

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

IN RE:)
LEANNE GRIGSBY) Docket No. 2018-120
License No. 026.0086836)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Elizabeth A. St. James, and the Respondent, Leanne Grigsby, represented by Edward G. Adrian, Esq., 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. Leanne Gigsby ("Respondent") of Milton, Vermont is licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0086836. This license was originally issued June 7, 2012, and expires on March 31, 2019.
3. At all relevant times, Respondent was employed as an RN at Northwestern Medical Center (the "Facility") in St. Albans, Vermont.
4. On October 12, 2018, Respondent withdrew four (4) Oxycodone 5 mg tablets from the Omnicell machine under the name of a patient not assigned to her.
5. Later that same shift, Respondent documented wasting 20mg of Oxycodone, witnessed by a second nurse.
6. The witnessing nurse did not specifically see what medication was wasted, but did see Respondent with a medication cup in her hand.

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7. On October 15, 2018, Respondent withdrew two (2) Oxycodone 5mg tablets for a patient assigned to her, but did not document administering or wasting the tablets.
8. The 20mg Oxycodone waste was flagged in the system and reviewed by the Facility's pharmacy. The Facility subsequently conducted an internal investigation.
9. When questioned regarding the October 12th Oxycodone withdrawals, Respondent indicated that another nurse had asked her to withdraw the medication for the other nurse's patient, but Respondent could not identify who that other nurse was.
10. When questioned regarding the October 15th Oxycodone withdrawal, Respondent told the Facility that she did administer the medication, but the patient's bar code must not have scanned, despite successfully scanning the same patient's barcode for two other medications at the same time.
11. During an interview with the Facility on October 16, 2018, Respondent admitted to diverting the 4 Oxycodone on October 12th and the 2 Oxycodone on October 15th.
12. Respondent has an addiction problem stemming from her mother's death six years ago.
13. Respondent would withdraw non-narcotic medications from the Omnicell at the same time she would withdraw Oxycodone in order to substitute the non-narcotics for the Oxycodones in either waste or administration.

Violation One: 26 V.S.A. §1582(a)(2) Diverting or attempting to divert drugs or equipment or supplies for unauthorized use.

14. The State re-alleges and incorporates Paragraphs 2 through 13 above.
15. As an RN, Respondent is prohibited from diverting or attempting to divert drugs, equipment, or supplies for unauthorized use.
16. Respondent diverted or attempted to divert drugs for unauthorized use as demonstrated in Paragraphs 2 through 13 above.
17. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 26 V.S.A. §1582(a)(2).

Violation Two: 3 V.S.A. §129a(b)(1) 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.

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18. The State re-alleges and incorporates Paragraphs 2 through 13 above.
19. As an RN, Respondent has an obligation to provide safe and acceptable patient care.
20. Paragraphs 2 through 13 above demonstrate that Respondent provided unsafe and unacceptable patient care.
21. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(1).

Violation Three: 3 V.S.A. §129a(a)(15) Failing to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.

22. The State re-alleges and incorporates Paragraphs 2 through 13 above.
23. As an RN, Respondent is required to exercise her own independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.
24. Respondent's conduct in Paragraphs 2 through 13 above demonstrate Respondent's failure to exercise her own professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.
25. 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 3 V.S.A. §129a(a)(15).

Understandings

26. Respondent admits the facts as outlined above are true and the Board may find that the Respondent engaged in unprofessional conduct and that the conditions below are necessary to protect the public.
27. Respondent understands that the 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.
28. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced Respondent's rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.

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29. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
30. Respondent is not under the influence of any drugs or alcohol at the time of signature of this Stipulation and Consent Order.
31. 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.
32. Respondent voluntarily waives the right to a contested hearing before the Board and waives any right to appeal from this Stipulation and Consent Order.
33. 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 Board of Nursing hereby **CONDITIONS** the Respondent's license for a **MINIMUM OF THREE (3) YEARS, commencing on the date of entry of this order.** The **CONDITIONS** shall be as follows:
 1. Re-issuance 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 nursing practice in which Respondent works at least forty (40) hours every two (2) weeks as a nurse. Part time hours of fewer 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. Monitoring. The Office of Professional Regulation, through the Enforcement Case Manager, shall be responsible for monitoring Respondent's compliance with these Conditions. All reports or correspondence regarding compliance with these conditions shall be submitted to the Case Manager in accordance with the Conditions listed below.
 4. Completion of Substance Abuse Counseling, Treatment Plan, Treatment Reports. Respondent shall engage in substance abuse counseling with a pre-approved individual counselor and comply with the substance abuse treatment plan until the pre-approved treating professional certifies in writing to the Board that such counseling is no longer necessary. Within ten (10) days of the date of entry of this Order, Respondent shall provide a copy of this Stipulation and Consent Order to her

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treatment provider and inform him or her of Respondent's conditional license status and the accompanying conditions. Respondent's treating professional shall submit to the Board, on forms provided by the Board, acknowledgement of receipt of the Stipulation and Consent Order along with Respondent's current treatment plan.

Respondent shall authorize Respondent's treating professional to submit to the Board **monthly** reports on forms issued by the Board. Respondent shall authorize Respondent's 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.

5. Self-help recovery groups. Respondent shall participate in a self-help substance abuse recovery group(s) 3-4 times per week, or as otherwise recommended by her treating professional, and shall submit **quarterly** reports documenting such attendance on forms issued by the Board. Respondent shall also acquire a sponsor.
6. Outpatient therapy at the DayOne Program. Respondent shall continue in outpatient therapy through the DayOne Program at the University of Vermont Medical Center. Respondent shall identify a primary provider in the DayOne Program and within ten (10) days of the date of entry of this Order, she shall provide a copy of this Stipulation and Consent Order to her DayOne provider and inform him or her of Respondent's conditional license status and the accompanying conditions. Respondent's DayOne provider shall submit to the Board, on forms provided by the Board, acknowledgement of receipt of the Stipulation and Consent Order along with Respondent's current treatment plan, if applicable. Respondent shall continue in the program until her DayOne provider certifies in writing to the Board that she has successfully completed the Program. Respondent shall comply with any and all discharge recommendations.

Respondent shall authorize Respondent's DayOne provider to submit to the Board **monthly** reports on forms issued by the Board, for as long as she is in the Program. Such monthly reports shall include any medication recommendation. Respondent shall also authorize Respondent's DayOne provider 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.

Respondent shall continue with periodic medication evaluations while she is in the DayOne Program and follow all recommendations.

7. Random Drug and Alcohol Testing. Respondent shall submit to random drug and alcohol testing through the Board pre-approved entity. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes and approved by the Board. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative.

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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 constitute a violation of this Order. Failure to check-in to determine whether Respondent is selected for testing on any given day, regardless of whether Respondent is actually selected that day, may be considered 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.
9. Drug Use Exception. Respondent may take scheduled/controlled medications lawfully prescribed for a bona fide illness or condition by a health care practitioner disclosed to the Board in writing by Respondent within forty-eight (48) hours of the prescription. Respondent's health care practitioner shall inform the Board, in writing and on appropriate letterhead, of knowledge of Respondent's substance abuse issue(s) within seven (7) days of entering into the practitioner/patient relationship. Additionally, the practitioner shall inform the Board of all scheduled/controlled medications prescribed – and the anticipation of how long such prescriptions will need to be taken – within seven (7) days of the prescription.

The Board or its designee may request that the practitioner document the necessity for the prescribed scheduled/controlled medications or other medications known to have abuse potential. 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 provide the Board with a current medication list of any medications taken on a scheduled or as-needed basis on forms issued by the Board within seven (7) days of the date of reinstatement and shall update this list within forty-eight (48) hours of any change in these medications.

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 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 nursing employment, Respondent shall cause Respondent's immediate supervisor to submit to the Board an employer agreement form approved by the Board, 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 which has a clinical portion that involves actual patient care, Respondent shall provide a copy of the Stipulation and Consent Order to the Program Director. Respondent shall cause the Program Director to submit to the Board a nursing program agreement form approved by the Board, acknowledging receipt of the Stipulation and Consent Order and the ability of

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the program to comply with the conditions in the Consent Order during clinical experience.

11. Reports from Employers/Program Director. Within one (1) month of the date of reinstatement or within one (1) month of the commencement of nursing employment and **monthly** thereafter, Respondent shall cause every nursing employer Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. Moreover, on a **quarterly** basis, these reports shall include the results of the employer's medication audits of Respondent's medication administration and practices, if and when Respondent engages in medication administration. In the event 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 Respondent's performance and attendance. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance.
12. Practice Under Supervision. Respondent shall practice as a nurse only in a setting where Respondent has on-site supervision for the entire shift by a licensed registered nurse that is 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 Respondent filing a petition with the Board after Respondent has worked as a nurse for six (6) months for at least forty (40) hours every two weeks (or the part time equivalent) after the date of reinstatement.

In any such petition, Respondent must demonstrate, to the satisfaction of the Nursing Board or its designee, that Respondent can safely and competently administer such medications. Respondent must include appropriate support from Respondent's 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 requiring a nursing license 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.

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16. Out-of-State Practice. Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board. The Board will approve out-of-state nursing practice so long as Respondent can still comply with the provisions of this Consent Order. If Respondent receives discipline on a nursing license held in another state during the conditioned period, Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.
17. Notification of Place of Employment/Personal Address/Telephone Number. Within ten (10) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of Respondent's current place of employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in employment (including resignation or termination), personal address, or telephone number.
18. Notification to Other States. In the event that Respondent is licensed in nursing in any other state(s), Respondent must inform the nursing licensing board of the state(s) in which Respondent is licensed of the conditional status of Respondent's Vermont nursing license within thirty (30) days of the date of entry of this Order.
19. License Renewal. This Order does not automatically extend the license and Respondent must comply with the requirements for license renewal.
20. Release of Information Forms. This Order requires Respondent to authorize drug and/or alcohol treatment providers to report information in verbal and/or written format and/or to discuss Respondent and any and all treatment rendered to Respondent for drugs and/or alcohol with the Board or its designee. Any and all of this information may 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.

Respondent is entitled to revoke this consent at any time. However, any revocation shall be considered a violation of this Order. This consent expires when the conditions are removed from Respondent's nursing license.

This Stipulation and Consent Order shall itself constitute a valid written consent pursuant to the requirements of 42 C.F.R. § 2.31. Respondent understands that Respondent's treatment provider may require Respondent's to sign a separate and distinct consent meeting the requirements of 42 C.F.R. § 2.31.

21. Costs. Respondent shall bear all costs of complying with this Consent Order.
22. Violation of this Order. If Respondent violates this Order the Board, after giving Respondent notice and an opportunity to be heard, may rescind or modify this Order

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and impose additional appropriate disciplinary actions. If a complaint of unprofessional conduct is made against Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

23. Completion of Conditional License Period. Respondent shall submit a petition to the Docket Clerk to remove any and all conditions on Respondent's license. The State will assent to or oppose Respondent's petition. The Board will conduct a hearing if necessary. Respondent bears the burden and must present proof that Respondent has fully complied with the terms of this Order and these conditions are no longer necessary to protect the public.

- B. Notwithstanding any provision above, the Respondent must continue to meet all Board requirements for maintaining a license, license renewal and license reinstatement.
- C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- D. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 4/3/19

By: Elizabeth A. St. James
Elizabeth A. St. James
State Prosecuting Attorney
(802) 828-1218
elizabeth.st.james@sec.state.vt.us

LEANNE GRIGSBY
RESPONDENT

Dated: 4-3-19

By: Leanne Grigsby
Leanne Grigsby

APPROVED AS TO FORM ONLY:

EDWARD G. ADRIAN, ESQ.
ATTORNEY FOR RESPONDENT

Dated: 4/3/19

By: Edward G. Adrian, Esq.
Edward G. Adrian, Esq.

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APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 4-8-2019

By: EW
Chairperson

Date of Entry: 4.9.19

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BOARD OF NURSING**

**In re: Leanne Grigsby
License No. 026.0086836**

Docket No. 2018-120

**DECISION ON REQUEST FOR
SUMMARY SUSPENSION ORDER**

Appearances:

Prosecuting the case: Elizabeth A. St. James, Esq.
Douglas Sutton, RN, IT member
Respondent: Leanne Grigsby did not appear at hearing

Board of Nursing:

Ellen Watson, APRN, Chair
Jill Duell, LPN
Virginia Hudson, RN
Kelly Sinclair, LNA
Deborah, Swartz, RN
Luana Tredwell, LPN
Jeannine Carr, RN (*ad hoc* member)
William G. White, Jr., Public Member

Presiding Officer: Michael S. Kupersmith, Administrative Law Officer

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This matter came before the Board of Nursing on a Request for Summary Suspension. The hearing was held on December 10, 2018 at the Office of Professional Regulation (OPR) Conference Room, 89 Main Street, 3rd floor, Montpelier, Vermont. Elizabeth St. James, Esq. represented the Office of Professional Regulation. Respondent, Leanne Grigsby, failed to appear. The Board of Nursing has authority to summarily suspend a license pending further action if the Board determines that public health, safety or welfare imperatively requires emergency action. See 3 V.S.A. § 814(c).

Findings of Fact

Based upon the pleadings and file, and on evidence presented to the Board of Nursing at the hearing, the Board finds as follows:

1. Lcanne Grigsby (Respondent) is licensed by the State of Vermont as a Registered Nurse under license number 0260086836. The license was issued on June 7, 2012, and expires

on March 31, 2019.

2. At all relevant times, Respondent was employed as an RN by the Northwest Medical Center (the "facility"), St. Albans, Vermont.
3. On October 12, 2018, Respondent withdrew a total of four (4) Oxycodone 5 mg tablets from the Omnicell dispenser at the facility under the name of a patient not assigned to her.
4. Respondent asked the charge nurse to witness the wasting of these tablets, but Respondent did not have the tablets with her at the time. The charge nurse advised her to find another shift nurse to witness the wasting. Another nurse later witnessed the wasting, but did not actually see the wasted medication disposed of.
5. Jessica Nadeau, Pharmacy Director at the facility, investigated the improper wasting procedure and discovered that the Respondent had withdrawn two (2) 5 mg tablets of Oxycodone on October 15, 2018, but that there was no record of the patient receiving the medication. When questioned about this, Respondent stated that the medication scan had probably failed to register administration even though the scan did register two non-narcotic medications which were administered to the patient at the same time.
6. Respondent was twice questioned about the two failures to properly account for handling of Oxycodone. The first time, on October 15, she denied any malfeasance. After a lengthy interview on October 16, Respondent admitted that she had taken the four Oxycodone tablets on October 12 to self-medicate.

Conclusions of Law

The Findings of Fact and Conclusions of Law in this Summary Suspension Order are for purposes of deciding whether *at this time* there is an imperative need to take emergency action. 3 V.S.A. § 814(c). The Findings of Fact and Conclusions of Law herein are for purposes of this Order only.

The Prosecutor's Request for Summary Suspension is supported by the evidence presented. The Board of Nursing concludes that the allegations made in the Request for Summary Suspension have been established by a preponderance of the evidence, i.e., (1) that Respondent diverted drugs for unauthorized use; and (2) performed unsafe and unacceptable patient care.

For purposes of this Summary Suspension Hearing, the Findings of Fact set forth above do support Summary Suspension of Respondent's license. There is an imperative need to take emergency action because the health and safety of the public require that a Registered Nurse not divert drugs necessary for patient care, health and safety.

Vermont law requires that unprofessional charges be filed promptly with Respondent being afforded a prompt hearing. At any merits hearing in this matter, the prosecutor will bear the burden of proving unprofessional conduct. The Findings and Conclusions in the summary

suspension phase will not absolve the prosecution or Respondent from producing or challenging relevant evidence at a merits hearing. The Findings of Fact and Conclusions of Law at a contested hearing will be based exclusively on the evidence admitted at that hearing.

Order

The Request for Summary Suspension is **Granted**. Respondent's license is hereby summarily suspended pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. 3 V.S.A. § 814(c).

It is SO ORDERED this 17th day of December, 2018,


Board of Nursing
By: Ellen Watson, Chair

Date of Entry: 1-3-19

