

Reinstatement, May

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

IN RE:)
LAURA J. EISENBERG) Docket No. NU 78-0504
License No: 025-0006325)

REINSTATEMENT STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Laura J. Eisenberg, 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, 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 pursuant to 3 V.S.A. §§129, 129a, and 814; 26 V.S.A. §1582, the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.

Statement of Facts

2. The Respondent, Laura J. Eisenberg, is licensed in the State of Vermont as a licensed practical nurse under license number 025-0006325. The Respondent's license was originally issued on or about November 29, 1988.

3. By way of history, the Respondent's license was conditioned by the Board pursuant to a Stipulation and Consent Order entered on or about January 5, 2005 (the "Stipulation"). This Stipulation was based on the Respondent's failure to report two (2) DWI convictions on her license renewal application. The Respondent's license was subsequently revoked pursuant to a Findings of Fact, Conclusions of Law, and Order entered by the Board on or about January 31, 2006 (the "Order"). (Attachment A). The Order was the result of the Respondent's use of an illegal substance on more than one occasion and her and the Respondent's false testimony before the Board with regard to her use of that substance. (Attachment A).

4. In a letter to the Board date May 14, 2007, the Respondent expressed her desire for the Board to consider reinstating her L.P.N. license. In her letter, the Respondent advised that she sees a therapist weekly, that she engages in healthy activities to cope with stress, and that she is ready to return to the practice of nursing.

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5. In support of her reinstatement, the Respondent provided an independent drug and alcohol evaluation conducted by Jay L. Schlesinger, a licensed psychologist in the State of New York, dated April 29, 2007. In his evaluation, Dr. Schlesinger concluded that the Respondent has the present potential to practice nursing safely and competently. Dr. Schlesinger made the following recommendations with regard to the Respondent's return to nursing: 1) continuation of individual psychotherapy; 2) re-involvement in the field of nursing; and 3) if indicated, immediate referral to drug and/or alcohol rehabilitation program.

6. Also in support of her reinstatement, the Respondent provided a psychiatric report conducted by Marianne Hendrix, a practical psychiatrist in the State of New York, on March 8, 2007 and March 29, 2007. In her evaluation, Dr. Hendrix concluded that the Respondent "probably can be a stable and reliable L.P.N." Dr. Hendrix made the following recommendations to the Board with regard to the Respondent's reinstatement: 1) employer reports; 2) weekly drug and alcohol counseling; 3) monthly urine screens; 4) monitoring of counseling attendance; 5) mental health counseling every one (1) to three (3) weeks; and 6) psychopharmacology sessions every four (4) to six (6) weeks.

7. The Respondent agrees that the conditions below are necessary for her to return to the practice.

Understandings

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.

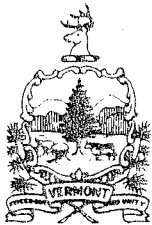
12. Respondent voluntarily enters into this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.

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

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

A. The Board of Nursing hereby **REINSTATES** and **CONDITIONS** the Respondent's practical nursing license for a minimum period of **THREE (3) YEARS**. The conditions are 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 Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent completes **three (3) years** of supervised practical nursing practice in which Respondent works at least forty (40) hours every two (2) weeks as a practical 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 forty (40) hours per week.

(3) Completion of Substance Abuse Counseling and Treatment Plan.

Respondent shall enter into and continue substance abuse counseling with a treating professional approved by the Board until the treating professional shall certify in writing to the Nursing Board that such counseling is no longer necessary. Respondent shall enter into and comply with the substance abuse treatment plan approved by the Board and the treating professional.

(4) Completion of Individual Psychotherapy and Treatment Plan.

Respondent shall enter into and continue individual psychotherapy with a treating professional approved by the Board until the treating professional shall certify in writing to the Nursing Board that such counseling is no longer necessary. Respondent shall enter into and comply with the individual psychotherapy treatment plan approved by the Board and the treating professional.

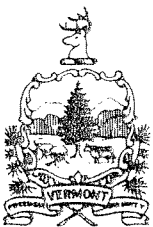
(5) Completion of Psychopharmacology Sessions and Treatment Plan.

Respondent shall enter into and continue psychopharmacology sessions with a treating professional approved by the Board until the treating professional shall certify in writing to the Nursing Board that such counseling is no longer necessary. Respondent shall enter into and comply with the psychopharmacology treatment plan approved by the Board and the treating professional.

(6) Notification to Treating Professional.

With respect to paragraphs A(3)–A(5), Respondent shall provide a copy of this Stipulation and Consent Order to her treating professionals and cause her treating professionals to inform the Board, in writing and on professional letterhead, of receipt of the Stipulation and Consent Order and the treating professionals' ability to comply with the conditions related to treatment and with all other terms of this Consent Order.

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(7) Reports from Treating Professional.

With respect to paragraphs A(3)–A(5), Respondent shall authorize and cause her treating professionals to submit to the Board evidence of satisfactory progress with the treatment plan during the effective period of this Consent Order. These reports shall be submitted in writing on forms issued by the Board. The first report is due commencing the month after the date of the commencement of the conditions and subsequent reports are due **monthly** thereafter.

Respondent shall authorize her treating professionals to provide all information requested by the Nursing Board, either orally or in writing, at any time during the period this Consent Order is in effect.

(8) Participation in Recovery Groups.

Respondent shall participate as recommended by her treating professionals, in Alcoholics Anonymous and/or Narcotics Anonymous or other recovery group(s).

(9) Random Drug and Alcohol Testing.

Respondent shall submit to random drug and alcohol screenings at the request of the Board or its designee. Respondent shall designate a person, who has been approved by the Board or its designee, to administer random drug and alcohol screens. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes and approved by the Board. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative.

(10) Abstain from Drug and Alcohol Use.

Respondent shall abstain completely from the consumption or possession of alcohol and drugs with the exception of medications as outlined in paragraph A.(9) for the period of time described in paragraph A.(2).

(11) Drug Use Exception.

The Respondent shall not take prescribed medications unless necessary. Respondent may take medications lawfully prescribed for a bona fide illness or condition by a physician, dentist, or nurse practitioner whose identity shall be made known to the Board in writing by Respondent within forty-eight (48) hours of the establishment of the practitioner/patient relationship. Respondent shall ensure that the physician, dentist or nurse practitioner informs the Board, in writing and on appropriate letterhead, of knowledge of Respondent's substance abuse issue(s) within one (1) week of entering into the practitioner/patient relationship. Respondent shall inform the Board in writing of all medications prescribed, including the name of the prescribing practitioner, within forty-eight (48) hours of receiving the prescription.

The Board or its designee may request at any time that the practitioner document the continued necessity for the prescribed scheduled/controlled medications if the term exceeds 14 days. This includes medications to be administered as necessary. It is not anticipated that Respondent would be prescribed scheduled/controlled medication during the term of this Consent Order for a period greater than 14 days, but if so, then the conditions herein may be revoked by the Board.

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Respondent shall keep a written record of all medications taken, including over the counter drugs, and produce such record upon the request of the Board or its designee.

(12) Interview with the Board or its Designee.

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

(13) 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 practical 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 practical 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.

(14) Reports from Employers.

Within one (1) month of the date of entry of this Order or within one (1) month of the commencement of practical nursing employment and **quarterly** thereafter, Respondent shall cause every practical 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. This report shall be submitted in writing on forms issued by the Board.

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.

(15) Administration of Medications.

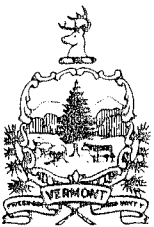
Respondent is prohibited from administering any controlled substances. This condition may be removed only by the Respondent filing a petition with the Board after she has worked as nurse for twelve (12) weeks for at least 40 hours every two weeks (or the part time equivalent) after the date of reinstatement.

In any such petition, the Respondent must demonstrate, to the satisfaction of the Nursing Board, that she can safely and competently administer such medications. In any such petition, the Respondent must include appropriate support from her treating professional and employer or nursing school administrator and a description of the documentation and inventory control procedures in place.

The removal of this prohibition shall not automatically result in the reinstatement of all medication privileges. The Board may gradually restore those privileges through whatever intermediary steps it determines are appropriate.

(16) Practice Under Supervision.

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Respondent shall practice as a licensed practical nurse only in a setting where Respondent has direct supervision for the entire shift by a licensed registered nurse who is in good standing with the Board.

(17) 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 personal care provider during the effective period of this Consent Order.

(18) 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 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.

(19) Out of State Practice/Residence.

Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board prior to Respondent leaving the State of Vermont. If Respondent fails to receive such approval before leaving the State, none of the time spent 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 practice so long as the Respondent can still comply with the provisions of this Consent Order.

(20) 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 practical 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.

(21) 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 practical 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.

(22) Release of Information Forms.

The conditions of this Order require the Respondent to authorize drug and/or alcohol treatment providers to report information in verbal and/or written format and/or to discuss the Respondent and any and all treatment rendered to the Respondent for drugs and/or alcohol with the Board or its designee. The conditions of this Order must allow any and all information from the Respondent's treatment providers to also be provided to the Office of Professional Regulation investigators and that the information may be used for further prosecutions if so warranted or if the Office of Professional Regulation determines that said

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information violates the terms of this Order or any rules or laws governing the profession of nursing.

The Respondent is entitled to revoke this consent at any time. However, any revocation by the Respondent of such consent to disclosure during the term of this Order shall be considered a violation of this Order.

This consent expires when the conditions are removed from the Respondent's nursing license.

This Stipulation and Consent Order shall constitute a valid written consent pursuant to the requirements of 42 C.F.R. § 2.31.

The Respondent understands that her treatment provider may require her to sign a separate and distinct consent meeting the requirements of 42 C.F.R. § 2.31.

(23) Costs.

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

(24) 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.

(25) 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 and that she can safely and competently perform the duties of a practical nurse.

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

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
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Dated:

12/5/07

By:

Edward G. Adrian
State Prosecuting Attorney

LAURA J. EISENBERG
RESPONDENT

Dated: November 26th, 2007

By:

Laura Eisenberg
Laura J. Eisenberg

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated:

12/10/07

By:

Susan Faurell
Chairperson

Date of Entry:

12/13/07

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

In re: Laura J. Eisenberg }
License No. 025-0006325 } Docket No: NU 78-0504

**UNPROFESSIONAL CONDUCT CHARGE
FINDINGS OF FACT, CONCLUSION OF LAW
& ORDER**

On 12 December 2005, this matter came before the Vermont Board of Nursing for a disposition hearing. Board members Kenneth W. Bush, Susan O. Farrell, Chairperson, Ellen W. Leff, Donarae Metcalf, Sandra Norton, and Alan Weiss participated. Laurey M. Tyo participated in the investigation and recused herself from participation in this matter. Prosecuting attorney Edward G. Adrian represented the State of Vermont. The Respondent appeared in person and represented herself. Kevin F. Leahy was the presiding officer.

Based on the evidence presented at the hearing, the Board makes the following finding and conclusions of law:

- 1 The Respondent is licensed by and subject to the disciplinary authority of this Board. 26 V.S.A. Chapter 28, 3 V.S.A. § 129(a), and the Administrative Rules of the Office of Professional Regulation.
2. Respondent holds a State of Vermont license as a practical nurse. On 14 September 2005 the Board summarily suspended the Respondent's license.
3. The September 2005 summary suspension order was in response to the Respondent's violations of conditions placed on her nursing license following two driving while impaired convictions. The convictions occurred in New York State and Vermont in 2002 and 2004, respectively. *See, In re Eisenberg*, Stipulation and Consent Order (July 2005).
4. The violations of Respondent's nursing license conditions, which led to the September 2005 summary suspension, included use of illegal substances on more than one occasion and culminated with Respondent giving false testimony before this Board on 12 September 2005.
- 5 Respondent initially denied the State's Specification of Charges (attached), which alleged, *inter alia*, that random drug screening returned a positive result for the use of cocaine in August 2005. State Charges at ¶¶ 8-9. In Respondent's Answer to the State's Charges, she claimed, as she did at the September 2005 hearing, that her positive drug screening results were a "false positive" due to the use of amoxicillin. Respondent's Answer, dated 4 October 2005.

6. In a letter to the Board dated 28 December 2005, the Respondent indicated that "[a]fter much thought and soul searching, I will not contest my recent charges."
7. The Board therefore adopts and accepts the State's Specification of Charges as proven.
8. Before the Board at the hearing on this matter, the Respondent stated that she was seeing a substance abuse counselor and attending group therapy sessions for her alcoholism.
9. One of Respondent's therapists, James W. Hulfish, LCMHC of the Counseling Service of Addison County, testified by phone at the hearing. He stated that the Respondent appeared to show more engagement, in the last two or three months, with group therapy than when she was originally required to attend. Mr. Hulfish acknowledged, however, that the Respondent's willingness to become more open and participatory in her counseling occurred only after her license was suspended this past September.
10. The Respondent represented to the Board that she wants to return to nursing and that she does not "ever want to have a positive [drug screen] again." However, her testimony offered little to assist the Board in finding whether she is ready to make a safe transition to nursing nor did she offer a satisfactory proposal to satisfy the Board's ongoing concerns that she can reliably and consistently practice nursing safely if give the opportunity. The Board's concern is heightened given the gravity of the uncontested charges brought by the State.
11. The Respondent's recent behavior, while holding a conditioned license in 2005, coupled with a lack of compelling evidence of rehabilitation, leaves the Board without a basis to find that the Respondent is capable of adhering to future board orders. It also leaves the Board without a basis to find that she will likely adhere to the professional obligations incumbent upon a practicing nurse.

ORDER

In light of its findings of fact and conclusions of law, the Board ORDERS that the Respondent's Vermont nursing license be REVOKED.

Vermont Board of Nursing

By: Susan Farrell
Susan Farrell, RN, Chairperson

Date: Jan. 20, 2006

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 1/31/06

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, 26 Terrace Street, Montpelier, Vermont 05609-1101 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.

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

IN RE:

LAURA J. EISENBERG

License No: 025-0006325

)
) Docket No. NU 78-0504

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Laura J. Eisenberg, L.P.N.:

Board Authority

- 1 The Vermont Board of Nursing ("the Board") has jurisdiction to investigate complaints of unprofessional conduct and discipline nurses pursuant to 3 V.S.A. §§129 and 129a; 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. Laura J. Eisenberg (the "Respondent") is a licensed practical nurse holding license number 025-0006325 issued by the State of Vermont. This license was originally issued on or about November 29, 1988 and is set to expire on January 31, 2006.
3. The Respondent's license is currently conditioned pursuant to a Stipulation and Consent Order entered on January 5, 2005. This discipline was imposed due to the Respondent failing to disclose on her January 29, 2004 renewal application a September 10, 2002 conviction in Essex County, Town of Crown Point, New York for Driving While Impaired, and a May 5, 2004 conviction in Addison County District Court for DWI #1.
4. This Stipulation and Consent Order was extended by the Board on May 10, 2005.
5. Part B. of the Order states that the Respondent must abstain completely from the use of both drugs and alcohol during the conditioned period.
6. On April 12, 2005, the Board of Nursing received from Counseling Service of Addison County the results of an April 4, 2005 drug screen which had been triggered on the Respondent as part of her counseling.

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7. The results of the drug screen came back positive for the use of cocaine.
8. On August 8, 2005 another drug screen was performed by Dominion Diagnostics.
9. The results of this drug screen came back positive for the use of cocaine.
10. On September 12, 2005 the Respondent told the Board under oath that she had obtained the antibiotic Amoxicillin without a prescription and that this was the cause for the positive drug screen on August 8, 2005.

Charges

11. The above acts, omissions and/or circumstances described above, constitute grounds for discipline because Respondent violated:
 - i. 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);
 - ii. 26 V.S.A. § 1582(a)(5) (is addicted to the use of habit forming drugs);
 - iii. 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause);
 - iv. 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); and
 - v. ARBN 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).

Relief Requested

WHEREFORE, the license of Laura J. Eisenberg should be revoked, suspended, reprimanded, conditioned or otherwise disciplined

DATED at Montpelier, Vermont this 20 day of September, 2005.

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STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

Prof. Henry, Jr.

STATE OF VERMONT
BOARD OF NURSING

In re: Laura J. Eisenberg
License No. 025-0006325

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Docket No. NU78-0504

DECISION ON REQUEST FOR
SUMMARY SUSPENSION ORDER

Appearances:

for Petitioner, State of Vermont: Edward G. Adrian
for Respondent: Pro Se

Presiding Officer: Larry S. Novins

Summary Suspension Order
FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER

On September 12, 2005 this matter came before the Board of Nursing on the prosecution's Request for Summary Suspension pursuant to 3 V.S.A. § 814(c) and 3 V.S.A. § 129(a)(4). The respondent did appear and testified. The Board has authority to summarily suspend a license pending further action if it determines that public health, safety, or welfare imperatively requires emergency action.

Findings of fact

Based on substantial credible evidence the Board finds as follows:

1. The respondent is licensed by and subject to the disciplinary authority of this Board. 26 V.S.A. Chapter 28, 3 V.S.A. § 129(a), the Administrative Rules of the Office of Professional Regulation.
2. The prosecution filed a "Request for Summary Suspension" dated August 29, 2005 alleging that Ms. Eisenberg, a licensed practical nurse is under a conditioned license pursuant to a July 12, 2005 Stipulation and Consent Order, and that on August 8, 2005 she tested positive for cocaine and benzodiazepines, and that she took amoxicillin without a prescription in violation of the Stipulation and Consent Order issued in her case..
3. Ms. Eisenberg's license was previously conditioned in January of 2005. See Attachment A to State's Request for Summary Suspension.
4. The State makes further allegation contending that the public health, safety or welfare imperatively requires emergency action.
5. The Respondent has been provided notice of this matter via "Notice of Summary Suspension Hearing" mailed to her via certified mail. Her signature appears on the return. She appeared and testified at the hearing.

6. The Board has reviewed documents presented by the State and the respondent.
7. The allegations in the Request for Summary Suspension (copy attached) have been established to the necessary degree.
8. The evidence presented does imperatively require emergency action for the public health, safety, and welfare.

Conclusions of Law

The prosecution's Request for Summary Suspension is supported by the evidence presented. The Board issues the following order which shall remain in effect until further action by the Board. 3 V.S.A. § 814(c).

Order:

Pursuant to 3 V.S.A. §814(c) the Respondent's license is summarily suspended pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

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, 26 Terrace Street, Montpelier, Vermont 05609-1101 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: Susan Farrell
Susan Farrell, RN, Chair

Date: 9/12/05

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 9/14/05

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

IN RE: LAURA J. EISENBERG
License No. 025-0006325

DOCKET No. NU 78-0504

REQUEST FOR SUMMARY SUSPENSION

Board Authority

1. The Vermont Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28 and; the rules of the Board and the Vermont Office of Professional Regulation.
2. The Board of Nursing is authorized by 3 V.S.A. § 814 to summarily suspend the license of a nurse when it finds that the public health, safety or welfare imperatively requires emergency action.

Statement of Facts

3. Laura J. Eisenberg (the "Respondent") is a licensed practical nurse holding license number 025-0006325 issued by the State of Vermont. This license was originally issued on or about November 29, 1988 and is set to expire on January 31, 2006.
4. The Respondent's license is currently conditioned pursuant to a Stipulation and Consent Order entered on January 5, 2005 and extended and added to on July 12, 2005. Attachment A. The extension and addition occurred as a result of the Respondent having a drug screening on April 12, 2005 that showed a positive test for cocaine.
5. The July 12, 2005 stipulation requires the Respondent to completely abstain from drugs and alcohol during the conditioned period.
6. On or about August 8, 2005, the Respondent again tested positive for cocaine and for benzodiazepines.
On or about August 9, 2005 the Respondent acquired a motor vehicle license and utilized it by driving it.
7. The facts as set out above establish that the public health, safety, or welfare imperatively requires emergency action.
8. The above acts and circumstances, alone or in combination, violate: 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); 26 V.S.A. § 1582(a)(3) (is unable to

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

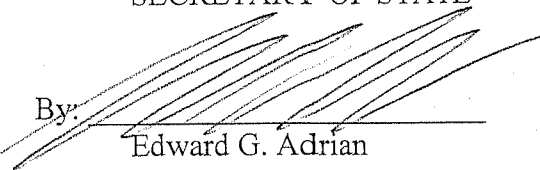
practice nursing competently by reason of any cause); 26 V.S.A. § 1582(a)(5) (is addicted to the use of habit forming drugs); 26 V.S.A. § 1582(a)(7) (engages in conduct of a character likely to deceive, defraud or harm the public).

Relief Requested

WHEREFORE, the Respondent's license should be summarily suspended, pursuant to 3 V.S.A. §814, pending a formal resolution of the above matter(s).

Dated this 29th day of August, 2005 at Montpelier, Vermont.

STATE OF VERMONT
SECRETARY OF STATE

By: 

Edward G. Adrian
State Prosecuting Attorney

→ 26 USA 129 a(a)(4)

nu.eisenberg.sumsusp2

Failing to comply with an order
of the board or violating
any term or condition
of a license restricted by
the board.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

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

IN RE: LAURA J. EISENBERG) DOCKET No. NU 78-0504
License No. 025-0006325)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Laura J. Eisenberg, who stipulate and agree as follows:

Board Authority

1. The Vermont Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28 and; the rules of the Board and the Vermont Office of Professional Regulation.

Statement of Facts

2. Laura J. Eisenberg (the "Respondent") is a licensed practical nurse holding license number 025-0006325 issued by the State of Vermont. This license was originally issued on or about November 29, 1988 and is set to expire on January 31, 2006.
3. The Respondent's license is currently conditioned pursuant to a Stipulation and Consent Order entered on January 5, 2005. This discipline was imposed due to the Respondent failing to disclose on her January 29, 2004 renewal application a September 10, 2002 conviction in Essex County, Town of Crown Point, New York for Driving While Impaired, and a May 5, 2004 conviction in Addison County District Court for DWI #1.
4. On April 12, 2005, the Board of Nursing received from Counseling Service of Addison County the results of an April 4, 2005 drug screen which had been triggered on the Respondent as part of her counseling.
5. The results of the drug screen came back positive for the use of cocaine.

Charges

6. The above acts and circumstances, alone or in combination, violate: 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); 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause); 26 V.S.A. § 1582(a)(5) (is

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

addicted to the use of habit forming drugs); 26 V.S.A. § 1582(a)(7) (engages in conduct of a character likely to deceive, defraud or harm the public).

Understandings

7. The parties understand that the terms of this Stipulation and Consent Order are contingent upon review and acceptance by the Board and that if the Board rejects any portion the entire Stipulation and Consent Order shall be null and void.
8. The Respondent has read and reviewed this document fully and agrees that it contains the entire agreement between the parties.
9. This Stipulation and Consent Order is entered into voluntarily by the Respondent after the opportunity to consult with legal counsel. The Respondent has not been coerced by anyone into signing this Stipulation and Consent Order.
10. The Respondent is voluntarily waiving her right to a contested hearing before the Board of Nursing.
11. Respondent agrees that the Order set forth below may be entered by the Board.

CONSENT ORDER

Based upon the above stipulation, it is **ORDERED AND ADJUDGED** as follows:

- A. The Board of Nursing finds that Respondent has engaged in unprofessional conduct in that the Respondent has violated: 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); 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause); 26 V.S.A. § 1582(a)(5) (is addicted to the use of habit forming drugs); 26 V.S.A. § 1582(a)(7) (engages in conduct of a character likely to deceive, defraud or harm the public).
- B. The Board of Nursing hereby **EXTENDS** the Order entered by the Board on January 5, 2005 for a period of **THREE (3) YEARS** from the date of entry of this Stipulation and Consent Order. Additionally, the Respondent must abstain completely from the use of both drugs and alcohol during the conditioned period.
- 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 the 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

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

Dated:

7/6/05

By:

Edward Adrian
State Prosecuting Attorney

LAURA J. EISENBERG
RESPONDENT

Dated:

6-29-05

By:

Laura J. Eisenberg
Laura J. Eisenberg

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated:

July 11, 2005

By:

Susan Farrell
Chairperson

Date of Entry:

7/12/05

nu.eisenberg.stip

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

Port Henry, NY

STATE OF VERMONT
BOARD OF NURSING

In re: Laura Eisenberg
License No. 25-6325

}
}
}

Docket No. NU78-0504

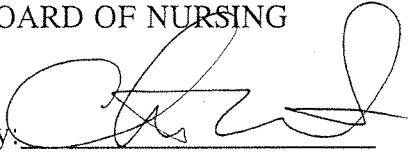
SUMMARY SUSPENSION ORDER

On March 9, 2005, this case came before the Board of Nursing for a hearing on the State's request for summary suspension.

Based upon the evidence presented by the parties, the Board finds that the allegations in the request for summary suspension have not been established to the necessary degree. Therefore, the Board finds that the public health, safety, or welfare do not imperatively require emergency action against the Respondent's license.

Pursuant to 3 V.S.A. § 814(c), Respondent Laura Eisenberg's nursing license shall remain unencumbered pending a hearing on any charges that may be filed or any other resolution of this case.

BOARD OF NURSING

By: 
Chris Winters, for
Board Chair Susan Farrell

Dated: 5-9-05

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 5/12/05

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

IN RE: LAURA J. EISENBERG)
License No. 025-0006325)

DOCKET No. NU 78-0504

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Laura J. Eisenberg, L.P.N.:

Board Authority

1. The Vermont Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28 and; the rules of the Board and the Vermont Office of Professional Regulation.

Statement of Facts

2. Laura J. Eisenberg (the "Respondent") is a licensed practical nurse holding license number 025-0006325 issued by the State of Vermont. This license was originally issued on or about November 29, 1988 and is set to expire on January 31, 2006.
3. The Respondent's license is currently conditioned pursuant to a Stipulation and Consent Order entered on January 5, 2005. This discipline was imposed due to the Respondent failing to disclose on her January 29, 2004 renewal application a September 10, 2002 conviction in Essex County, Town of Crown Point, New York for Driving While Impaired, and a May 5, 2004 conviction in Addison County District Court for DWI #1. (See Attachment A).
4. On April 12, 2005, the Board of Nursing received from Counseling Service of Addison County the results of an April 4, 2005 drug screen which had been triggered on the Respondent as part of her counseling.
5. The results of the drug screen came back positive for the use of cocaine.

Charges

6. The above acts and circumstances, alone or in combination, violate: 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); 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause); 26 V.S.A. § 1582(a)(5) (is addicted to the use of habit forming drugs); 26 V.S.A. § 1582(a)(7) (engages in conduct of a character likely to deceive, defraud or harm the public).

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Relief Requested

WHEREFORE, the license of Laura J. Eisenberg should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 10th day of May 2005.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

nu.eisenberg.soc2

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

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

IN RE: LAURA J. EISENBERG)
License No. 025-0006325) DOCKET No. NU 78-0504

REQUEST FOR SUMMARY SUSPENSION

Board Authority

1. The Vermont Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28 and; the rules of the Board and the Vermont Office of Professional Regulation.
2. The Board of Nursing is authorized by 3 V.S.A. § 814 to summarily suspend the license of a nurse when it finds that the public health, safety or welfare imperatively requires emergency action.

Statement of Facts

3. Laura J. Eisenberg (the "Respondent") is a licensed practical nurse holding license number 025-0006325 issued by the State of Vermont. This license was originally issued on or about November 29, 1988 and is set to expire on January 31, 2006.
4. The Respondent's license is currently conditioned pursuant to a Stipulation and Consent Order entered on January 5, 2005. This discipline was imposed due to the Respondent failing to disclose on her January 29, 2004 renewal application a September 10, 2002 conviction in Essex County, Town of Crown Point, New York for Driving While Impaired, and a May 5, 2004 conviction in Addison County District Court for DWI #1. (See Attachment A).
5. On April 12, 2005, the Board of Nursing received from Counseling Service of Addison County the results of an April 4, 2005 drug screen which had been triggered on the Respondent as part of her counseling.
6. The results of the drug screen came back positive for the use of cocaine.

Charges

7. The facts as set out above establish that the public health, safety, or welfare imperatively requires emergency action.
8. The above acts and circumstances, alone or in combination, violate: 3 V.S.A. § 129a(a) (3) (failing to comply with provisions of federal or state statutes or rules

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

governing the practice of the profession); 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause); 26 V.S.A. § 1582(a)(5) (is addicted to the use of habit forming drugs); 26 V.S.A. § 1582(a)(7) (engages in conduct of a character likely to deceive, defraud or harm the public).

Relief Requested

WHEREFORE, the Respondent's license should be summarily suspended, pursuant to 3 V.S.A. §814, pending a formal resolution of the above matter(s).

Dated Thursday, April 28, 2005 at Montpelier, Vermont.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

nu.eisenberg.sumsusp

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Port Henry, NY

STATE OF VERMONT
BOARD OF NURSING

IN RE:)
Laura Eisenberg) Case File No. NU78-0504
License No. 25-6325)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Introduction

The Vermont Board of Nursing ("the Board") held a hearing in this case on Monday, December 13, 2004, at 81 River Street in Montpelier, Vermont. Board members Susan Farrell, Sandra Norton, Alan Weiss, Dee-Ann Welch, Donarae Metcalf, Elayne Clift and Linda Rice participated in the decision. Edward Adrian, Prosecuting Attorney, appeared for the State. Laura Eisenberg ("the Respondent") was present by telephone.

The Respondent did not contest the allegations in the State's Specification of Charges dated July 7, 2004.

Findings of Fact

The Board incorporates the facts from the State's Charges as the facts upon which its conclusions and Order are based, repeated here for ease of reading:

1. The Respondent, Laura Eisenberg, is licensed by the State of Vermont as a L.P.N. under license number 025-0006325.
2. Respondent's license was originally issued on November 29, 1988 and Respondent's license is currently set to expire on January 31, 2006.
3. On or about January 29, 2004, the Vermont Board of Nursing received a license renewal application from the Respondent.
4. On her application, the Respondent stated "No" to the question of "Have you ever been convicted of a crime other than a minor traffic offense?"
5. Upon information and belief, on September 10, 2002, the Respondent was convicted of one count of Driving While Impaired in Essex County, Town of Crown Point, New York.
6. Also, according to certified court records, on May 5, 2004, the Respondent was convicted

of DWI #1, a misdemeanor, in Vermont District Court, Unit 2, Addison Circuit, Docket No. 154-4-04 Ancr.

7. Following the Vermont DWI conviction, the Respondent was given a sentence of three to twelve months, all suspended and placed on probation under standard and special conditions.

Additionally, the Board finds:

8. The Respondent's failure to disclose the first DWI conviction on her renewal application was not with the intention of providing false information to the Board.
9. The Respondent is currently under terms of probation that require her to abstain from alcohol and attend therapy every week. She submits to random screenings for alcohol use.
10. The Respondent's therapist, whom she has been seeing for approximately four years, is a licensed alcohol and drug abuse counselor but she has not been evaluated for a substance abuse problem, although she does discuss those issues with her counselor from time to time.
11. The investigative team for this case, through the prosecuting Attorney, had recommended that the Respondent undergo an independent evaluation from an alcohol and drug abuse counselor other than her present therapist. She indicated in her answer: "I will do that." To date she has not.
12. The Respondent attends AA meetings once per week or "when she can."
13. The Respondent is currently working as the charge nurse at a long term care facility.

Conclusions of Law

A. The Vermont Board of Nursing ("the Board") has jurisdiction to investigate complaints of unprofessional conduct and discipline nurses pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §1582; the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.

B. Whether or not committed in this state, being convicted of a crime related to the practice of nursing or a felony which evinces an unfitness to practice nursing is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(2).

C. Making a false representation in renewing a license to practice constitutes unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(1); Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(A).

D. Although done without the intent to mislead the Board, by providing false information on her application for renewal of her nursing license, the Respondent has committed unprofessional conduct in that she has: made a false representation (even if unintentional) in renewing a license to practice which is a violation of 26 V.S.A. §1582(a)(1) and Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(A)

E. Because she has been convicted of two DWI's in the last two years, the Respondent has committed unprofessional conduct in that she has: been convicted of a crime related to the practice of nursing in violation of 26 V.S.A. §1582(a)(2).

F. Both of these actions constitute unprofessional conduct in that the Respondent has:

i) failed to comply with the provisions of state statutes or rules governing the practice of the profession in violation of 3 V.S.A. §129a(a)(3), and

ii) engaged in conduct of a character likely to harm the public in violation of 26 V.S.A. §1582(a)(7).

Opinion

The Respondent presented a very compelling case regarding her personal life and her endeavors to be a strong and healthy woman, parent and nurse. She also asserts that she has paid for, and continues to pay for her mistakes. She stated that it is very difficult to maintain a job or seek counseling without a driver's license.

While the Board is sympathetic to her personal situation, the Board must remain focused on the best interest of the public and those patients the Respondent could be caring for. The Respondent had been advised to seek an independent drug and alcohol evaluation, which would have helped the board to determine exactly what conditions were necessary to ensure this nurse continued to engage in safe nursing practice. Without such an evaluation, the Board is left with many unanswered questions about the Respondent's ability to practice nursing.

Order

A. Based on substantial evidence and the above findings and conclusions, the Board of Nursing hereby REPRIMANDS the Respondent's license and further CONDITIONS it as follows for a period of TWO (2) YEARS and the following conditions shall apply:

(1) Independent Evaluation.

The Respondent must undergo an immediate independent evaluation by a licensed alcohol and drug abuse counselor who is not her current therapist. If this evaluation is not completed within three (3) months of the date of entry of this order, the Respondent's license will be automatically suspended until such time as the evaluation is completed. The evaluation shall include a written report to the Board recommending a treatment plan for the

Respondent. Should the evaluation indicate that a treatment plan is not necessary, the Respondent may petition the Board to modify this Order.

(2) Re-issue of License.

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

(3) 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. Respondent shall be prohibited from working more than forty (40) hours per week.

(4) Completion of Substance Abuse Counseling and Treatment Plan.

Respondent shall enter into and continue substance abuse counseling with a treating professional approved by the Board until the treating professional shall certify in writing to the Nursing Board that such counseling is no longer necessary. Respondent shall enter into and comply with the substance abuse treatment plan approved by the Board and the treating professional.

If the Board (1) does not approve the treating professional presented to the Board for approval or (2) does not approve the treatment plan presented to the Board for review and approval, Respondent must submit another treating professional and/or treatment plan for the Board's approval prior to the next regularly scheduled monthly meeting of the Board. If Respondent fails to comply with this paragraph or the Board should again reject the proposed treating professional or treatment plan, Respondent shall be deemed to have violated this Order.

(5) Substance Abuse Therapy and Notification to Treating Professional.

Respondent shall provide a copy of this Order to her treating professional and cause her treating professional to inform the Board, in writing and on professional letterhead, of receipt of the Order and the treating professional's ability to comply with the conditions related to treatment and with all other terms of this Order.

(6) Reports from Treating Professional.

Respondent shall authorize and cause her treating professional to submit to the Board evidence of satisfactory progress with the treatment plan during the effective period of this Order. These reports shall be submitted in writing on forms issued by the Board. The first report is due commencing the month after the date of entry of this Order and subsequent reports are due every

month thereafter.

Respondent shall authorize her treating professional to provide all information requested by the Nursing Board, either orally or in writing, at any time during the period this Order is in effect.

(7) Abstention from Alcohol.

Respondent shall abstain completely from the use of alcohol while these conditions remain in effect.

(8) Interview with the Board or its designee.

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

(9) Types of Employment Prohibited.

Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency, or as a personal care provider during the effective period of this Order.

(10) Prohibited Duties.

Respondent shall be prohibited from working in a supervisory role during the effective period of the Order. Respondent shall be prohibited from working the night shift during the effective period of the Order. Respondent shall not work more than forty (40) hours per week.

(11) Out of State Practice/Residence.

Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board prior to Respondent leaving the State of Vermont. If Respondent fails to receive such approval before leaving the State, none of the time spent out-of-state will be credited toward the fulfillment of the terms and conditions of this Order. The Board will approve out-of-state practice so long as the Respondent can still comply with the provisions of this Order.

(12) 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 nursing employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in nursing employment, personal address, or telephone number. Respondent shall provide a copy of this Order to all employers, current and future, and shall inform them of the conditional status

of her license.

(13) Random Alcohol Testing.

Respondent shall submit to random screening at the request of the Board. Respondent shall designate a person, who has been approved by the Board, to administer the random screens. All testing shall be done on an unannounced basis and shall be analyzed by a lab qualified to analyze samples for forensic purposes. All urine specimens collected for tests shall be collected in an observed setting.

(14) 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.

(15) Release of Information Forms.

In fulfilling the conditions of this Order which require the Respondent to authorize various persons to report information or to discuss the Respondent with the Board, the Respondent must execute a consent to disclose form which meets the requirements of 42 C.F.R. §2.31. The authorization must allow the information to also be provided to the Office of Professional Regulation investigators. Any revocation by the Respondent of such a consent to disclosure during the term of this Order shall be considered a violation of this Order.

(16) Costs.

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

(17) 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.

(18) 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. The Respondent must also present proof of successful substance abuse rehabilitation and she must demonstrate, to the satisfaction of the Nursing Board, that she poses no danger to the public or the practice of nursing and that she can safely

and competently perform the duties of a Registered Nurse.

(19) Compliance with Probation.

Respondent shall comply with all terms of her probation and any violation of those terms shall be deemed a violation of this Order.

B. This 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 Order will remain part of the Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

Appeal Rights

This is a final administrative determination by the Vermont State Board of Nursing. You may appeal by sending a notice of appeal in writing to the Director of the Office of Professional Regulation within 30 days of the date of entry of this order. If you wish to request a stay of the Board's decision, please refer to the attached stay instructions.

By: Susan Farrell
Susan Farrell
Chair

Date: 12-24-04

OFFICE OF PROFESSIONAL REGULATION

Date of entry: 1/5/05

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

IN RE:)
LAURA J. EISENBERG) Docket No. NU 78-0504
License No: 025-0006325)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Laura J. Eisenberg, L.P.N.:

Board Authority

1. The Vermont Board of Nursing ("the Board") has jurisdiction to investigate complaints of unprofessional conduct and discipline nurses pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §1582; the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.
2. Whether or not committed in this state, being convicted of a crime related to the practice of nursing or a felony which evinces an unfitness to practice nursing is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(2).
3. Making a false representation in renewing a license to practice constitutes unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(1); Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(A).
4. Engaging in conduct of a character likely to harm the public is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(7).
5. Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 3 V.S.A. §129a(a)(3).

Facts

6. The Respondent, Laura Eisenberg, is licensed by the State of Vermont as a L.P.N. under license number 025-0006325.
7. Respondent's license was originally issued on November 29, 1988 and Respondent's license is currently set to expire on January 31, 2006.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

8. On or about January 29, 2004, the Vermont Board of Nursing received a license renewal application from the Respondent.

9. On her application, the Respondent stated "No" to the question of "Have you ever been convicted of a crime other than a minor traffic offense?"

10. Upon information and belief, on September 10, 2002, the Respondent was convicted of one count of Driving While Impaired in Essex County, Town of Crown Point, New York.

11. Also, according to certified court records, on May 5, 2004, the Respondent was convicted of DWI #1, a misdemeanor, in Vermont District Court, Unit 2, Addison Circuit, Docket No. 154-4-04 Ancr.

12. Certified records indicate that at the time of the arrest for the DWI occurring in Vermont, the Respondent's blood alcohol level was .199.

13. Following the Vermont DWI conviction, the Respondent was given a sentence of three to twelve months, all suspended and placed on probation under standard and special conditions.

Charges

A. The above acts, omissions and/or circumstances described above, constitute grounds for discipline because Respondent violated:

- i. 26 V.S.A. §1582(a)(2) (whether or not committed in this state, being convicted of a crime related to the practice of nursing or a felony which evinces an unfitness to practice nursing); and
- ii. 26 V.S.A. §1582(a)(1); Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(A) (making a false representation in renewing a license to practice); and
- iii. 26 V.S.A. §1582(a)(7) (engaging in conduct of a character likely to harm the public); and
- iv. 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).

WHEREFORE, the license of Laura J. Eisenberg should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 20 day of July 2004.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

nu.eisenberg.soc

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602