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

IN RE:	)	
MARK E. FRIEDL	)	**Docket No. NU19-1096**
License No. 026-0022488	)	

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney Edward G. Adrian, and the Respondent, Mark E. Friedl, 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 ("ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Mark E. Friedl (the "Respondent") of Bennington, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026-0022488. This license was originally issued on or about October 12, 1995 and expired on or about November 4, 1997.

3. By way of history, the Respondent's license was summarily suspended pursuant to an Interim Stipulation and Consent Order entered by the Board on or about November 4, 1996, and thereafter suspended pursuant to a Stipulation and Consent Order entered by the Board on or about December 12, 1996. Attachment A. This discipline was due in part to Respondent's admitted drug diversion and addiction. Attachment A. On or about March 12, 1997 pursuant to a Stipulation and Modification of Consent Order (the "March 1997 Order"), the Board agreed to lift the suspension and condition the Respondent's license. Attachment B. On or about November 4, 1997 pursuant to a Stipulation and Second Modification of Consent Order, the Board agreed to suspend Respondent's license and revoke the conditions of the March 1997 Order after Respondent had not been complying with terms of the March 1997 Order; had not been practicing nursing; and had requested that his license be inactivated. Attachment C.

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4. On or about February 6, 2008 in a letter to the Board, the Respondent requested reinstatement of his registered nursing license. Respondent stated in his letter that he has been attending counseling to address his substance abuse issues and is happy to report that he is free of any drug use. Furthermore, Respondent stated that he realizes the damaging effects substance abuse caused in his life and believes he is able to safely return to nursing. Respondent stated that the practice of nursing gave him purpose. Respondent stated that he understands there will be conditions necessary for reinstatement of his license, and that, at the time of the letter, Respondent had already begun the process of obtaining an independent evaluation from licensed Alcohol and Drug Abuse Counselor and Psychologist Sue Sweeney. Finally, Respondent stated that he will continue to work with this counselor, as well as the psychiatrists he has been seeing.

5. On or about September 9, 2008 in a letter to the Board, Physician's Assistant Susan Connor of United Counseling Service of Bennington County, Inc. stated that she has been meeting with Respondent for medication management for two (2) years. Ms. Connor stated that Respondent has made "tremendous progress" in his recovery over the last six (6) months. Moreover, Ms. Connor stated that Respondent consistently keeps his appointments with her; has an understanding of the importance of his medications and the role they play in his recovery; and that Respondent has an understanding of the importance of substance abuse counseling and Alcoholics Anonymous. Finally, Ms. Connor stated that Respondent remains stable and that she supports his decision to apply for reinstatement of his nursing license.

6. On or about November 7, 2008, Licensed Psychologist and Alcohol and Drug Counselor Sue Sweeney completed an Alcohol and Other Drug Abuse Evaluation (the "Evaluation") of Respondent. Ms. Sweeney stated she conducted the Evaluation over the course of twenty-four (24) sessions, beginning February 13, 2008. In her Evaluation, Ms. Sweeney stated that Respondent is clean and sober from alcohol and other drugs, including nicotine, and that Respondent has had two (2) clean urine screens on or about July 11, 2008 and October 29, 2008. Moreover, Ms. Sweeney noted that Respondent's prescriber, Susan Conner, PNP of United Counseling Service has confirmed that Respondent is doing well; is taking medications as prescribed; and has been stable for many months. Furthermore, Ms. Sweeney stated she is confident that Respondent is in full recovery from his drug addiction and noted that Respondent has made many changes in order to create a new and stable lifestyle. Finally, in her Evaluation, Ms. Sweeney recommended to the Board that when Respondent's license is reinstated, Respondent should undergo random urine analyses; have an on-site supervisor who is familiar with Respondent's situation and to whom Respondent can go for extra support; and should be required to submit regular proof that Respondent is following through on counseling and medication.

7. Respondent has not practiced nursing for at least one hundred twenty (120) days (960 hours) in the previous five (5) years, and therefore must complete the education and clinical components of the Board's Re-Entry Program before having his license reinstated.

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Understandings

8. Respondent admits the facts above are true and that the conditions below are necessary to protect the public.

9. 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.

10. 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.

11. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

12. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.

13. 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.

14. 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.

15. Respondent agrees that the Order set forth below may be entered by the Board.

ORDER REGARDING RE-ENTRY PROGRAM AND TEMPORARY PERMIT

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

A. Respondent's license to practice registered nursing **remains suspended**. Before applying for reinstatement, Respondent must: 1) be enrolled in a Board-approved Re-Entry Program; 2) provide a copy of this Stipulation and Consent Order to the Program Director of Respondent's Re-Entry Program and inform the Program Director of Respondent's conditional license status; 3) within ten (10) days of the commencement of the classroom component of the Re-Entry Program, Respondent shall cause the Program Director to write to the Board, on professional letterhead, acknowledging receipt of the Stipulation and Consent Order and the ability of the Program Director to comply with the conditions in the Consent Order during clinical experience; and 4) successfully complete the classroom component of the Re-Entry Program and submit evidence of completion of the same to the satisfaction of the Board or its designee. Once these prerequisites are met, the Respondent shall be issued a **TEMPORARY PERMIT for the purpose of permitting limited practice in a clinical setting for the clinical component of the Re-Entry Program FOR**

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NINETY (90) DAYS. In the case of extenuating circumstances, the Executive Director may grant an extension to allow the Respondent to hold this temporary permit for a period of time not to exceed one (1) year. This temporary permit shall be subject to the standard conditions of the ARBN and/or guidelines for re-entry programs established by the Board, and shall furthermore be subject to **SPECIAL CONDITIONS**, as follows:

(1) Issue of Temporary Permit.

Upon the commencement of these conditions, Respondent shall be issued a temporary permit labeled "conditioned."

(2) Length of Time of Conditions Imposed.

The conditions shall remain in place until Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent successfully completes **limited practice in a clinical setting for ninety (90) days,** that may be extended in cases of extenuating circumstances, but not to exceed one (1) year, according to the ARBN and/or guidelines for re-entry programs established by the Board.

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

Respondent shall enter into and continue substance abuse counseling with a treating professional pre-approved by the Board until the treating professional shall certify in writing to the 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) Notification to Treating Professional.

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

(5) Reports from Treating Professional.

Respondent shall authorize and cause his treating professional 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 these conditions and subsequent reports are due **monthly** thereafter.

Respondent shall authorize his treating professional 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.

(6) Participation in Recovery Groups.

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Respondent shall participate as recommended by his treating professional in substance abuse recovery group(s), and shall submit **quarterly** reports documenting such attendance on forms issued by the Board.

(7) 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 shall be 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.

Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine screen shall cause that screen to be presumed positive. Any positive screen shall act as a violation of this Order.

(8) 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 A.(2).

(9) Drug Use Exception.

Respondent shall not take controlled substances unless necessary. Respondent may take scheduled/controlled 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 scheduled/controlled 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 fourteen (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 fourteen (14) days, but if so, then the conditions herein may be revoked by the Board.

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.

(10) Reports from Program Director.

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Within one (1) month of the commencement of the clinical component of the Re-Entry Program and **monthly** thereafter, Respondent shall cause his Program Director to submit to the Board a written evaluation of Respondent's 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.

(11) Practice Under Supervision.

Respondent shall practice under his temporary permit 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, and as according to the ARBN and/or guidelines for re-entry programs established by the Board.

(12) Administration of Medications.

Respondent is prohibited from administering any controlled substances.

(13) Interview with the Board or its Designee.

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

(14) 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 temporary permit 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.

(15) Temporary Permit Renewal.

Respondent is prohibited from renewing his temporary permit.

(16) 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 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 registered nursing license.

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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 his treatment provider may require him to sign a separate and distinct consent meeting the requirements of 42 C.F.R. § 2.31.

(17) Costs.

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

(18) 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.

(19) Completion of Conditional Temporary Permit Period.

After the conditional temporary permit period, the Respondent may complete an application for reinstatement of his license. The Respondent must present proof that he has fully complied with the terms of this Order.

ORDER REGARDING CONDITIONED LICENSE

B. After successful completion of the Re-Entry Program as outlined above in the Order Regarding Re-Entry Program and Temporary Permit, and after Respondent completes an application for reinstatement of his license, Respondent's license to practice registered nursing shall be **REINSTATED and CONDITIONED FOR A MINIMUM OF THREE (3) YEARS**. The conditions will be as follows:

(1) Re-issue of License.

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

(2) Length of Time of Conditions Imposed.

The conditions shall remain in place until Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent completes **a minimum of three (3) years** of supervised registered nursing in which he 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 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 pre-approved by the Board until the treating professional shall certify in writing to the Board that such counseling is no longer necessary.

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Respondent shall enter into and comply with the substance abuse treatment plan approved by the Board and the treating professional.

(4) Notification to Treating Professional.

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

(5) Reports from Treating Professional.

Respondent shall authorize and cause his treating professional 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 these conditions and subsequent reports are due **monthly** thereafter.

Respondent shall authorize his treating professional 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.

(6) Participation in Recovery Groups.

Respondent shall participate as recommended by his treating professional in substance abuse recovery group(s), and shall submit **quarterly** reports documenting such attendance on forms issued by the Board.

(7) 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 shall be 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.

Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine screen shall cause that screen to be presumed positive. Any positive screen shall act as a violation of this Order.

(8) 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 B.(9) for the period of time described in B.(2).

(9) Drug Use Exception.

Respondent shall not take controlled substances unless necessary. Respondent may take scheduled/controlled medications lawfully prescribed for a bona fide illness

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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 scheduled/controlled 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 fourteen (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 fourteen (14) days, but if so, then the conditions herein may be revoked by the Board.

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.

(10) 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.

(11) Reports from Employers.

Within one (1) month of the date of Respondent's license reinstatement or within one (1) month of the commencement of registered nursing employment and **monthly** thereafter, Respondent shall cause every nursing employer the Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. 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 his performance and attendance. This report shall be submitted in

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writing on forms issued by the Board and accompanied by a cover letter on the school's letterhead. All nursing program reports shall indicate satisfactory performance and attendance.

(12) Practice Under Supervision.

Respondent shall practice as a registered nurse 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.

(13) 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 he has worked as a registered nurse for twelve (12) weeks for at least forty (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 he can safely and competently administer such medications. In any such petition, the Respondent must include appropriate support from his 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.

(14) 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.

(15) Interview with the Board or its Designee.

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

(16) Out of State Practice.

Before any out-of-state nursing 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, 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.

(17) 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,

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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.

(18) 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 Respondent's license reinstatement. If the Respondent fails to provide such notification, it will be considered a violation of this Order.

(19) 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.

(20) 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 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 registered 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 his treatment provider may require him to sign a separate and distinct consent meeting the requirements of 42 C.F.R. § 2.31.

(21) Costs.

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

(22) 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,

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this Order shall be automatically extended until the unprofessional conduct matter is concluded.

(23) 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. The Respondent must also present proof of successful substance abuse rehabilitation and he must demonstrate, to the satisfaction of the Board, that he poses no danger to the public or the practice of registered nursing and that he can safely and competently perform the duties of a registered nurse.

C. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement. Moreover, Respondent must abide by and continue to meet all Nursing Board requirements regarding any temporary permit issued to the Respondent as part of a re-entry program.

D. 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).

E. 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:

Dated: 3/23/09

STATE OF VERMONT
SECRETARY OF STATE

By: _____
Edward G. Adrian
State Prosecuting Attorney

MARK E. FRIEDL
RESPONDENT

Dated: 2/27/09

By: Mark E. Friedl
Mark E. Friedl

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 4.29.09

By: _____
Chairperson

Date of Entry: 05/1/09

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STATE OF VERMONT
BOARD OF NURSING

IN RE:	)	
	)	
Mark E. Friedl	)	Docket No.:NU19-1096
License No: 26-22488	)	

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, through its Attorney General Jeffrey L. Amestoy, and Respondent Mark E. Friedl, who stipulate and agree as follows:

1. The Board of Nursing has jurisdiction to investigate and adjudicate complaints of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §129 and 26 V.S.A. §§1574, 1582.

2. Respondent Mark E. Friedl, of Bennington, Vermont is a registered nurse holding license number 26-22488 issued by the State of Vermont.

3. Respondent's license was summarily suspended on November 4, 1996 when the Board accepted the Interim Stipulation and Consent Order presented by the parties.

4. Respondent admits he diverted Ativan from Weston Hadden Convalescent Center in Bennington, Vermont, on or about October 1, 1996.

5. Respondent admits he administered Ativan I.M. to himself while on duty at Weston Hadden Convalescent Center on October 1, 1996.

6. Respondent admits he is addicted to the use of habit forming drugs.

Attachment A

7. In order to avoid the time and expense of a contested hearing, Respondent does not admit, but does not contest, the Board's finding that he also diverted morphine from the facility.

8. Respondent admits the conclusions of unprofessional conduct as set forth below in the Board's Order.

9. 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.

10. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

11. 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.

12. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.

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

14. Respondent voluntarily waives her right to charges and a

contested hearing before the Board of Nursing.

15. 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. By engaging in the conduct described in paragraphs 4 through 7 above, Respondent is unable to practice nursing competently as defined by Nursing Board Rules IV.B.2 and IV.B.3 (any cause includes reasons of physical or mental disability or use of drugs, narcotics, chemicals or any other type of materials), which constitute unprofessional conduct pursuant to 26 V.S.A. §1582(a)(3)(unable to practice nursing competently by reason of any cause), Respondent violated Nursing Board Rules IV.B.4.d (diverting drugs for personal and unauthorized use) and IV.B.4.c (inaccurate or misleading entries in record), which constitutes unprofessional conduct pursuant to 26 V.S.A. §1582(b)(7)(conduct of a character likely to deceive, defraud or harm the public), and Respondent is addicted to the use of habit-forming drugs, which constitutes unprofessional conduct pursuant to 26 V.S.A. §1582(a)(5).

B. The Nursing Board **SUSPENDS** Respondent's license to practice nursing **for a minimum period of six months** commencing on the date this order is entered by the Vermont Board of Nursing.

C. Respondent shall immediately surrender his nursing license to the Vermont Board of Nursing. Failure to surrender the license within 5 days of the entry date shall be considered a violation of this Order.

D. Respondent may petition the Board to lift the suspension no earlier than the time period imposed in paragraph B above.

E. If Respondent petitions the Board to lift the suspension, the Board shall be entitled to review this Stipulation and Consent Order when it considers his request.

F. If Respondent petitions the Board to lift the suspension, he must demonstrate, to the satisfaction of the Nursing Board, that he poses no danger to the practice of nursing or the public and that he can safely and competently perform the duties of a registered nurse.

G. If Respondent petitions the Board to lift the suspension, he shall demonstrate, to the satisfaction of the Nursing Board that he has been successfully rehabilitated or has entered a relationship with a treatment professional approved by the Board. Respondent shall specifically execute a consent form which meets the requirements of 42 C.F.R. §2.31 permitting disclosure of all information to the Nursing Board, its investigators, and the Attorney General's Office, from any treating professional regarding the Respondent's substance abuse treatment during the suspension.

H. If Respondent petitions the Board to lift the

suspension, the Board may require a period of probation, along with supportive or restrictive conditions, to ensure that patients and the public are protected.

I. Respondent must also meet all requirements of the Nursing Board as set out in 26 V.S.A. Chapter 28 and the Administrative Rules for the Board of Nursing.

J. This Stipulation and Consent Order are a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a)(7).

K. 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.

STATE OF VERMONT

JEFFREY L. AMESTOY
ATTORNEY GENERAL

Dated: 12/6/96

By: Diane E. Zamos
Diane E. Zamos
Assistant Attorney General

MARK E. FRIEDL
RESPONDENT

Dated: 12/1/96

By: Mark E. Friedl
Mark E. Friedl

APPROVED AND SO ORDERED:

C. E. Bardwell
Chair/Acting Chair
Vermont Board of Nursing

12/9/96
Date

Date of Entry: 12-12-96

STATE OF VERMONT
BOARD OF NURSING

IN RE:
MARK FRIEDL
License Number 26-22488

Docket No: NU19-1096

STIPULATION AND MODIFICATION OF CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, through Acting Attorney General J. Wallace Malley, Jr., and Respondent Mark Friedl who stipulate and agree as follows:

1. The Board of Nursing has jurisdiction to investigate complaints of unprofessional conduct and approve consent orders pursuant to 3 V.S.A. §129, and 26 V.S.A. §§1574, 1582.

2. Respondent Mark Friedl, of Bennington, Vermont, is a registered nurse holding license number 26-22488 issued by the State of Vermont.

3. The Nursing Board summarily suspended Respondent's nursing license on November 4, 1996 in an Interim Stipulation and Consent Order and entered an order suspending Respondent's license in a Stipulation and Consent Order on December 9, 1996.

4. Respondent's license was suspended due to drug diversion and drug addiction.

5. Respondent has petitioned the Board to lift the suspension now imposed on his license so that he may practice as a nursing assistant.

6. Respondent has provided documentation indicating on-going substance abuse treatment beginning early October 1996.

7. The State is not opposed to lifting the suspension and

Attachment B

modifying the 1996 Order as long as certain conditions are met.

8. The parties have reached an agreement on a modification of the 1996 Order which grants Respondent's request to allow him to practice, as a nursing assistnat if he so chooses, and which also imposes the conditions sought by the State. This modification is submitted to the Board for approval.

9. At the time this Stipulation and Consent Order is approved by the Board, Respondent agrees that he shall have submitted to the Board for approval the name, address, and professional qualifications of the treating professional from whom Respondent intends to obtain on-going counseling.

10. At the time this Stipulation and Consent Order is approved by the Board, Respondent agrees that he shall have submitted to the Board for review and approval a copy of a treatment plan developed with his treating professional.

11. 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.

12. Respondent has read and reviewed this document and agrees that it contains the entire agreement between the parties.

13. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.

14. Respondent voluntarily enters this agreement after the

opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.

15. 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 1996 Order is modified. The suspension placed on Respondent's license by the 1996 Order is lifted and Respondent's license is **CONDITIONED for a minimum period of THREE YEARS** commencing with the date this order is entered by the Vermont Board of Nursing. The **CONDITIONS** on Respondent's license are as follows:

(1) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed three (3) years of supervised nursing practice in which Respondent works at least forty (40) hours every two (2) weeks in nursing. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis.

(2) Administration of Medications.

Respondent's license is conditioned to prohibit him from administering any medications. This condition may be removed only by Respondent petitioning the Board for its removal no sooner than three (3) months (during which time

Respondent works at least 40 hours every two weeks in nursing) from the date of entry of this Consent Order or the date Respondent returns to work as a nurse, whichever is later. In petitioning the Board Respondent agrees that he must demonstrate, to the satisfaction of the Nursing Board, that he can safely and competently administer medications. Such proof shall include appropriate support from Respondent's treating professional and employer or nursing school administrator.

The removal of the prohibition against administering medications shall not result in automatic reinstatement of all medication privileges. Rather, the Board may gradually restore those privileges through the following intermediary steps: (1) permission to administer nonnarcotic medications under supervision while the prohibition on administering narcotic medications remains in place; and (2) full permission to administer nonnarcotic medications along with permission to administer narcotic medications only under supervision.

(3) Approval of Changes of Treating Professional.

Respondent shall obtain prior approval from the Board of all changes of treating professional. Failure to obtain prior approval of a change of treating professional may be grounds for a charge of violation of this Consent Order.

(4) Completion of Counseling and Treatment Plan.

Respondent shall enter into and continue counseling with the treating professional approved by the Board until the Board and treating professional agree that such counseling is

no longer necessary. Respondent shall comply with the treatment plan approved by the Board.

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

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

(6) Reports from Treating Professional.

Respondent shall authorize and cause his treating professional 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 and shall be accompanied by a cover letter on the treating professional's professional letterhead. The first report is due commencing the month after the date of entry of this Consent Order and subsequent reports are due every month thereafter.

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

(7) Participation in Support Group

Respondent shall participate in one or more

substance abuse support group programs such as Alcoholics Anonymous, Narcotics Anonymous, or other program approved by the Board or Respondent's treating professional, at least three times weekly or as recommended by the Respondent's treating professional.

(8) Random Drug Testing.

Respondent shall submit to random drug and alcohol screening at the request of the Board. Respondent shall ensure that Respondent's treating professional or employer or both shall administer random alcohol or drug tests as required by the Board or its designee. All screens shall be negative except for drugs prescribed for Respondent under the care of a physician, dentist, or nurse practitioner. (See paragraph C.(10) Drug Use Exception).

(9) Abstain from Alcohol or Drug Use.

Respondent shall abstain completely from the consumption of alcohol or the use or possession of any drugs with the exception of prescribed medications as outlined in paragraph C.(10).

(10) Drug Use Exception.

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

(11) Interview with the Board or its designee.

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

(12) Re-issue of License.

Respondent's license to practice nursing shall be labelled "conditioned."

(13) 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.

(14) 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 Respondent's 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.

(15) 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 in nursing and inform them of the conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any subsequent employment, Respondent shall cause his 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, 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 the conditions in the Consent Order during clinical experience.

(16) Reports from Employers/Nursing School

Within one (1) month of the date of entry of this Consent Order and every month thereafter, Respondent shall cause every employer he has worked for during the month to submit to the Board an evaluation of Respondent's performance and attendance during that month. This report shall be submitted in writing on forms issued by the Board and accompanied by a cover letter on the employer's letterhead. In the event the Respondent attends nursing school, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Respondent's 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. In the event Respondent is not employed in nursing or attending school during any month or portion thereof, Respondent shall submit to the Board, in writing, a self-report describing other employment or activities.

Respondent shall authorize his employer and his nursing school administrator to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period the Consent Order is in effect.

(17) Practice Under Supervision.

Respondent shall practice only in a setting where he has on-site supervision for the entire shift by a licensed

nurse in good standing with the Vermont Board of Nursing.

(18) Prohibited Duties.

Respondent shall not work as a Charge Nurse.

(19) Types of Employment Prohibited.

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

(20) Prohibited Hours of Work.

Respondent shall work only the day or evening shift during the effective period of this Consent Order. Respondent shall not work the night shift during the effective period of this Consent Order.

(21) License Renewal.

In the event Respondent's license is scheduled to expire during the period this Consent Order is in effect, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualifications to practice nursing in the State of Vermont.

(22) Release of Information Forms.

Upon the establishment of all practitioner/patient relationships with (1) treating professionals for substance abuse treatment, and with (2) treating professionals who prescribe any medication to Respondent, Respondent shall execute all release of information forms which are necessary to authorize those practitioners to release information described

in this Consent Order to the Board of Nursing, its investigators, and the Attorney General's Office. All information disclosed to the Board shall be made available to its investigators and the Attorney General's Office. Respondent shall specifically execute a consent to disclosure form which meets the requirements of 42 C.F.R. §2.31 to permit disclosure of all information regarding respondent's substance abuse treatment to the Nursing Board, its investigators, and the Attorney General's Office. Any revocation by respondent of such a consent to disclosure during the term of this Consent Order shall be considered a violation of this Consent Order.

(23) Costs.

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

(24) Violation of the Consent Order.

If Respondent violates the terms of this Consent Order in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke the terms of the conditional license and take further disciplinary action. If a complaint or charges are filed against Respondent during the term of this Consent Order, the conditional license period shall be extended until the matter is final.

(25) Reevaluation of Conditions.

In the event Respondent does not work in nursing within three (3) years of the date of entry of this Consent Order, Respondent may appear before the Board for reevaluation

of the conditions of this Consent Order.

(26) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on the license and after formal review by the Board, Respondent's nursing license may be fully restored by appropriate Board action. Respondent, however, must present proof of successful substance abuse rehabilitation and demonstrate, to the satisfaction of the Nursing Board, that Respondent poses no danger to the practice of nursing and that Respondent can safely and competently perform the duties of a licensed nurse. Such proof shall include appropriate support from the treating professional and employer or nursing school administrator. Furthermore, Respondent shall demonstrate, to the Board's satisfaction, full compliance with all the terms of this Consent Order.

B. If the Board (1) does not approve the treating professional presented to the Board for approval pursuant to paragraph 7 of the Stipulation or (2) does not approve the treatment plan presented to the Board for review and approval pursuant to paragraph 8 of the Stipulation, Respondent must submit another treating professional 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 again rejects the proposed treating professional or treatment plan, Respondent shall be deemed to

have violated this Consent Order.

C. Notwithstanding any provision above, Respondent must meet all Nursing Board requirements for license renewal and license reinstatement.

D. 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)(7).

E. 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.

STATE OF VERMONT

J. WALLACE MALLEY, JR.
ACTING ATTORNEY GENERAL

Dated: 2/19/97 by: Diane E. Zamos
Diane E. Zamos
Assistant Attorney General

MARK FRIEDL
RESPONDENT

Dated: 2/12/97 by: Mark E Friedl
Mark Friedl

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 3/10/97 by: V/E Martin
Vice Chairperson

Date of entry: 3/12/97

STATE OF VERMONT
BOARD OF NURSING

IN RE:	)	
Mark Friedl	)	Docket No: NU19-1096
License Number 26-22488	)	

STIPULATION AND SECOND MODIFICATION OF CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, through its Attorney General, and Respondent Mark Friedl, who stipulate and agree as follows:

1. The Board of Nursing has jurisdiction to modify and approve consent orders pursuant to 3 V.S.A. §§129, 129a and 26 V.S.A. §§1574, 1582.

2. Respondent Mark Friedl of Bennington, Vermont, is a registered nurse holding license number 26-22488 issued by the State of Vermont.

3. The Board entered a Stipulation and Modification of Consent Order in this matter on March 12, 1997 that conditioned Respondent's license. A copy of the March 1997 Order is attached and incorporated by reference.

4. In response to the Board's inquiries about compliance with the conditions on his license, Respondent notified the Board on August 7, 1997, that he is not currently employed in nursing and that he would like to inactivate his license.

5. Respondent admits he has not submitted any monthly employer reports, a formal treatment plan, or monthly reports from a substance abuse counselor, all as required by the March

Attachment C

1997 Order.

6. The parties have reached an agreement on a modification of the March 1997 Order which acknowledges Respondent's desire to inactivate his license, relieves him of compliance with the conditions of the March 1997 Order, and which also protects the public. This modification is submitted to the Board for approval.

7. Respondent understands that the Nursing Board must review and accept the terms of the proposed modification. If the Board rejects any portion, the entire Stipulation and Second Modification of Consent Order shall be null and void.

8. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

9. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Second Modification of Consent Order.

10. Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing it.

11. Respondent voluntarily waives his right to charges and a contested hearing before the Nursing Board for the alleged violations of the March 1997 Order.

12. The parties agrees that the modification order set forth below may be entered by the Board.

ORDER

Based on the stipulation above it is **ORDERED AND ADJUDGED** that the March 1997 Order is modified as follows:

A. The conditions placed on Respondent's license by the March 1997 Order are revoked.

B. Respondent's license shall instead be **SUSPENDED** commencing on the date this order is entered by the Vermont Board of Nursing.

C. Respondent shall immediately surrender his nursing license to the Vermont Board of Nursing. Failure to surrender the license within 5 days of the entry date shall be considered a violation of this Order.

D. If Respondent petitions the Board to lift the suspension, the Board shall be entitled to review this Stipulation and Second Modification of Consent Order when it considers the request.

E. If Respondent petitions the Board to lift the suspension, Respondent must demonstrate, to the satisfaction of the Nursing Board, that he poses no danger to the practice of nursing or the public and that he can safely and competently perform the duties of a licensed nurse.

F. If Respondent petitions the Board to lift the suspension, he shall demonstrate, to the satisfaction of the Nursing Board that he has been successfully rehabilitated or has entered a relationship with a treatment professional approved by the Board. Respondent shall specifically execute a consent form

which meets the requirements of 42 C.F.R. §2.31 permitting disclosure of all information regarding the respondent's substance abuse treatment to the Nursing Board, its investigators, and the Attorney General's Office. Respondent shall also execute a consent form permitting disclosure of information to the Board, its investigators, and the Attorney General's Office, from mental health treatment professionals, including but not limited to physicians, psychologists, and mental health counsellors, from whom Respondent has received substance abuse treatment.

G. If Respondent petitions the Board to lift the suspension, the Board may require a period of probation, along with supportive or restrictive conditions, to ensure that patients and the public are protected.

H. Respondent must also meet all requirements of the Nursing Board as set out in 26 V.S.A. Chapter 28 and the Administrative Rules for the Board of Nursing before the suspension is lifted.

I. This Stipulation and Second Modification of Consent Order are a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a)(7).

J. This Stipulation and Second Modification of Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future

disciplinary matter.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

Dated: 10-21-97 by: Diane E. Ramos
Diane E. Ramos
Assistant Attorney General

Mark Friedl
RESPONDENT

Dated: 10-17-97 by: Mark E. Friedl
Mark Friedl

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 11-3-97 by: Marjorie Allard
Chairperson

Date of entry: 11-4-97