

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

IN RE:

DANIEL W. DRISH

License No. 026-0023465

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Docket No. NU19-0908

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney Edward G. Adrian, and the Respondent Daniel W. Drish, 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. Daniel W. Drish (the "Respondent") of Guilford, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026-0023465. This license was originally issued on or about July 10, 1997 and is currently set to expire on or about March 31, 2011.
3. At all times relevant, Respondent was employed as a Registered Nurse in the emergency room of Brattleboro Memorial Hospital (the "Facility"), located in Brattleboro, Vermont.
4. On or about June 20, 2008, D.K. was brought to the Facility's emergency room "Safe Room" after a suicide attempt. In the Safe Room were D.K., Respondent, and Security Guard D.T. At the time, D.K. was intoxicated, belligerent, and refused to fully cooperate with staff. Pursuant to Facility protocol regarding suicidal patients, blood and urine samples were required to be taken. D.K. allowed his blood to be taken, but refused to voluntarily provide a urine sample. Therefore, Respondent proceeded to obtain D.K.'s urine sample via catheter.
5. According to an affidavit prepared by Brattleboro Police Officer A.B. on or about June 30, 2008, Security Guard D.T. submitted a report to A.B. on or about June 21,

2008 regarding what D.T. witnessed on the day in question. In his report, D.T. stated, "While [Respondent was] inserting the catheter, the patient became very upset and started yelling and swearing at the [Respondent]. After the [Respondent] got the urine sample from the patient, the patient spit into the face of the [Respondent]. The [Respondent] then swung at the patient and hit the patient in the chest. At this time I tried to get between the two, [Respondent] again swung at the patient and hit the patient for the second time in the chest. At this point I pushed the [Respondent] off of the patient and told him to leave the room."

6. Officer A.B. also stated in his affidavit that before Patient D.K. left the Facility, A.B. observed two (2) red marks on the center area of D.K.'s chest.
7. The Respondent was given "court diversion" for the behavior above and having successfully completed court diversion, the criminal charge of simple assault in Docket No. 1404-10-08 WmCr was dismissed on or about February 5, 2009.
8. The Facility Administration fully supports the Respondent's continued ability to work at the Facility.

Charges

9. 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(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
 - 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

1. This Stipulation is neither an admission of liability by the Respondent nor a concession by the State of Vermont that its charges are not well founded. To avoid delay, uncertainty, inconvenience, and expense of protracted litigation of the charges above the Parties reach a full and final Stipulation pursuant to these Understandings and the Order below. The Respondent does not dispute that the State could prove these charges by a preponderance of the evidence if this matter went to a hearing and agrees that the conditions below are necessary to protect the public.

2. 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.
3. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
4. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
5. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
6. 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.
7. Respondent voluntarily waives his right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
8. 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. Registered nursing license will be **CONDITIONED FOR A MINIMUM OF ONE (1) YEAR** commencing with the date of entry of this Stipulation and Consent Order. The conditions will be as follows:
 - (1) License to be labeled "Conditioned."
Any license issued to the Respondent by this Board shall be labeled "Conditioned."
 - (2) Length of Time Conditions Imposed.
The conditions shall remain in place until the Respondent has completed all conditions ordered. Applicant shall be subject to the conditions until Respondent completes a **minimum of one (1) year** of registered nursing practice in which the Respondent works at least forty (40) hours every two (2) weeks as a registered nurse. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis. Respondent shall be prohibited from working more than fifty-six (56) hours per week.
 - (3) Completion of Anger Management Course.
The Respondent shall take and successfully complete an anger management course, pre-approved by the Board within ninety (90) days of the date of entry below.

(4) Interview with the Board or its Designee.

The Respondent shall appear in person for interviews with the Board or its designee upon request.

(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 in which Respondent practices as a registered 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 registered 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 the Respondent is attending a nursing program, 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 the conditions in the Consent Order during clinical experience.

(6) 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 registered nursing practice and **monthly** thereafter, Respondent shall cause every registered nursing employer for which the Respondent has worked during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. This report shall be 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 his 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.

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.

(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 Consent Order, Respondent shall notify the Board, in writing, of his 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) Notification to Other States.

In the event that the Respondent is licensed in nursing in any other state(s), he must inform the nursing licensing board of the state(s) in which the Respondent is licensed of the conditional status of his Vermont registered 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.

(12) 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 registered nurse, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that he has otherwise complied with the requirements for license renewal.

(13) Costs.

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

(14) 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.

(15) Completion of Conditional License Period.

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

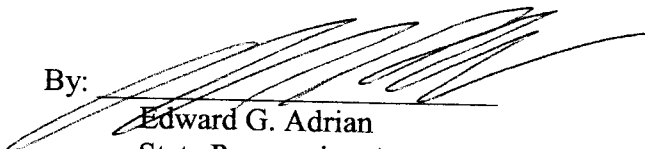
- B. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.

- 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

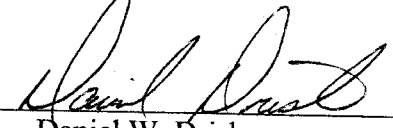
Dated: 7/2/09

By: 

Edward G. Adrian
State Prosecuting Attorney

DANIEL W. DRISH
RESPONDENT

Dated: 7/1/09

By: 

Daniel W. Drish

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 7-1-09

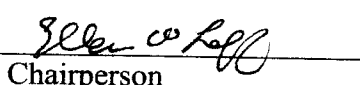
By: 

Jesse M. Corum, IV, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 8-10-09

By: 

Chairperson

Date of Entry: 8/12/09

NU.Drish.Stip2