

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

IN RE:

Melissa M. Erickson

License No. 026.0114740-TEMP

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Docket No. 2015-415

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont by and through State Prosecuting Attorney Elizabeth A. Jarvis, and the Respondent, Melissa M. Erickson, 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. Chapter 28; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation.

Stipulated Facts

2. Melissa M. Erickson (the "Respondent") of Frankfort, Michigan, applied for a Registered Nurse license in Vermont on or about August 14, 2015. She was given a Temporary Registered Nursing License under license number 026.0114740-TEMP. This license was originally issued on or about August 14, 2015, and expired on or about November 11, 2015. This license is currently in Inactive status.
3. The Respondent's application for licensure as a Registered Nurse was denied on November 24, 2015.
4. During the relevant time period, Respondent was employed as Registered Nurse at Rutland Regional Medical Center (the "Facility") in Rutland, Vermont.
5. On or about September 24, 2015, the Respondent cared for Patient 1 during the night shift, between 7 p.m. and 7 a.m. on or about September 25, 2015. Patient 1 was hospitalized for a double hip replacement and spent about five days in the hospital.
 - a. Patient 1 had an order for two tablets of Percocet every three hours as needed for pain.

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89 Main Street
3rd Floor
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05620-3402

- b. The Respondent documented that Patient 1 received three doses of Percocet during the evening shift. The MAR shows Patient 1 was given two tablets for the first and third dose, and one tablet for the second dose.
 - c. Patient 1's records indicate she was also given Zaleplon to help with sleep.
 - d. On or about September 25, 2015, Patient 1 told the day time Clinical Manager that she was trying to ween herself off of the Percocet because it made her feel groggy and nauseous, so she only took one Percocet at a time overnight and her pain was managed effectively. Patient 1 also indicated she refused to take a sleeping pill during the previous night.
 - e. In an interview with Investigator Dennis Menard on or about October 20, 2015, Patient 1 stated that on one night during her hospital stay, the Respondent woke her up in the middle of the night and told Patient 1 she needed to take her pain medication. Patient 1 indicated she was sleeping and did not need the medicine, but the Respondent again stated that she needed to take her medicine. Patient 1 eventually told Respondent to just leave the pill on the table, which the Respondent did, and then left the room. The Respondent returned to the room less than a minute later and stated that she could get in trouble for leaving the medicine like that, so she would take it and just throw it down the toilet. The Respondent never scanned Patient 1's wristband when she attempted to give her this medication.
6. On or about September 24, 2015, the Respondent cared for Patient 2 during the night shift, between 7 p.m. and 7 a.m. on or about September 25, 2015. Patient 2 was hospitalized for a double hip replacement.
- a. During shift change, day shift RN KW reported to the Respondent that Patient 2 was trying to take just Tylenol for pain, but her order for Vicodin for pain remained valid in case she needed it.
 - b. Patient 2's medical records indicate the Respondent administered her Vicodin two times during the night shift.
 - c. During shift change the morning of or about September 25, 2015, Respondent reported to RN KW that Patient 2 only received Tylenol during the night shift.
 - d. On or about September 25, 2014, RN KW noticed that the whiteboard in Patient 2's room indicated Patient 2 had only received Tylenol the previous night.
 - e. Patient 2 told RN KW that she had not taken any Vicodin the night before.
7. The Respondent signed a Consent for Entry of Voluntary Surrender, Order No. 1502022 (the "Voluntary Surrender") with the Arizona State Board of Nursing on or about December 2, 2015.

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- a. In the Voluntary Surrender, the Respondent admits to diverting Vicodin from numerous patients at Rutland Medical Center in Rutland, Vermont from September 14, 2015, to September 24, 2015. She also admitted to occasionally substituting Tylenol for Vicodin to give to a patient during the same time period.
 - b. The Respondent also admits to diverting Vicodin from numerous patients at TMC in Tucson, Arizona from around February 2, 2015 to February 16, 2015.
 - c. The Arizona Board of Nursing accepted the Respondent's Voluntary Surrender of her registered nurse license on or about December 3, 2015.
8. The Respondent is currently engaged in drug and alcohol treatment in Michigan.

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(a)(3) (Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession)
 - b. 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, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and
 - c. 26 V.S.A. §1582(a)(2) (Diverting or attempting to divert drugs or equipment or supplies for unauthorized use).

Understandings

10. Respondent admits that the facts above are true and the parties reach a full and final Stipulation pursuant to these Understandings and the Stipulation and Consent Order below.
11. Respondent understands that the Nursing Board must review and accept the terms of the Stipulation and Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.
12. 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.

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13. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
14. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
15. 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.
16. 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.
17. Respondent agrees that the Acceptance of Surrender and Order set forth below may be entered by the Board.

ACCEPTANCE OF SURRENDER AND ORDER

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

- A. The Board of Nursing hereby **ACCEPTS** Respondent's **VOLUNTARY SURRENDER** of any and all rights she currently holds to practice nursing in the State of Vermont.
- B. Any future application for licensure in the State of Vermont shall be subject to the licensing requirements of that particular profession. If a future application for licensure in the State of Vermont is approved, that license **shall be CONDITIONED** pursuant to whatever terms are found to be reasonable at the time of Respondent's application for licensure, taking into account the stipulated facts above.
- 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: 4/18/16

By: Elizabeth A. Jarvis
Elizabeth A. Jarvis
State Prosecuting Attorney

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Prosecuting Attorney
Office of
Professional Regulation
89 Main Street
3rd Floor
Montpelier, VT
05620-3402

MELISSA M. ERICKSON
RESPONDENT

Dated: 4/5/16

By: 
Melissa M. Erickson

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 5/2/16

By: 
Chairperson

Date of Entry: 5/2/16

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