Respondent shall submit to the Board on a quarterly basis work performance evaluations from Respondent's nursing supervisor on a Board-provided form. Said evaluation shall include:
- a) name and address;
 - b) number of hours worked, timeliness and efficiency;
 - c) quality and safety of nursing care, including punctuality and attendance;
 - d) adherence or failure to adhere to Board conditions and restrictions.
- G. Respondent shall submit to at least thirty-two (32) random drug tests per year, during the probation of her RN license. Said tests shall have been conducted and scheduled by a laboratory under conditions acceptable to the Board; the Board appoints the Executive Director to determine the plan for testing using Board guidelines.
- H. Respondent shall maintain a record of attendance at AA/NA meetings if such meetings are recommended by Respondent's counselor; if Respondent independently decides to attend such meetings, self-documentation is not mandatory, but is encouraged;
- I. Respondent shall continue counseling sessions with a counselor trained in substance abuse. If and when the counselor determines that counseling is no longer necessary, Respondent shall ensure that the counselor submits a written report within 30 days of such determination summarizing Respondent's status/progress to the Respondent's employer and the Board of Nursing. Respondent shall also require the counselor to submit quarterly reports regarding the Respondent's progress to the Board. Quarterly reports shall indicate Respondent's:
- a) name and address;
 - b) number and frequency of visits;
 - c) progress in maintaining a safe life-style;
 - d) adherence, or failure to adhere, to Board stipulations and counselor's therapy.
- J. Said probation period shall only be fulfilled, and said restrictions and conditions shall be in force, only while the Respondent is employed in a capacity for which a Registered Nurse license is required and subject to adequate supervision approved by the Board. Respondent is required to notify the Board, in writing, within 10 days after the commencement, termination or change in role in any such employment;
- K. Any complaint or negative employer work report regarding Respondent that is received by the Board shall be reviewed by the Executive Director (E.D.). The E.D. shall determine if the complaint or report is credible, is a violation of RSA 326-B and/or the Board rules and whether, if true, Respondent's act or omission rises to the level for which the Board would likely consider disciplinary action. If the E.D. so determines, it shall be considered grounds for disciplinary action pursuant to RSA 326-B:12 III and Respondent's license shall be summarily suspended, without recourse by Respondent, pending resolution of the matter by agreement or commencement of an adjudicative proceeding within 90 days.
- L. Respondent shall notify the Board of address change within fifteen (15) days of such relocation;

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G. Chiappetta

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- M. If Respondent wishes to seek removal of probation status at the end of this probation period Respondent shall, in a letter to the Board, petition the Board for termination of probation. Respondent shall appear before and demonstrate to the Board the ability to safely practice nursing through evidence of successful rehabilitation, character references, personal testimony and written exhibits; said evidence shall specifically include, but is not limited to:
- a) The work reports, counselor's reports and random drug test reports previously submitted during the probation period;
 - b) A statement from Respondent's Registered Nurse supervisor providing an opinion as to Respondent's ability to safely practice nursing; and
 - c) A written evaluation by Respondent's professional counselor (who is skilled in the area of substance abuse/dependence treatment) addressing Respondent's progress regarding continuing abstinence from abuse of chemical substances, including alcohol, and which provides:
 - 1) The length of time Respondent has been chemically free, and if any relapses have occurred since treatment began,
 - 2) The extent to which Respondent has complied with treatment,
 - 3) the counselor's opinion as to whether Respondent can successfully return to nursing practice and, if so, whether any work restrictions are needed to protect public safety and/or assist Respondent in continuing recovery, and
 - 4) Whether Respondent is taking any prescription medications, the reason therefore, and what effect, if any, said medications may have on Respondent's ability to safely provide nursing-related activities;
 - d. Evidence of attendance at some formalized support program (e.g. 12-step meetings, intensive outpatient program) at least three (3) times per week;
 - e. A personal statement from Respondent which describes Respondent's recovery experiences including specific examples of the behavioral, psychological, and (if desired) spiritual changes that have been made which support recovery; and
 - d. Through oral presentation in support of Respondent's petition, provide the Board with a comfort level that Respondent is able to safely provide nursing care as an RN.
3. Should Respondent apply for any New Hampshire license under RSA 326-B authority on or after the date of this Agreement, Respondent shall by the act of filing such an application, automatically waive any statute of limitations or laches defense which may otherwise be available concerning the misconduct allegations set forth above, and consents to these allegations being fully addressed in the context of the license application. Respondent shall bear the burden of proving that Respondent possesses sufficient knowledge, judgment and skills, and character qualifications to be licensed in any such future licensing
4. Any relief from the provisions of this order shall be granted pursuant to RSA 326-B:39.
5. This order shall become a public document upon signature and a summary of the misconduct noted above may be published in the Board's newsletter and notification of federal and other state agencies and boards of nursing shall be effectuated as required or permitted by law.

Board Rationale:

- Verbal and written testimony by witness, S. Goodness, confirmed concerns that respondent committed MAR violations in Vermont, signed a Consent Order with Vermont for a 1 year conditioned license, and did not inform the NH Board of Nursing of the Vermont discipline.

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- Letter received from M. Baughman, MA LADAC, at DHMC stating that Respondent has participated in the substance abuse outpatient program at DHMC and was to take a remedial class in MAR documentation.
- Verbal and written testimony from W. Kohut, NH BON, LADAC Coordinator, confirmed a contract with the NH Road to Recovery did not take place due to discoveries from the Vermont Board.
- Witness Kohut presented testimony that from his assessment and from the reports he received, his opinion is that Respondent has met the requirements, continues to function well, and has positive reports from her supervisor, S. Patton.
- Atty. Patenaude stated the Respondent acknowledges MAR documentation errors in NH.
- Verbal testimony from Respondent stated that she has complied with the intensive outpatient program at DHMC. Respondent indicated the Vermont Board did not make it clear her need to report to anyone other than the Vermont Board. In further testimony Respondent testified she did not report Vermont discipline to NH Board, as she did not think it was necessary since it was in the past.

BY ORDER OF THE BOARD:

Margaret J. Walker
Margaret J. Walker Ed.D., RN
Executive Director

2-25-08
Date