

Rutland

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

IN RE:

JANE V. DORRIAN

License No. 026.0010186

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Docket No. NU06-0707

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Edward G. Adrian, and the Respondent, Jane V. Dorrian, 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.

Statement of Facts

2. Jane V. Dorrian (the "Respondent") of Rutland, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0010186. Respondent has held this license since at least February 28, 1991, and this license lapsed on or about March 31, 2009. Respondent's license is currently suspended.
3. By way of history, Respondent's license was indefinitely suspended pursuant to a Default Order entered by the Board on or about October 14, 2008. Attachment A. This discipline was due to Respondent failing to answer Charges regarding Respondent's commission of several medication errors and patient documentation errors over the period of February 2004 through June 2007 while employed at the Mountain View Genesis facility in Rutland, Vermont. Attachment A.
4. On or about March 10, 2009 in a letter to Board Executive Director Mary Botter, Respondent requested reinstatement of her nursing license.

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Understandings

5. 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.
6. 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.
7. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
8. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
9. 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.
10. 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.
11. 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 **REINSTATES** Respondent's license to practice as a registered nurse and **CONDITIONS** Respondent's license **FOR A MINIMUM OF 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 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) Medication Administration Course.

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Respondent must successfully complete (i.e., receive a passing grade, if applicable) a medication administration course focusing on medication administration with prior approval by the Board or its designee, and then submit written documentation of completion (certificate of completion, etc.) to verify the same to the satisfaction of the Board or its designee. This course must be completed within ninety (90) days of the date of entry of this Stipulation and Consent Order.

(4) Documentation Course.

Respondent must successfully complete (i.e., receive a passing grade, if applicable) a documentation course focusing on documentation with prior approval by the Board or its designee, and then submit written documentation of completion (certificate of completion, etc.) to verify the same to the satisfaction of the Board or its designee. This course must be completed within ninety (90) days of the date of entry of this Stipulation and Consent Order.

(5) 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 during the conditioned period 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 write to the Board, on the employer's letterhead, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

In the event Respondent is attending a nursing program which has a clinical portion which 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 write to the Board, on school letterhead, acknowledging receipt of the Stipulation and Consent Order and ability of the program to comply with its conditions during clinical experience.

(6) Reports from Employers/Program Directors.

Within one (1) month of the date of entry of this Order and monthly thereafter, Respondent shall cause every nursing employer Respondent has worked for during the relevant time period to submit to the Board an evaluation of Respondent's performance and attendance during that time period. This report shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance 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. This report shall be submitted in writing on forms issued by the Board and accompanied by a cover letter on the school's letterhead. All Program Director reports shall indicate satisfactory performance and attendance.

(7) Practice Under Supervision.

For the first year of the conditioned period, Respondent shall practice nursing only in a setting where Respondent has direct supervision for the entire shift by a registered nurse that is licensed and in good standing with the Board. Thereafter, Respondent shall practice

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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.

(8) 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 during the effective period of this Consent Order.

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

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

Within five (5) days of the date of entry of this 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, personal address, or telephone number.

(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 nursing, 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.

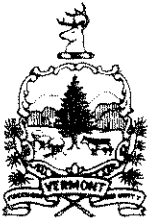
(13) Violation of this Order.

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.

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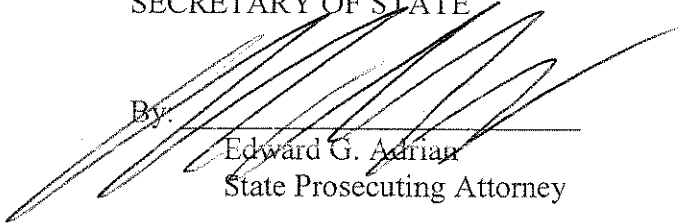
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- B. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- C. This Stipulation and Consent Order is a matter of public record 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

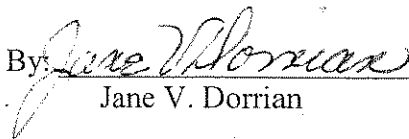
Dated: 6/10/09

By: 

Edward G. Adrian
State Prosecuting Attorney

JANE V. DORRIAN
RESPONDENT

Dated: 5/26/09

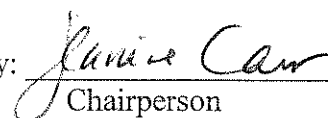
By: 

Jane V. Dorrian

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 7-13-09

By: 

Chairperson

Date of Entry: 7/14/09

nu.dorrian.stip

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**STATE OF VERMONT
BOARD OF NURSING**

In re: Jane Dorrian
License No. 026-10186

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Docket No. NU06-0707

**Decision on
Motion to Reconsider Indefinite Suspension**

Participating Board Members:

Linda Rice, APRN, Chair
Alan Weiss
Sandra Norton, LNA
Donarae Metcalf, LPN
Kenneth W. Bush, RN
William G. White Jr.
Jeanine Carr, RN
Deborah Robinson, RN

Appearances:

for Petitioner, State of Vermont: Edward G. Adrian
for Respondent: Jane Dorrian

Presiding Officer: Larry S. Novins

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

The Vermont Board of Nursing held a hearing in the above matter on February 9, 2009 at the National Life Building in Montpelier, Vermont.

Background

Ms. Dorrian's license was indefinitely suspended by the Board on October 14, 2008. By letter dated November 4, 2008 she has asked that the Order of Suspension be reconsidered.

Findings of Fact

Based on the evidence presented, the Board finds as follows:

1. Ms. Dorrian was licensed as a registered nurse by and remains subject to the disciplinary authority of this Board. 3 V.S.A. §§ 129, 129a, 26 V.S.A. §§ 1582(a) and 1598, the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.

2. On October 13, 2008 this Board found Ms. Dorrian to be in Default. A copy of the Default Order and Specification of Charges are on record with the Office of Professional Regulation.
3. Ms. Dorrian, by letter dated, November 4, 2008 has asked that the Order be reconsidered.
4. In her letter, Ms. Dorrian said that she takes, "complete ownership of all the charges listed, however mitigating circumstances surround all of them."
5. Ms. Dorrian submitted a letter from a Clinical Nurse Specialist in Adult Mental Health. The letter states that Ms. Dorrian deals with stressful situations by ignoring them. Ms. Dorrian confirmed that is why she did not answer the charges in this case. She was, however, able to write the letter and attend the hearing.
6. Ms. Dorrian has been a registered nurse for thirty eight years and until the suspension ordered in October had no previous disciplinary history.
7. Procrastination when it comes to dealing with important matters is not good cause for failing to file an Answer to the charges filed against her.

Discussion and Conclusions of Law

We treat Ms. Dorrian's motion as one to set aside the Default Order. Such matters are governed by V.R.C.P. 55(c) and V.R.C.P. 60(b). Under the rules of civil procedure, the ruling on a motion to set aside a default "is addressed to the sound discretion of the trial court and will not be disturbed only upon a showing of abuse of that discretion. Dougherty v. Surgen, 147 Vt. 365 (1986). We must consider whether the default was the result of mistake or inadvertence, whether the neglect was excusable under the circumstances, and whether the defendant has demonstrated any good or meritorious defense to the plaintiff's claims. Desjarlais v. Gilman, 143 Vt. 154 (1983). Ms. Dorrian has not shown that the Default Order was based on excusable neglect, newly discovered evidence, fraud or any other reasons justifying relief from the operation of the judgment.

Order

Ms. Dorrian's request to set aside or reconsider the Default Order is **denied**. However, Ms. Dorrian may request that the Board reinstate her license. If she does, the Board will schedule a hearing on that motion. Ms. Dorrian is encouraged, but not required, to speak with the prosecuting attorney to see if the parties can arrive at an agreement on appropriate conditions to be imposed should the Board agree that reinstatement is appropriate.

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 this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, Office of Professional Regulation, National Life Bldg., North, FL2, Montpelier, Vermont 05620-3402 within 30 days of the entry of this Order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the

case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.

To request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Nursing

By: Linda Rice
Linda Rice, Chair

Date February 10, 2009

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 2/18/09

VERMONT SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

<i>In re</i>	Jane V. Dorrian	}
License No.	026-0010186	}
Docket No.	NU 06-0707	}

DEFAULT ORDER

Upon the filing of a "Notice of Hearing for Default Judgment" by the Secretary of State, the Vermont Board of Nursing (the "Board") heard this matter on Monday 13 October 2008 at the Secretary of State's Office of Professional Regulation, in the National Life Building at Montpelier, Vermont.

Findings of Fact

1. Respondent is subject to the regulatory authority of this Board. 3 V.S.A. §§ 129 and 129a; 26 V.S.A. Chapter 28; Administrative Rules for the Board of Nursing ("Nursing Rules") and the Administrative Rules for the Office of Professional Regulation ("OPR Rules").
2. The State filed a Specification of Charges dated 23 June 2008 ("Charges"), which allege that Respondent engaged in unprofessional conduct. The Charges (attached) allege that the Respondent committed several medication errors and patient documentation errors over the period of February 2004 through June 2007 while employed at the Mountain View Genesis facility in Rutland, Vermont
3. The Office of Professional Regulation served Respondent with notice of the charges via certified and first class mail at the address Respondent provided to OPR. Respondent is obligated to maintain a current mailing address with OPR and the Board. 3 V.S.A. §129a (14).
4. The notice of charges contained instructions detailing the Respondent's obligation as a licensee to answer the charges and explaining the legal consequences of failure to file a timely response. OPR also served a notice of this default hearing to the Respondent by certified mail.
5. The Respondent did not answer the charges within the legally prescribed time as required by OPR Rule 3.3 or at any time thereafter.
6. The Respondent did not appear for this default hearing.
7. Upon consideration of the State's presentation of the case and after taking official notice, pursuant to 3 V.S.A. § 810(4), of the contents of this matter's

case file, which is maintained by the OPR Docket Clerk in accordance with OPR Admin. Rules Part 3, the Board finds the Respondent to be in default for failure to answer the State's charges.

8. Finding the Respondent in default, the Board therefore treats the factual allegations contained in the State's specification of charges (copy attached) as proven, and those allegations will serve as the factual basis for the following order. OPR Rule 3.4; 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

Conclusions of Law

9. The Respondent received adequate and legal notice of the charges as evidenced by OPR's contested case file and the State's presentation of the case to the Board. Because the Respondent failed to answer the charges of unprofessional conduct, the Board finds the Respondent in default and will treat the State's factual allegations as established pursuant to OPR Rule 3.4.
10. The Board concludes, in this default hearing held pursuant to 3 V.S.A. § 809(d), that the Respondent has engaged in unprofessional conduct as alleged by the State of Vermont.

Order

In accordance with the above findings of fact and conclusions of law and effective the date of entry of this order, the Board of Nursing ORDERS that the Respondent's license be SUSPENDED INDEFINITELY.

- END -

(signature page to follow)

Vermont Board of Nursing:

By: 
Presiding Board Member

Dated: Montpelier, Vermont 13 October 2008

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 10/14/08

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/admnrule.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.

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

IN RE:

JANE V. DORRIAN

License No. 026-0010186

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Docket No: NU06-0707

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Jane V. Dorrian, R.N.:

Board Authority

1. The Vermont State Board of Nursing ("the Board") has authority to issue warnings or reprimands, suspend, revoke, limit, 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. The Respondent, Jane V. Dorrian, is licensed in the State of Vermont as a registered nurse holding license number 026-0010186. The Respondent has held this license since at least February 28, 1991 and it is currently set to expire on March 31, 2009.

3. At all times relevant, the Respondent was employed as a ^{Registered} ~~licensed practical~~ nurse at Mountain View Genesis (the "Facility") located in Rutland, Vermont.

4. During her employment at the Facility, the Respondent had ongoing performance issues, including the following medication errors:

a. On or about February 23, 2004, the Respondent left resident R.R.'s morning medication by the resident's bedside. R.R.'s 6:00 a.m. medication was discovered at approximately 7:00 a.m. The medication was re-poured and administered to the resident. The Respondent received and signed a corrective action notice as a result of this incident.

b. On or about March 2, 2004, the Respondent documented resident C.Q.'s medications as given, but did not administer the medication. The Respondent received, but refused to sign, a corrective action notice as a result of this incident.

c. On or about September 15, 2005, the Respondent failed to apply Zeroform when dressing a patient's wound pursuant to the physician's order. The Respondent received

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and signed a corrective action notice as a result of this incident. In addition to serving as a written warning, the corrective action notice indicated that should the Respondent make a medication error in the future, she would be suspended for three (3) days.

d. On or about March 31, 2006, the Respondent received a corrective action notice for failing to properly document in the narcotic book. The Respondent received and signed a corrective action notice as a result of this incident.

e. On or about August 1, 2006, the Respondent left a used insulin syringe with the needle exposed next to a patient's bedside. The Respondent received and signed a corrective action notice as a result of this incident. The corrective action notice advised that the next infraction on the part of the Respondent would lead to a three (3) day suspension and/or termination.

f. On or about September 15 and September 16, 2006, the Respondent failed to administer patient J.J.'s Lunesta as ordered.

g. On or about October 31, 2006, the Respondent received a corrective action notice for failing to administer medications to five (5) patients. The Respondent alleged that she administered the medications, but admitted that she had not documented them as given. The Respondent received and signed a corrective action notice and was suspended for three (3) days as a result of this incident.

h. On or about June 13, 2007, the Respondent failed to properly document medication administration for three (3) patients. After this incident, the Respondent was advised that she would likely be terminated. However, the Respondent quit by way of an email dated June 18, 2007.

Charges

5. The acts, omissions and/or circumstances described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:

- i. 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, Rule IV(II)(B)(1); failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(2);
- ii. 3 V.S.A. § 129a(b)(1) and (2) (failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and
- iii. 3 V.S.A. § 129a(a)(3) (failing to comply with the provisions of state statutes or rules governing the practice of the profession).

Relief Requested

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WHEREFORE, the license of Jane V. Dorrian should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 23rd day of June, 2008.

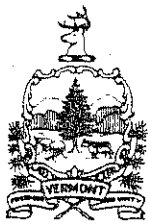
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SECRETARY OF STATE

By: _____

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State Prosecuting Attorney

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