

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

IN RE:)
LAYNE G. HERSCHEL) **Docket No: NU 98-0604**
License No. 101-0019451)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Layne G. Herschel, who stipulate and agree as follows:

Board Authority

1) The Vermont State Board of Nursing ("Board") has authority to approve consent orders, issue warnings or reprimands, suspend, revoke, limit, condition or prevent the renewal of current or lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. §129(a)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a); the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2) The Respondent, Layne G. Herschel, is licensed under License Number 101-0019451 as an Advanced Practice Registered Nurse with a specialty in Adult-Clinical Specialist-Psych/Mental Health.

3) Respondent was originally licensed on April 24, 1990 and Respondent's license is currently set to expire on March 31, 2005.

4) The Respondent crossed professional boundaries during the course of the practice of her profession in that:

- i. The Respondent lived with D.H. in a romantic relationship for a period of approximately eight years. D.H. was a patient of the Respondent's.
- ii. The Respondent directed D.H. to read the Respondent's patient files to obtain information for insurance billing. Diagnoses of Respondent's patients were included in the files. D.H. was never employed by the Respondent.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Charges

5) By committing the above act(s), circumstance(s) and/or omission(s), the Respondent has violated:

- i. 26 V.S.A. §1582(a)(7) (engaging in conduct of a character likely to deceive, defraud or harm the public), which includes violating confidentiality by inappropriately revealing information or knowledge about a patient or client pursuant to ARBN, Chapter 4, Rule IV(II)(D)(7), and assigning functions of nursing practice beyond the scope of competence of the individual to whom they are assigned pursuant to ARBN, Chapter 4, Rule IV(II)(D)(8); and
- ii. 3 V.S.A. §129a(a)(6) (delegating professional responsibilities to a person whom the licensed professional knows, or has reason to know, is not qualified by training, experience, education or licensing credential to perform them); and
- iii. 26 V.S.A. §1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN, Chapter 4, Rule IV(II)(B)(2); and
- iv. 3 V.S.A. § 129a(b) (failing to practice competently by reason of any cause on a single occasion or on multiple occasions).

Understandings

- 6) 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.
- 7) 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.
- 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 she signs this Stipulation and Consent Order.
- 10) 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.
- 11) Respondent voluntarily waives her right to a contested hearing before the Board of Nursing.
- 12) Respondent agrees that the Order set forth below may be entered by the Board.

STATE OF VERMONT



Prosecuting Attorney
Office of
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Montpelier, VT 05602

ORDER

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

A. The Board of Nursing hereby **SUSPENDS THE RESPONDENT'S LICENSE INDEFINITELY**. Before applying for reinstatement, Respondent must, at her own expense, successfully complete one (1) graduate-level course focusing on patient confidentiality, and one (1) graduate level course focusing on professional boundaries. These courses must be approved in advance by the Board. Respondent must submit written documentation (certificate of completion, etc.) to verify same to the satisfaction of the Board or its designee. Once reinstated, her license will be conditioned and limited pursuant to the Laws of the State of Vermont and the Rules of this Board.

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

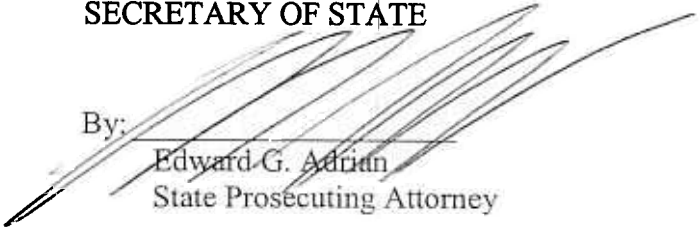
C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

D. This Stipulation and Consent Order will remain part of the 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: 1/17/05

By: 

Edward G. Adrian
State Prosecuting Attorney

LAYNE G. HERSCHEL
RESPONDENT

Dated: 1/5/05

By: 

Layne G. Herschel

STATE OF VERMONT

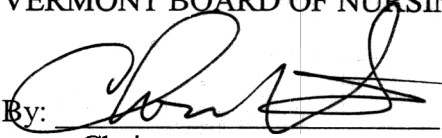


Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 2-14-05

By: 

Chairperson

Date of Entry: 2/22/05

CHRIS WINTERS, BOARD COUNSEL,
FOR SUE FARRELL

nu.herschel.stip

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

IN RE:)
LAYNE G. HERSCHEL) **Docket No: NU 98-0604**
License No. 101-0019451)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Layne G. Herschel:

Board Authority

- 1) The Vermont State Board of Nursing ("Board") has authority to approve consent orders, issue warnings or reprimands, suspend, revoke, limit, condition or prevent the renewal of current or lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. §129(a)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a); the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.
- 2) Engaging in conduct of a character likely to deceive, defraud or harm the public is unprofessional conduct upon which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(7).
- 3) Conduct of a character likely to deceive, defraud, or harm the public includes violating confidentiality by inappropriately revealing information or knowledge about a patient or client pursuant to ARBN, Chapter 4, Rule IV(II)(D)(7), and assigning functions of nursing practice beyond the scope of competence of the individual to whom they are assigned pursuant to ARBN, Chapter 4, Rule IV(II)(D)(8).
- 4) Delegating professional responsibilities to a person whom the licensed professional knows, or has reason to know, is not qualified by training, experience, education or licensing credential to perform them is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(6).
- 5) Being unable to practice nursing competently by reason of any cause is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(3).
- 6) Being unable to practice nursing competently includes failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN, Chapter 4, Rule IV(II)(B)(2).

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7) Failing to comply with the provisions of state statutes or rules governing the practice of the profession is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(3).

Statement of Facts

8) The Respondent, Layne G. Herschel, is licensed under License Number 101-0019451 as an Advanced Practice Registered Nurse with a specialty in Adult-Clinical Specialist-Psych/Mental Health.

9) Respondent was originally licensed on April 24, 1990 and Respondent's license is currently set to expire on March 31, 2005.

10) The Respondent crossed professional boundaries during the course of the practice of her profession in that:

- i. The Respondent lived with D.H. in a romantic relationship for a period of approximately eight years. D.H. was a patient of the Respondent's.
- ii. The Respondent directed D.H. to read the Respondent's patient files to obtain information for insurance billing. Diagnoses of Respondent's patients were included in the files. D.H. was never employed by the Respondent.

Charges

11) By committing the above act(s), circumstance(s) and/or omission(s), the Respondent has violated:

- i. 26 V.S.A. §1582(a)(7) (engaging in conduct of a character likely to deceive, defraud or harm the public), which includes violating confidentiality by inappropriately revealing information or knowledge about a patient or client pursuant to ARBN, Chapter 4, Rule IV(II)(D)(7), and assigning functions of nursing practice beyond the scope of competence of the individual to whom they are assigned pursuant to ARBN, Chapter 4, Rule IV(II)(D)(8); and
- ii. 3 V.S.A. §129a(a)(6) (delegating professional responsibilities to a person whom the licensed professional knows, or has reason to know, is not qualified by training, experience, education or licensing credential to perform them); and
- iii. 26 V.S.A. §1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN, Chapter 4, Rule IV(II)(B)(2); and
- iv. 3 V.S.A. §129a(b) (failing to practice competently by reason of any cause on a single occasion or on multiple occasions).

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Prosecuting Attorney
Office of
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Montpelier, VT 05602

Relief Requested

WHEREFORE, the Respondent's license should be revoked, suspended, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 5th day of November 2004.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

nu.herschel.soc

STATE OF VERMONT



Prosecuting Attorney
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