

**STATE OF VERMONT
BOARD OF NURSING**

In re: Charles R. Harroun
License No. 026-0021161

}
}
}

Docket No. NU29-0907

**Decision on
UNPROFESSIONAL CONDUCT CHARGE**

Participating Board Members:

Linda Rice, APRN, Chair
Alan Weiss
Sandra Norton, LNA
Donarae Metcalf, LPN
William G. White Jr.
Jeanine Carr, RN
Deborah Robinson, RN

Appearances:

for Petitioner, State of Vermont: Edward G. Adrian
for Respondent: Norman R. Blais

Presiding Officer: Larry S. Novins

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

The Vermont Board of Nursing held a hearing in the above matter on January 12, 2009 at the National Life Building in Montpelier, Vermont.

The prosecution has the burden of proof in this matter. To prevail on any unprofessional conduct charge, it must prove the charge by a preponderance of the evidence.

Background

The prosecution alleges in its Specification of Charges that Mr. Harroun violated an Order of this Board by not complying with conditions set for participation in the Board's Alternative Program for Recovering Nurses. Mr. Harroun admitted violating the Board's Order. The parties submitted a Stipulation and Consent Order. The parties argued whether three sections of the Order should be imposed. Mr. Harroun asked the board not to impose #12) the condition "Practice under Supervision," #13) the prohibition on "Administration of Medications," and #14) "Types of Employment Prohibited," a bar from supervision others. The parties agreed that the decision on whether to impose the three conditions would be left to the Board's discretion.

Findings of Fact

Based on the evidence presented, the Board finds as follows:

1. Mr. Harroun is licensed as a registered nurse by and subject to the disciplinary authority of this Board. 26 V.S.A. §1582, 3 V.S.A. §§ 129 and 129a.
2. The Stipulation and Consent Order with Statement of Facts and Charges is accepted by the Board and adopted and attached to this Order.
3. Mr. Harroun is in counseling at the present time. He takes responsibility for his breach of the Alternative Program conditions.
4. Mr. Harroun is employed as a registered nurse with occasional duties as a Charge Nurse at the Fletcher Allen Health Center Inpatient Rehabilitation department.
5. Mr. Harroun's supervisor feels that facility safeguards make a ban on dispensing controlled substances unnecessary.
6. There have been no complaints about Mr. Harroun and how he performs his professional duties. His co-workers have seen no indication that he was unable to appropriately dispense controlled substances.
7. Mr. Harroun has never diverted controlled substances at the work place.

Order

The parties have Stipulated to Conditions and left to the Board's discretion imposition of the conditions argued. That Stipulation is attached to this Order. We adopt the terms of that Stipulation and impose the following two conditions:

Practice Under Supervision: While employed in his current position Mr. Harroun shall practice as a registered nurse with on site supervision by a licensed registered nurse in good standing where the on site supervisor is available for consultation and supervision at all times while Mr. Harroun is present. Should Mr. Harroun change employment, he shall notify the Board within 10 days and any other subsequent employment shall be under direct supervision.

Types of Employment Prohibited: Mr. Harroun may continue to serve as a charge nurse while employed at FAHC.

The Board is not imposing condition #13, Administration of Medications.

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, Office of Professional Regulation, National Life Bldg., North, FL2, Montpelier, Vermont 05620-3402 within 30 days of the entry of this Order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the

case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.

To request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Nursing

By: Linda Rice APRN
Linda Rice, APRN

Date January 15, 2009

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 1/26/09

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

IN RE:

CHARLES R. HARROUN

License No. 026-0021161

)
)
)

Docket No. NU29-0907

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Edward G. Adrian, and the Respondent, Charles R. Harroun, 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. Charles R. Harroun (the "Respondent") of Jericho Center, Vermont is a licensed registered nurse holding license number 026-0021161, issued by the State of Vermont. This license was originally issued on or about July 8, 1993 and is set to expire on March 31, 2009.
3. On or about May 1, 2007, the Respondent enrolled in the Alternative Program (the "Program") with the Board. The Respondent was enrolled in the Program based in part on his conviction for Driving While Intoxicated entered on or about October 4, 2006. Based on facts below, the Respondent failed to comply with the terms of the Program.
4. As a condition for participating in the Program, the Respondent was required to abstain completely from the use of drugs and alcohol. On or about September 4, 2007, the Respondent was subject to a random urine screen. The results of the Respondent's specimen were positive for Cannabinoids.
5. In an interview with State Investigator Pamela Barney-Hango conducted on or about October 4, 2007, the Respondent advised Investigator Barney-Hango that he had used

STATE OF VERMONT



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

marijuana on September 2 and 3, 2007. The Respondent further advised that in a previous conversation he had with Board Administrator Elizabeth Hansen regarding his positive urine screen, he had not been completely truthful with her about his use of marijuana.

6. As a condition for participating in the Program, the Respondent was required to have his treating professional submit monthly reports demonstrating satisfactory progress in his substance abuse treatment.
7. In a report from the Respondent's treating professional dated December 21, 2007, the Respondent's treating professional noted that the Respondent was "drifting away from AA and not taking action on goals." The Respondent's treating professional also noted that the Respondent's progress in meeting his treatment goals was "[c]oming to a standstill."
8. Subsequently, on or about June 26, 2008 in an evaluation report by Independent Drug and Alcohol Abuse Evaluator Holly Tuck, Ms. Tuck found both Respondent's alcohol dependence and cannabis abuse to be in remission. Furthermore, Ms. Tuck found that Respondent demonstrated an acceptance of his diagnosis and a willingness to engage in the treatment and lifestyle changes necessary to address his diagnosis. Moreover, Ms. Tuck reported that Respondent appeared committed to continuing his career in nursing, and to developing a healthier personal lifestyle.

Charges

9. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:
 - a. 3 V.S.A. § 129a(a)(4) (failing to comply with an order of the board or violating any term or condition of a license restricted by the board); and
 - b. 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).

Understandings

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

STATE OF VERMONT



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

12. 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.
13. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
14. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
15. Respondent voluntarily enters into this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.
16. Respondent voluntarily waives his right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
17. Respondent agrees that the 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 to practice registered nursing for **A MINIMUM OF THREE (3) YEARS** commencing with the date of entry of this Consent Order. 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 Nursing Board that such counseling is no longer necessary. Respondent shall enter into and comply with the substance abuse treatment plan approved by the Board and the treating professional.

STATE OF VERMONT



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

(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 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

STATE OF VERMONT



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

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 entry of this Order 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.

In the event the Respondent is attending a nursing program, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of his performance and attendance. This report shall be submitted in writing on forms issued by the Board and accompanied by a cover letter on the school's letterhead.

(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 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 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.

STATE OF VERMONT



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

** Left to discretion of
Board*

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 the 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 of Vermont, 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, 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 entry of this Order. 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.

STATE OF VERMONT



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

* Left to discretion of Board CPT M

(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, 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 licensed registered nurse.

- B. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. § 129(a).

STATE OF VERMONT



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

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:

Dated: 1/12/09

STATE OF VERMONT
SECRETARY OF STATE

By: [Signature]

Edward G. Adrian
State Prosecuting Attorney

Dated: 1/12/09

CHARLES R. HARROUN
RESPONDENT

By: [Signature]

Charles R. Harroun

APPROVED AS TO FORM:

Dated: 1/12/09

ATTORNEY FOR RESPONDENT

By: [Signature]

Norman R. Blais, Esq.

APPROVED AND SO ORDERED:

Dated: _____

Date of Entry: _____

VERMONT BOARD OF NURSING

By: _____

Chairperson

nu.harroun.stip

STATE OF VERMONT



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