

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

IN RE:

WANDA JEAN HOLMES, LPN

License No. 025-0006584

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Docket No: NU 75-0501

STIPULATION AND CONSENT ORDER

The Respondent, Wanda Jean Holmes, LPN, and the State of Vermont, by its Attorney General, William H. Sorrell, stipulate to the statements of Board Authority, Facts and Understandings set forth below and agree to the entry of the following Consent Order by the Vermont State Board of Nursing as a final order in this matter.

Board Authority

1. The Vermont State Board of Nursing ["the Board"] has authority to issue warnings or reprimands, suspend, revoke, limit, 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)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a).
2. Diverting supplies, equipment, or drugs for personal or other unauthorized use is conduct likely to deceive, defraud or harm the public and is a basis on which the Board can impose disciplinary action. Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(4)(d); 26 V.S.A. §1582(a)(7).

Facts

3. The Respondent (whose address is listed in the database of the Office of Professional Regulation as P.O. Box 134, Underhill, VT 05489) is licensed as a Licensed Practical Nurse under License Number 025-0006584.
4. Respondent's license was originally issued on November 27, 1990 and it currently is Suspended and set to expire on January 31, 2002.
5. The Respondent worked at the Northwestern Medical Center in St. Albans, Vermont at all times relevant.
6. On or about April 9, 2001, Respondent admitted to Officer Eugene Douillard of the Vermont State Police that she, the Respondent, had diverted narcotic

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

medications on six (6) to eight (8) occasions, specifically Percocet, while employed at the Northwestern Medical Center in St. Albans, Vermont.

7. On or about April 9, 2001, Respondent admitted to Officer Eugene Douillard of the Vermont State Police that she, the Respondent, obtained the above-mentioned narcotic medications when she had failed to properly waste the unused tablets by:
 - a) placing the unused tablets in her pocket instead of disposing of them as required;
 - b) not having another nurse witness the act(s) of wasting the medication(s); and
 - c) later requesting a nurse to sign as witnessing the act(s) of wasting the medication(s).
8. Respondent diverted medications for unauthorized use as specified above.
9. Respondent plead guilty and received a deferred sentence on or about October 25, 2001, for the above conduct. (State v. Holmes, 1115-8-01 FrCr (2001)(attached and incorporated).

Claims

- A. The Respondent has recently diverted drugs for unauthorized use and that is conduct that is likely to deceive, defraud or harm the public and is also conduct sufficient to support disciplinary action, including a summary suspension. BNAR Chapter 4, Rule IV (B)(4)(d); 26 V.S.A. §1582(a)(7); 3 V.S.A. §129a(a)(3); 3 V.S.A. §814(c).

Understandings

- B. Respondent admits the facts above and the conclusions of unprofessional conduct as set forth below in the Board's Order.
- C. 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.
- D. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- E. 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 his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.

- F. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
- G. 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.
- H. Respondent voluntarily waives her right to charges and a contested hearing before the Board of Nursing.
- I. Respondent agrees that the Board may set forth the order below.

ORDER

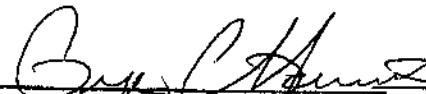
Based on the stipulation above it is **ORDERED AND ADJUDGED** as follows:

- J. By engaging in the conduct above, Respondent acted unprofessionally pursuant to, and in violation of:
 - 1) Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(4)(d); 26 V.S.A. §1582(a)(7) (Diverting supplies, equipment, or drugs for personal or other unauthorized use is conduct likely to deceive, defraud or harm the public).
- K. The Nursing Board **INDEFINITELY SUSPENDS** the Respondent's license, commencing on the date this order is entered, continuing until she demonstrates, to the satisfaction of the Board: possession of entry level qualifications; specific rehabilitation; good moral character and fitness; methods

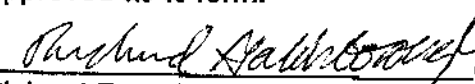
of assuring public safety, and; that reinstatement would not be detrimental to the integrity of the profession or subversive of the public interest.

- L. 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).
- M. 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

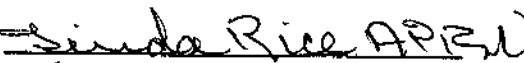
WILLIAM H. SORRELL
ATTORNEY GENERALDated: 1/17/02by: 
George C. Haegle IV
Assistant Attorney GeneralRESPONDENT
WANDA JEAN HOLMESDated: January 9 '02by: 
Wanda Jean Holmes

Approved as to form:


Richard R. Goldsborough, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 2-11-02by: 
ChairpersonDate of entry: 2/12/02

Docket No. 1115-8-01 FrCr State vs. Holmes, Wanda J. 1115-8-01 FrCr

Vermont District Court
Unit 2, Franklin Circuit

Prosecutor: Linda A. Purdy Defendant: Wanda J. Holmes
Motions pdg: DOB: 01/13/1966
Bail set: POB:
Incarcerated: released Atty: Richard Goldsborough
Case Status: Aliases:
Active - Ready for sentence Address: 17 Liberty Street Ext.
Next Hearing: Richford VT 05476

Dspt	Docket No.	Ct.	Offense	Statute	F/M/O
1	1115-8-01 FrCr	1	UNLAWFUL POSS. OF NARCOTIC D18	4224(b)	mis
			10/25/01 Plea guilty		
2	1115-8-01 FrCr	2	UNLAWFUL POSS. OF NARCOTIC D18	4224(b)	mis
			10/25/01 Plea guilty		
3	1115-8-01 FrCr	3	FALSE STATEMENT IN RECORDS	18 4223(c)	mis
			10/25/01 Dismissed by state		

08/29/01 Information and Affidavit filed on 3 disputes.
Dispute 1 is Docket No. 1115-8-01 FrCr Count #1, OBTAINING A REGULATED DRUG BY DECEIT, Felony, 18 V.S.A. Sec. 4223(a)(1). Alleged offense date: 12/31/00. Arrest/citation date: 12/31/00 by Attorney General's Office.
Dispute 2 is Docket No. 1115-8-01 FrCr Count #2, FALSE STATEMENT IN RECORDS, Felony, 18 V.S.A. Sec. 4223(c). Alleged offense date: 04/21/01. Arrest/citation date: 04/21/01 by Attorney General's Office.
Dispute 3 is Docket No. 1115-8-01 FrCr Count #3, FALSE STATEMENT IN RECORDS, Felony, 18 V.S.A. Sec. 4223(c). Alleged offense date: 05/11/01. Arrest/citation date: 05/11/01 by Attorney General's Office.
Arraignment set for 08/30/01 at 11:00 AM.

08/30/01 Arraignment held by Dean Pineles. (TAPE).
Probable Cause found by Judge Dean Pineles on disputes 1-3.
Appearance entered by Richard Goldsborough.
Copy of Affidavit and Information given to defendant. 24 hour rule waived.
Reading of Information waived. Defendant pleads not guilty on disputes 1-3. Pre-trial discovery order issued.
Cash bail set by Dean Pineles on dispute 1-3. Amount this dispute(s): 0.00, Total: 0.00. Condition[s] 1-3, 17-18 imposed; additional conditions: Defendant shall not purchase, possess or consume any regulated drug unless prescribed by a physician. Def. Not to be present in a facility where regulated drugs are kept and distributed.
Status Conference set for 09/25/01 at 08:45 AM.

09/21/01 Motion to Continue filed by Attorney Richard Goldsborough for Defendant Wanda J. Holmes on disputes 1-3. Motion to Continue given to judge.

09/24/01 Motion to Continue granted by James Crucitti.
Status Conference scheduled for 09/25/01 continued.
Status Conference set for 10/09/01 at 08:30 AM.

10/09/01 Status Conference held by James Crucitti. (TAPE).
Entry Order: Purdy/Goldsborough/Def present. State has made offer, needs to review w/Def.
Change of plea set for 10/25/01 at 01:30 PM.

10/25/01 Change of plea held by James Crucitti. (TAPE).
Entry Order: Purdy/Goldsborough/Def present. COP.

Defendant pleads guilty to amended charge on disputes 1-2. Plea agreement filed. Judge James Crucitti accepts plea after finding it to be voluntary and made with knowledge and understanding of the consequences and after a knowing waiver of constitutional rights. Plea found to have a factual basis. Adjudication of guilty entered. Charge amended to UNLAWFUL POSS. OF NARCOTIC DRUG-1ST OFFE, Misdemeanor, 18 V.S.A. Sec. 4224(b) on dispute 2. Sentence on disputes 2-3 deferred for 4 years. No. 14: See written Def Sent Agreement.

Charge amended to UNLAWFUL POSS. OF NARCOTIC DRUG-1ST OFFE, Misdemeanor, 18 V.S.A. Sec. 4224(b) on dispute 1.

Dispute 3: Dismissed by state.