

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

In re:	Judith H. Green	}	
License No.	026-0019077	}	Docket No. NU52-1205
		}	

SUMMARY SUSPENSION ORDER

On 13 February 2006, this matter came before the Vermont State Board of Nursing on the prosecution's Request for Summary Suspension pursuant to 3 V.S.A. § 814(c). The hearing took place at Central Vermont Hospital, 130 Fisher Road Berlin. The Board has authority to summarily suspend a license pending further proceedings if it determines that public health, safety or welfare imperatively require emergency action.

Findings of Fact & Conclusions of Law:

Based on a review of the evidence presented to the Board at the hearing on this matter, the Board finds:

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. The State filed a "Request for Summary Suspension" dated 7 February 2005, alleging that Respondent diverted 10 tablets of valium and pain medicine including sixty 2mg tablets of hydromorphone and fifty tablets containing hydrocodone. The State further alleges the Respondent admitted the diversion to her employer.
3. The Respondent was previously sanctioned for diverting a controlled substance (*In Re: Judith Green*, Dkt. no. NU39-0300, 20 June 2000).
4. The State argues that public health, safety or welfare imperatively requires emergency action, and the state asks this Board to suspend summarily the Respondent's license prior to a full hearing on the merits.
5. The Board has considered the evidence related to the allegations in the State's Request for Summary Suspension.
6. The Board finds that the State has, in its presentation of evidence, met its burden to the necessary degree of showing the need for emergency action to protect the public health, safety and welfare.

Order:

Pursuant to 3 V.S.A. § 814(c), the Board issues the following order which shall remain in effect until further action by the Board.

The Board of Nursing GRANTS the State of Vermont's Request for Summary Suspension.

The Respondent's license is SUMMARILY SUSPENDED pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

Vermont Board of Nursing

By  Dated at Berlin: 13 February 2006
Susan O. Farrell, RN, Chairperson

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY 2/15/06

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: JUDITH H. GREEN
License No. 026-0019077**

) **DOCKET No. NU52-1205**

REQUEST FOR SUMMARY SUSPENSION

Board Authority

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. Judith H. Green (the "Respondent") of Essex Junction, Vermont is a registered nurse holding license number 026-0019077, issued by the State of Vermont. This license was originally issued on or about August 23, 1989 and is set to expire on March 31, 2007.
4. At all times relevant the Respondent was assisting S.S. in the care of her husband C.S. in Essex, Vermont.
5. On or about December 19, 2005, S.S. reported to the Essex Police Department that pain medicine utilized by C.S. had disappeared including approximately 10 tablets of 5 mg Valium; 60 tablets of 2 mg hydromorphone; and 50 tablets of hydrocodone. This totaled approximately two months worth of C.S.'s pain medications.
6. On or about December 18, 2005 the Respondent admitted to S.S. that the Respondent had taken the pain medications of C.S. The Respondent apologized to both S.S. and the sister-in-laws of S.S. for her actions. The Respondent also admitted to S.S. that she had become addicted to pain medications a couple of months ago when she had a shoulder pain.
7. On or about December 20, 2005 the Officer Diana L. Miranowicz of the Essex Police Department asked the Respondent about the missing medication. When questioned as to whether she had any left, the Respondent shook her head. When asked if she had consumed all of it, the Respondent nodded.
8. By way of information, on or about April 11, 2000 the Respondent's license was

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Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
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summarily suspended based on charges of diverting and using Percocet. Attachment A. By way of further information, on or about June 1, 2000 the Respondent entered into a Stipulation and Consent Order, based on charges of diverting and using Percocet. Attachment A. The Respondent's license is currently unencumbered.

Request for Relief

9. The facts as set out above establish that in order to protect the public health, safety or welfare of the people of the State of Vermont emergency action is imperative.
10. 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); Vermont Board of Nursing .Administrative Rules 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). 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);

WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. § 814(c), the Respondent's nursing license number 026-0019077 be summarily suspended, pending a hearing on the merits.

DATED at Montpelier, Vermont this 7th day of February, 2006.

STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

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STATE OF VERMONT



Prosecuting Attorney
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STATE OF VERMONT
BOARD OF NURSING

IN RE:

Judith H. Green

License No: 26-19077

)
)
)

Docket No. NU39-0300

SPECIFICATION OF CHARGES, STIPULATION AND CONSENT ORDER

SPECIFICATION OF CHARGES

1. The Vermont Board of Nursing has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses and nursing assistants pursuant to 3 V.S.A. §§129, 129a; 26 V.S.A. §§1574, 1582, 1595 and 1598; the Board of Nursing's Rules and the Office of Professional Regulation's Rules.
2. The Board of Nursing is authorized by 3 V.S.A. §814 to summarily suspend the license of a nurse or nursing assistant when it finds that the public health, safety, or welfare imperatively requires emergency action.
3. Respondent Judith H. Green, of Essex Junction, Vermont, is a nurse holding license number 26-19077, issued by the State of Vermont.
4. At all times relevant, Respondent was employed by Fletcher Allen Health Care, of Burlington, Vermont.
5. By way of history, Respondent's license was previously sanctioned pursuant to a Stipulation and Consent Order entered on or about October 15, 1992 (Docket No. NU24-0692), which is attached and incorporated. Further, Respondent's license was summarily suspended pursuant to an entry of the Board dated April 11, 2000.

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Attachment A

6. On repeated occasions during about November 1999 to about March 2000, while in the course of her work, Respondent diverted, without authorization, a regulated medication, percocet.
7. On repeated occasions during about November 1999 to about March 2000, Respondent, without authorization, took said percocet for her own use and ingested same.
8. The above acts, omissions and/or circumstances violate: Nursing Board Rules: Chapter 4, Rule IV, B.4.d (diverting supplies, equipment, or drugs for personal use or other unauthorized use), which constitutes unprofessional conduct within the meaning of, and also further violates: 26 VSA §1582(a)(7) (engages in conduct of a character likely to deceive, defraud or harm the public); 26 VSA §1582(a)(5) (Is habitually intemperate or is addicted to the use of habit-forming drugs), and; 3 VSA § 129a(a)(3) (failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession).

WHEREFORE, the license of Judith H. Green should be disciplined.

STIPULATION

NOW COMES the State of Vermont, through its Attorney General, William H. Sorrell, and Respondent Judith H. Green, who stipulate and agree as follows:

- 1 The Vermont Board of Nursing has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses and nursing assistants pursuant to 3 V.S.A. §§129, 129a; 26 V.S.A. §§1574, 1582, 1595 and 1593; the Board of Nursing's Rules and the Office of Professional Regulation's Rules.

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2. The Board of Nursing is authorized by 3 V.S.A. §814 to summarily suspend the license of a nurse or nursing assistant when it finds that the public health safety, or welfare imperatively requires emergency action.
- 3 Respondent Judith H. Green, of Essex Junction, Vermont, is a nurse holding license number 26-19077, issued by the State of Vermont.
- 4 At all times relevant, Respondent was employed by Fletcher Allen Health Care, of Burlington, Vermont.
5. By way of history, Respondent's license was previously sanctioned pursuant to a Stipulation and Consent Order entered on or about October 15, 1992 (Docket No. NU24-0692), which is attached and incorporated. Further, Respondent's license was summarily suspended pursuant to an entry of the Board dated April 11, 2000.
6. Respondent admits that on repeated occasions during about November 1999 to about March 2000, while in the course of her work, Respondent diverted, without authorization, a regulated medication, percocet.
7. Respondent admits that on repeated occasions during about November 1999 to about March 2000, Respondent, without authorization, took said percocet for her own use and ingested same
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.

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10. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
11. Respondent waives any notification period and agrees to have this document reviewed by the Board during the next available meeting. 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 Board may set forth the order below.

ORDER

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

A. By engaging in the conduct above, Respondent acted unprofessionally pursuant to, and in violation of Nursing Board Rules: Chapter 4, Rule IV, B.4.(d) (diverting supplies, equipment, or drugs for personal use or other unauthorized use), which constitutes unprofessional conduct within the meaning of, and also further violates: 26 VSA §1582(a)(7) (engages in conduct of a character likely to deceive, defraud or harm the public); 26 VSA §1582(a)(5) (Is habitually intemperate or is

addicted to the use of habit-forming drugs), and; 3 VSA § 129a(a)(3) (failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession).

B. The Nursing Board, taking into consideration and incorporating the summary suspension of Respondent's license, entered on April 11, 2000, hereby **SUSPENDS** the Respondent's license for **SIX (6) MONTHS**, said suspension already having commenced, and continuing until October 11, 2000. Thereafter (that is commencing October 12, 2000), the Board **CONDITIONS** the Respondent's license to practice for **THIRTY-SIX (36) MONTHS**. The **CONDITIONS** on Respondent's licenses are as follows:

(1) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed **thirty six (36) months** of supervised nursing practice in which she 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.

For the first six (6) months of work as per paragraph B(1), Respondent is permitted to administer only non-controlled medications, and only under direct supervision. Thereafter, for the next three (3) months of work as per paragraph B(1), Respondent is permitted to administer controlled medications under direct supervision only. Thereafter, (that is, after nine months of work as per paragraph (B)1 above), Respondent may administer medications under "supervision" as that term is defined by paragraph (B)16 herein.

If a complaint or charges are filed against Respondent during the term of this Consent Order, any or all medication prohibitions may be reinstated at the sole discretion of the Board (or its designee).

(3) Completion of Counseling and Treatment Plan.

Respondent shall enter into and/or continue counseling with a treating professional approved by the Board's designee until the treating professional notifies the Board's designee in writing that such counseling is no longer necessary in her/his professional opinion and the Board (or its designee) agrees, in writing. Respondent shall comply with a treatment plan, including participation in a support group, approved by the professional and the Board (or its designee). This shall be done as soon as possible and prior to the end of suspension.

(4) Approval of Changes of Treating Professional.

Respondent shall obtain prior approval from the Board or its designee 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.

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

Respondent shall provide a copy of this Stipulation and Consent Order to her treating professional and cause her 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 her 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. A preliminary report shall accompany the treatment plan and the first report thereafter 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 her 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) Random Drug Testing.

Respondent shall submit to random drug screening at the request of the Board. Respondent shall ensure an identified contact person, approved by the Board, shall administer random drug and alcohol tests. All screens shall be negative except for drugs prescribed for her under the care of a physician, dentist, or nurse practitioner. (See paragraph B(9) Drug Use Exception).

(8) Abstain from Drug Use.

Respondent shall abstain completely from the consumption or the use or possession of any drugs with the exception of prescribed medications as outlined in paragraph B(9).

(9) 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.

(10) Interview with the Board or its designee.

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

(11) Re-issue of License.

Within five (5) days of the date of entry of this Consent Order, Respondent shall submit her license to the Board of Nursing for a re-issued license labeled "conditioned".

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 notify the Board before beginning such practice. If Respondent fails to notify the Board before, none

of the time spent in out-of-state practice will be credited toward the fulfillment of the terms and conditions of this Consent Order.

(13) 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 nursing employment (if she is employed as a nurse), 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.

(14) 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 she practices as a nurse and inform them of her conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any such subsequent employment, Respondent shall cause her 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.

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 for which she has been employed as a nurse during that 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. 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. Reports must indicate, to the satisfaction of the Board, that Respondent can safely and competently administer medications.

Respondent shall authorize her employer and her 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.

Practice Under Supervision.

Respondent shall practice only in a setting where she has on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing, or is in good standing in all states that nurse is licensed.

Prohibited Duties.

Respondent shall not work as a Charge Nurse.

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.

(19) 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.

(20) 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.

(21) 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.

Costs.

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

(23) 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.

Reevaluation of Conditions.

In the event Respondent does not work in nursing within twenty-four (24) months of the date of entry of this Consent Order, Respondent may appear before the Board for reevaluation of the conditions of this Consent Order.

Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on her license and after formal review by the Board, Respondent's nursing license may be fully restored by appropriate Board action. Respondent, however, must demonstrate compliance with

all conditions, Furthermore, Respondent shall demonstrate, to the Board's satisfaction, that she fully complied with all the terms of this Consent Order.

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.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

Dated: 6/6/00

by: [Signature]
William H. Ahlers
Assistant Attorney General

RESPONDENT
JUDITH H. GREEN

Dated: 6-1-00

by: [Signature]
Judith H. Green

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: June 12, 2000

by: [Signature]
Chairperson

Date of entry: 6-20-00

Office of the
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109 State Street
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