

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

IN RE:

ELLEN CURLEY

License No. 026.024888

)
)
)

Docket No. 2011-371

REINSTATEMENT STIPULATION AND CONSENT ORDER

NOW COME the State of Vermont, by and through State Prosecuting Attorney S. Lauren Hibbert, and the Respondent, Ellen Curley, RN, 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.

Stipulated Facts

2. Ellen Curley (the "Respondent") of Brattleboro, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0024888. This license was originally issued on or about July 15, 1999 and expires on or about March 31, 2009. The Respondent is also licensed as a Registered Nurse in Massachusetts under license number 239649.
3. On or about August 12, 2008 the Respondent's license in Massachusetts was suspended due to the Respondent failure to properly assess a patient and failure to report significant changes to a patient's condition to a physician or supervisor in a timely manner. After this action was taken in Massachusetts the Respondent did not renew her nursing license in Vermont.
4. On or about February 15, 2011, the Respondent was reinstated in Massachusetts with a probationary period of two years. See Attachment 1. The conditions of her probationary period include in part the following:
 - a. Quarterly reports from her supervisor;
 - b. Completion of the clinical component of an RN refresher program;

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

- c. Comply with all the recommendations for the Respondent's on-going treatment set forth in the evaluation completed by Martha Reeves, LICSW.

- 5. On or about March 21, 2011, the Respondent requested that her Vermont license be reinstated. The Respondent provided proof that she has completed a RN refresher program.

Violations

- 6. 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. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause) which includes performing unsafe or unacceptable patient care pursuant to ARBN Chapter 4, Subchapter 4, Rule II(B)(1); and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Subchapter 4, Rule II(B)(2); 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

- 7. Respondent admits the facts above are true and that the conditions below are necessary to protect the public.
- 8. 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.
- 9. 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.
- 10. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- 11. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

12. 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.
13. 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.
14. 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 **CONDITIONS** the Respondent's license to practice nursing **for two (2) years from the date of entry below**. The conditions are as follows:

(1) Re-issue of License.

Upon the imposition of these conditions, Respondent shall be issued a license labeled "conditioned."

(2) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent completes **a minimum of two (2) years** of supervised nursing practice in which she works at least forty (40) hours every two (2) weeks as a nurse. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis. The Respondent shall be prohibited from working more than forty (40) hours per week during the conditioned period.

(3) Continue Mental Health Treatment.

Respondent shall continue mental health treatment after showing her mental health provider a copy of this order. The mental health provider must contact this office when mental health treatment is deemed no longer necessary or the Respondent changes providers.

(4) Notification to Employers/Nursing School.

Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which Respondent practices as a nurse and inform them of Respondent's conditional license status.

Within ten (10) days of the date of entry of this Consent Order or of any subsequent nursing employment, Respondent shall cause Respondent's immediate supervisor to submit to the Board an employer agreement form approved by the

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

Board, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

In the event the Respondent is attending a nursing program which has a clinical portion that involves actual patient care, Respondent shall provide a copy of the Stipulation and Consent Order to the Program Director. Respondent shall cause the Program Director to submit to the Board a nursing program agreement form approved by the Board, 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.

(5) Reports from Employers/Program Directors.

Within one (1) month of the date of entry of this Order or within one (1) month of the commencement of nursing employment and **quarterly** thereafter, Respondent shall cause every nursing employer the Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance.

In the event the Respondent is attending a nursing program, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of her performance and attendance. These reports shall be submitted in writing on forms issued by the Board. All nursing program reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance.

(6) Practice Under Supervision.

Respondent shall practice nursing only in a setting where Respondent has on-site supervision for the entire shift by a registered nurse that is licensed and in good standing with the Board.

(7) Types of Employment Prohibited.

Respondent shall not work in a supervisory role. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency, or as a private duty nurse or personal care provider requiring a nursing or nursing assistant license during the effective period of this Consent Order.

(8) Out-of-State Practice.

Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board prior to Respondent practicing nursing outside the State of Vermont. If Respondent fails to receive such approval before practicing nursing outside the State of Vermont, none of the time spent practicing nursing out-of-state will be credited toward the fulfillment of the terms and conditions of this Consent Order. The Board will

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

approve out-of-state nursing practice so long as the Respondent can still comply with the provisions of this Consent Order.

If the Respondent receives discipline on a nursing license held in another state during the conditioned period, the Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.

(9) Notification of Place of Employment/ Personal Address/Telephone Number.

Within ten (10) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of her current place of employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in employment (including resignation or termination), personal address, or telephone number.

(10) Notification to Other States.

In the event that the Respondent is licensed in nursing in any other state(s), she must inform the nursing licensing board of the state(s) in which the Respondent is licensed of the conditional status of her Vermont nursing license within thirty (30) days of the date of entry of this Order. If the Respondent fails to provide such notification, it will be considered a violation of this Order.

(11) License Renewal.

If the Respondent's license expires while this Order is still in effect, this Order does not automatically extend the license. In that situation, in order to continue to practice as a nurse, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that she has otherwise complied with the requirements for license renewal.

(12) Costs.

The Respondent shall bear all costs of complying with this Consent Order.

(13) Violation of this Order.

If the Respondent violates the terms of this Order in any respect, the Board, after giving the Respondent 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 the Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

(14) Completion of Conditional License Period.

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on her license. The Respondent must present proof that she has fully complied with the terms of this Order.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

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:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 11/21/11

By: [Signature]

S. Lauren Hibbert
State Prosecuting

Attorney

ELLEN CURLEY
RESPONDENT

Dated: 4/22/11

By: Ellen Curley
Ellen Curley

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 12-12-11

By: [Signature]
Chairperson

Date of Entry: 12/13/11
nu.curley.reinstatement.stip

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN NURSING



In the Matter of
Ellen A. Curley
RN239649

Docket No. RN-08-127

POST- SUSPENSION CONSENT AGREEMENT FOR PROBATION

The Massachusetts Board of Registration in Nursing (Board) and Ellen A. Curley (Licensee), a Registered Nurse (RN) licensed by the Board, License No. 239649, do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the Licensee's record maintained by the Board:

1. The Licensee agrees that this Post-Suspension Consent Agreement for Probation ("Agreement") will supercede any and all previous agreements that she has entered into with the Board. Further, the Licensee agrees that this Agreement has been executed as a result of the Board's:
 - a. receipt and investigation of a complaint filed against her, Docket RN-08-127, which resulted in the suspension of her nursing licence, pursuant to a Suspension Agreement with the Board effective August 12, 2008 in resolution of the complaint; and
 - b. consideration of the Licensee's request for license reinstatement and documentation she submitted pursuant to the requirements of the Post-Suspension Consent Agreement referenced in the subparagraph immediately above.
2. The Licensee admitted that while employed as a Registered Nurse at Farren Care Center, Inc. in Turner Falls, MA, on or about November 6-7, 2007, she failed to recognize, adequately assess, and appropriately respond to significant changes in a patient's clinical condition and report the significant status changes in a patient's clinical condition and report the significant status changes to the patient's physician or supervisor in a timely manner. She also admits that she demonstrated inadequate critical thinking and nursing judgment as well as improper clinical nursing practice involving patient assessment and medication administration. The Licensee admits that she had been working while impaired by sleep deprivation..

Curley, Ellen
RN239649
RN-08-127

Attachment 1

The Licensee acknowledged that her conduct constitutes failure to comply with the Board's Standards of Conduct at 244 Code of Massachusetts Regulations (CMR) 9.03(5), (15), (36), and (47) and warranted disciplinary action by the Board under Massachusetts General Laws (G.L.) Chapter 112, section 61 and Board regulations at 244 CMR 7.04, Disciplinary Actions.

3. The Licensee agrees that her nursing license shall be placed on **PROBATION** for no less than two (2) years (Probationary Period), commencing with the date on which the Board signs this Agreement (Effective Date).
4. During the Probationary Period, the Licensee further agrees that she shall comply with all of the following requirements to the Board's satisfaction:
 - a. Comply with all laws and regulations governing the practice of nursing, and not engage in any continued or further conduct such as that set forth in Paragraph 2.
 - b. Notify the Board in writing within ten (10) days of each change in her name and/or address.
 - c. Timely renew her license to practice nursing.
 - d. Maintain active employment in a position that requires a nursing license, in a setting where the Licensee receives consistent, on-site supervision by a qualified licensed nurse¹, for a minimum average of twenty (20) hours per week throughout the Probationary Period. The Licensee may not accept any home care, travel or temporary staffing assignment, or practice where consistent, on-site supervision is not in place.
 - i. If the Licensee is not employed in accordance with Paragraph 4d at any time during the Probationary Period, she shall notify the Board's Probation Monitor in writing within thirty (30) days.
 - e. Review this Agreement with each of her nursing supervisors, and arrange for each nursing supervisor to submit directly to the Board:
 - i. a completed and signed "Supervisor Verification Form" (Form 1), provided with this Agreement, within thirty (30) days of
 - (1) the Effective Date *and*
 - (2) any subsequent employment commenced during the Probationary Period

¹ The Licensee must receive direct supervision from a licensed nurse who must have at least one (1) year of clinical nursing practice experience, no open complaints, no past discipline of the nurse's license, and who is physically located at all times in each facility in which the Licensee practices nursing.

- ii. *quarterly* written reports², using the "Supervision Report Form" (Form 2) provided with this Agreement attesting to the quality of the Licensee's nursing practice, reliability and attendance and specifically addressing Licensee's critical thinking and nursing judgment skills including any errors and incidents³.
 - f. Notify the Board in writing within ten (10) days of any change in the Licensee's employment status, including each change in Employer, each resignation or termination, and the name, address and telephone number of each new Employer.
 - g. Completion of clinical component of RN refresher course
 - h. Comply with all recommendations for the Licensee's on-going treatment set forth in the evaluation by Martha Reeves, LICSW.
5. The Board agrees that in return for the Licensee's execution and successful compliance with all the requirements of this Agreement it will not prosecute the Complaint.
6. If the Licensee has complied to the Board's satisfaction with all the requirements contained in this Agreement, the Probationary Period will terminate two (2) years after the Effective Date upon written notice to the Licensee from the Board⁵.
7. If the Licensee does not comply with each requirement of this Agreement, or if the Board opens a Subsequent Complaint⁶ during the Probationary Period, the Licensee agrees to the following:
- a. The Board may upon written notice to the Licensee, as warranted to protect the public health, safety, or welfare:
 - i. EXTEND the Probationary Period; and/or
 - ii. MODIFY the Probation Agreement requirements; and/or
 - iii. IMMEDIATELY SUSPEND the Licensee's nursing license.

² The Licensee is responsible for ensuring that these reports on the required form are received by the Board commencing ninety (90) days after the Effective Date and on the first day of every third month thereafter.

³ The Board may take action under paragraph 7 in the event that the reports reveal a practice issue which the Board deems significant.

⁵ In all instances where this Agreement specifies written notice to the Licensee from the Board, such notice shall be sent to the Licensee's address of record.

⁶ The term "Subsequent Complaint" applies to a complaint opened after the Effective Date, which (1) alleges that the Licensee engaged in conduct that violates Board statutes or regulations, and (2) is substantiated by evidence, as determined following the complaint investigation during which the Licensee shall have an opportunity to respond.

- b. If the Board suspends the Licensee's nursing license pursuant to Paragraph 7(a)(iii), the suspension shall remain in effect until:
- i. the Board gives the Licensee written notice that the Probationary Period is to be resumed and under what terms; or
 - ii. the Board and the Licensee sign a subsequent agreement; or
 - iii. the Board issues a written final decision and order following adjudication of the allegations (1) of noncompliance with this Agreement, and/ or (2) contained in the Subsequent Complaint.
8. The Licensee agrees that if the Board suspends her nursing license in accordance with Paragraph 7, she will immediately return her current Massachusetts license to practice as a Registered Nurse to the Board, by hand or certified mail. The Licensee further agrees that upon said suspension, she will no longer be authorized to engage in the practice of nursing in the Commonwealth of Massachusetts and shall not in any way represent herself as a Registered Nurse until such time as the Board reinstates her nursing license or right to renew such license⁷.
9. The Licensee agrees that when she executed the original Consent Agreement for Suspension that she entered into with the Board in final resolution of the above-captioned complaint, Docket No. RN-08-127, effective on August 12, 2008, she knowingly and voluntarily waived her right to a formal adjudication concerning the allegations against her in the complaints, the rights that she would have possessed during such adjudication to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on her own behalf, to contest the allegations, to present oral argument, to appeal to the courts, and to all other rights as set forth in the Massachusetts Administrative Procedures Act, G. L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 *et seq.* The Licensee further understands and agrees that in executing this document entitled "Post-Suspension Consent Agreement for Probation," she is knowingly and voluntarily waiving any rights she has to a formal adjudication concerning the Board's action on her request for termination of her surrender of her nursing license in connection with the above-captioned complaint, the rights that she would possess during such an adjudication and to those other rights listed above.
10. The Licensee acknowledges that she has been at all times free to seek and use counsel in connection with the complaint and this Agreement.

⁷ Any evidence of unlicensed practice or misrepresentation as a Registered Nurse after the Board has notified the Licensee of her license suspension shall be grounds for further disciplinary action by the Board and the Board's referral of the matter to the appropriate law enforcement authorities for prosecution, as set forth in G.L. c. 112, §§ 65 and 80.

11. The Licensee acknowledges that after the Effective Date, the Agreement constitutes a public record of disciplinary action by the Board. The Board may forward a copy of this Agreement to other licensing boards, law enforcement entities, and other individuals or entities as required or permitted by law.
12. The Licensee certifies that she has read this Agreement. The Licensee understands and agrees that entering into this Agreement is a voluntary and final act and not subject to reconsideration, appeal or judicial review.

Ingrid E. White 2/15/11
Witness (sign and date)

Ingrid E. White
Witness (print name)

Ellen A. Curley
Ellen A. Curley
Licensee (sign and date)

Rula Harb, MSN, RN
Executive Director
Board of Registration in Nursing

Effective Date of Agreement

Fully Signed Agreement Sent to Licensee on MARCH 8, 2011 by Certified Mail No. _____