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

IN RE:	)	
JUDITH JOSEPH	)	**Docket No: NU04-0702**
License No. 026-0026234	)	

REINSTATEMENT STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Judith Joseph, R.N., 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, 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 pursuant to 3 V.S.A. §§129, 129a, and 814; 26 V.S.A. §1582, the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.

Statement of Facts

2. The Respondent, Judith Joseph, is licensed in the State of Vermont as a registered nurse under license number 026-0026234. The Respondent's license was originally issued on or about March 23, 2001. The Respondent is also licensed as a registered nurse in the State of New Hampshire.

3. The Respondent's Vermont license was suspended for a period of three (3) months pursuant to a Stipulation and Consent Order entered by the Board on or about December 12, 2002. (See Attachment A). The Respondent did not seek reinstatement of her Vermont license after the three (3) month period was concluded, and therefore it has remained suspended to date.

4. By way of history, the suspension of the Respondent's Vermont license was based on an action by the New Hampshire Board of Nursing (the New Hampshire Board) suspending the Respondent's New Hampshire license for three (3) months. (Attachment A). The Respondent's New Hampshire license was suspended as a result of several documentation and medication errors by the Respondent.

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5. In a letter to the Board dated November 20, 2006, the Respondent expressed her desire for the Board to consider reinstating her Vermont nursing license. In her letter the Respondent cited ongoing health problems as the reason she waited so long to request reinstatement.

6. On or about January 19, 2006, the New Hampshire Board reinstated the Respondent's New Hampshire registered nursing license pending the receipt of certain information. (See Attachment B). The New Hampshire Board imposed conditions on the Respondent's license for a period of six (6) months which included quarterly reports from Respondent's employer, notification of employers or nursing schools of her conditioned status, and on-site supervision.

7. The Respondent agrees that the conditions below are necessary for her to return to the practice.

Understandings

8. 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.

9. 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.

10. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

11. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.

12. 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.

13. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.

14. 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 registered nursing license for a minimum period of **SIX (6) MONTHS** commencing with the date of entry of this Consent Order. The conditions are as follows:

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(1) License to be labeled "Conditioned".

Any license issued to the Respondent by this Board shall be labeled "Conditioned".

(2) Length of Time 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 **six (6) months** of supervised registered nursing practice in which Respondent 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) 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.

(4) 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 **quarterly** thereafter, Respondent shall cause every registered 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.

(5) Practice Under Supervision.

Respondent shall practice as a registered nurse only in a setting where Respondent has on-site supervision for the entire shift by a licensed registered nurse who is in good standing with the Board.

(6) 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

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nursing employment agency, or as a personal care provider during the effective period of this Consent Order.

(7) 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 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.

(8) 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 obtain approval from the Board prior to Respondent leaving the State of Vermont. If Respondent fails to receive such approval before leaving the State, none of the time spent 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 practice so long as the Respondent can still comply with the provisions of this Consent Order.

(9) Notification to Other States.

In the event that the Respondent is licensed in nursing in any other state(s), she must inform the nursing licensing board of the state(s) in which the Respondent is licensed of the conditional status of her 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.

(10) 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 she has otherwise complied with the requirements for license renewal.

(11) Costs.

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

(12) 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.

(13) Completion of Conditional License Period.

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on her license. The Respondent must present proof that she has fully complied with the terms of this Order and that she can safely and competently perform the duties of a registered nurse.

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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).

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: 4/9/07

STATE OF VERMONT
SECRETARY OF STATE

By: _____
Edward G. Adrian
State Prosecuting Attorney

JUDITH JOSEPH
RESPONDENT

Dated: 3/27/07

By: Judith Joseph
Judith Joseph

APPROVED AND SO ORDERED:

Dated: 4-9-07

VERMONT BOARD OF NURSING

By: Linda Rice APRN
Chairperson

Date of Entry: 4/11/07

nu.joseph.reinstate.stip

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SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

IN RE:	)	
JUDITH JOSEPH, R.N.	)	Docket No: NU04-0702
License No. 026-0026234	)	

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, through Attorney General William H. Sorrell, and Respondent Judith Joseph, R.N. who stipulate and agree as follows:

Board Authority

1. The Board of Nursing has jurisdiction to investigate complaints of unprofessional conduct and approve consent orders pursuant to 3 V.S.A. §§129 and 129a, and 26 V.S.A. §§1574 and 1582.

2. The Board may discipline any licensee who has had a license revoked, suspended, limited or conditioned by a licensing agency in another jurisdiction for an offense which would constitute unprofessional conduct in this state. 3 V.S.A. §129(a)(6).

Facts

3. The Respondent is a Registered Nurse under License Number 026-0026234.

4. Respondent was originally licensed on March 23, 2001 and Respondent's license has a current expiration date of March 31, 2003.

5. At all times relevant to these charges, the Respondent worked at the Sullivan County Nursing Home in Claremont, New Hampshire.

6. On or about June 24, 2002, the New Hampshire Board of Nursing suspended the New Hampshire nursing license of Respondent for a period of three (3) months

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Attachment A

for violating New Hampshire's laws and rules. (In the Matter of: Judith Joseph, R.N., Docket No.: 02-0417-0159)(attached and incorporated).

7. The above violations of New Hampshire's laws and rules were for offenses that would constitute unprofessional conduct in this state.

Claims

A. Due to the above, Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129(a)(6) (Discipline any licensee who has had a license revoked, suspended, limited or conditioned by a licensing agency in another jurisdiction for an offense which would constitute unprofessional conduct in this state).

Understandings

B. The Respondent understands that the Board of Nursing must review and accept the terms of the Order set forth below and that if the Board rejects all or any portion of the Order, then this entire document shall be null and void.

C. The Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

D. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.

E. The Respondent agrees that she has had sufficient opportunity to consult with legal counsel before signing this document.

F. 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.

G. The Respondent is voluntarily waiving her right to a contested hearing before the Board of Nursing.

H. The Respondent agrees that the Order set forth immediately below may be entered by the Board of Nursing.

Consent Order

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I. Based on the above stipulations, it is **ADJUDGED** as follows:

(1) The "Facts" listed above are true; and

(2) The Respondent has engaged in unprofessional conduct in that the Respondent has:

- i Violated 3 V.S.A. §129(a)(6) (Discipline any licensee who has had a license revoked, suspended, limited or conditioned by a licensing agency in another jurisdiction for an offense which would constitute unprofessional conduct in this state).

Based on the above stipulation and on the above findings and conclusions of this Board, it is **ORDERED** follows:

- i The Board hereby **SUSPENDS** Respondent's license to practice nursing **for a period of three (3) MONTHS** commencing the date of entry of this Order.

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

K. At any time after the entry of this Order, the Respondent may petition the Board to reinstate her license and/or modify the conditions.

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)(8).

M. This Stipulation and Consent Order will remain part of the Respondent's licensing file and may be used in determining sanctions in future disciplinary matters.

AGREED TO:

BY: JUDITH JOSEPH
RESPONDENT

Date: Dec 1, 2002

Judith Joseph

AND BY: STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

Date: 12/3/02

George C. Haegele IV
Assistant Attorney General

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109 State Street
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ACCEPTED AND SO ORDERED: BOARD OF NURSING

Date: 12.9.02 Susan Farrell
Chairperson

Dated entered: 12/12/02

I would like to draft a statement to be attached to this agreement if that is OK. Thanks. Please let me know.
(802) 387 2611.

Jodi Joseph

Office of the
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GENERAL
109 State Street
Montpelier, VT
05609

December 9, 2002

Vermont State Board of Nursing
Office of the Secretary of State
Montpelier, VT.

Dear State Board of Nursing: Enclosed is my statement regarding the decision before you, December 9, 2002.

Let me begin by stating I have a long-standing adversarial relationship with the NH Board of Nursing, since I have been most vocal and critical of their methods in the past.

In 1992, in response to reporting the nursing home I was working at at the time to the ombudsmans' office, I was fired from my job as a staff nurse on the 3-11 shift. This was at a Genesis (previous McKerleys') facility in Laconia. I had reported to the director of nurses my concerns about a CNA abusing the residents, and at the time she told me to "wait until after her vacation, maybe it will be better" Well, the vacation came and went, and this time I went to the administrator, who confronted the DON, and called the ombudsman. Approximately a month after this incident, right before I was to leave on my own family vacation to Disneyworld I was called into the DON's office and fired. The DON had found a discrepancy in my record-keeping regarding the signing off of meds, the particular timing and routine of which I had been taught by the nurses who trained me. It involved the fact we had to bring the med cart into the locked Alzheimers Unit, and often the residents would try to leave the unit while we maneuvered the cumbersome cart through the double doors. When I questioned the way I was told to sign off the meds, (at the end of the shift, after marking given meds with a flagging system), the other nurses told me "we always do it this way". The DON reported this to the Board, and I was given a reprimand. It also ruined my vacation.

I had this reprimand annulled in 1999. I was the first RN in NH to request one, and now I know why. The reprimand/annulment continued to cause trouble in my professional life. When I asked Lee Lepannen, the attorney for the Board how I should answer the question on EVERY nursing application; "has your license ever been reprimanded, suspended or revoked", she had no real answer for me she said it would no longer be in the database. As a result, the next application for work I filled out, I said no. What is the point of an annulment, if the incident continues to be an issue? I felt the Board was ill-prepared for the change in policy regarding annulments, and should have notified the nurses in NH via the newsletter exactly what the annulment process was, and to encourage employers to ask in their applications if they were interested if their prospective employees had annulments on record.

I have worked in both management and on the floor in nursing homes in NH, and the general feeling among nurses there is that the NH Board is pro-employer, and can be used by facilities to "get rid of" employees they don't want for whatever reason. I told Lee Lepannen this fact also, and it did not endear me to her. Here is an example....I was working at a facility in Claremont, NH, as the staff development/infection

control/coordinator. We also had to "co er the floor" as staff nurses on the days we were "on call", in case of a call-out. This hap ened on a V ERY regular basis, and it could be 7-3. 3-11, or 11-7 shift, if you were "on all" it was y ur responsibility. One day, after doing an on-call shift, I said to S.L., the DON, "how can you expect any nurse to do all this, I can't get it done, all the treatment and meds", and she said, "Oh we know, just do what you can, this way, if there is someone we want t get rid of, we can always find something they didn't do and report ther." I swear t this statement, and I also have a witness, someone else with me in manag ement at the time who is now gone also. Needless to say, I left there ASAP.

The incident before the NH Board is exactly this sam situation, I was not guilty of any nursing mistake that rose to the level of suspension. I left a Colace and a Trilafon at a bedside because the CNA's were in the middle of tra sferring the resident to bed when I entered the room. I put O2 on an anoxic patient with ut an order, and left messages at the MD office for an order for two days. I did not ac use a resident of alcoholism, as was reported to the Board, although I had be n most voca to the management of Sullivan County that the resident in question did NOT belong n our unit, but rather in a dementia unit. What is not in the report is the fac I was sched led for cervical fusion surgery, and had just come back from carpal tunnel s rgery. The acility (Sullivan County Nursing Home), did not want any nurse "going out on disabili y", and hence having to pay her, so they looked for a way to let me go. And here we are oday. I was unable to attend my Board hearing in NH on this issue since had begun on pain management, and was not allowed to drive during dosage changes I called the NH Board to notify them I couldn't attend, and they proceeded without me, probably bec use I had had to cancel twice before. I have had a lot of medical issu s. I am now on Social Security disability, but would sincerely like to put all this behind me. I neve plan to practice nursing in NH again, but plan to return to school this January 2003 or my teachers certificate, and would like to have a clean slate. I feel I did no wron in NH, and certainly have not been working in VT, and have committed no wrong in VT or anywhere, in my opinion. Thank you for your consideration.

Sincerely yours,

Judi Joseph, RN

STATE OF NEW HAMPSHIRE
NEW HAMPSHIRE BOARD OF NURSING
21 S FRUIT ST STE. 16
CONCORD NH 03301-2431

Webpage: http://www.state.nh.us/nursing

TDD Access: Relay NH 1-800-735-2964

Nursing 603-271-2323 **Nurse Asst.** 603-271-6282

COPY

January 25, 2006

Judith Joseph
36 Kimball Hill Rd
Putney VT 05346

Dear Ms. Joseph:

At its January 19, 2006 meeting, Board members voted to grant the reinstatement of your registered nurse license pending:

- receipt of evidence of your having providing 400 hours of active-in-practice within the previous 4 years;
- Evaluations of good work performance from your employer; and
- Another letter of reference from your work place.

Upon receipt of the above documents your license will be reinstated with **probation for 6 months** until Respondent successfully petitions the Board for termination of probation, whichever is later. During this probation period the following conditions and restrictions are imposed:

1. Respondent shall practice nursing in a structured health-care environment where other health-care providers are employed; Respondent may be employed by a staffing agency provided that she is assigned to only one institution during the probation period. Respondent shall not practice nursing in a home care environment;

2. Respondent shall provide a copy of this Letter of Probation to all nurse-licensing boards where currently licensed and schools of nursing where currently enrolled **within 30 days** of receipt of the NH Board-executed copy. Respondent shall also provide a copy of this Letter to all nurse-licensing Boards or schools of nursing for which Respondent makes future application, at the time of such application.

3. Upon obtaining RN employment, Respondent shall notify the Board in writing of such employment within ten days and provide a copy of this Agreement to the registered nurse supervisor. Within one (1) month after beginning such employment, said nursing supervisor shall submit a report directly to the Board, in writing, setting forth:

   a. the name and address of Respondent's employer;
   b. the duties and responsibilities to be performed by Respondent;
   c. a discussion of the quality of care provided by Respondent;
   d. a report of Respondent's ability to safely and accurately administer and record diagnostic tests; and
   d. the nursing supervisor shall acknowledge that this Agreement was read and that the role of the nursing supervisor is understood by the supervisor.

4. Respondent shall submit to the Board on a quarterly basis work performance evaluations from Respondent's nursing supervisor on a Board-provided form. Said evaluation shall include:

   a. name and address;
   b. number of hours worked, timeliness and efficiency;
   c. quality and safety of nursing care, particularly regarding test administration and documentation;
   d. adherence or failure to adhere to Board conditions and restrictions.

Attachment B

DEC-15-2006 12:30 NH BOARD OF NURSING 6032716605 P.02/03

5. Fulfillment of the probation period can be accomplished only while the Respondent is employed in a capacity for which an RN license is required and subject to adequate supervision approved by the Board. Respondent is required to notify the Board, in writing, within 10 days after the commencement, termination or change in role in any such employment;

6. Any complaint or negative employer work report regarding Respondent that is received by the Board shall be reviewed by the Executive Director (E.D.). The E.D. shall determine if the complaint or report is credible, is a violation of RSA 326-B and/or the Board rules and whether, if true, Respondent's act or omission rises to the level for which the Board would likely consider disciplinary action. If the E.D. so determines, it shall be considered grounds for disciplinary action pursuant to RSA 326-B:12 III and Respondent's license shall be summarily suspended, without recourse by Respondent, pending resolution of the matter by agreement or commencement of an adjudicative proceeding within 90 days.

7. Respondent shall notify the Board of address change within fifteen (15) days of such relocation;

8. If Respondent wishes to seek removal of probation status at the end of this probation period, Respondent shall, in a letter to the Board, petition the Board for termination of probation.

   a. The Executive Director, (E.D.), Board of Nursing shall review the work reports submitted during the probation period and determine whether the reports satisfactorily show that Respondent can provide nursing care with skill and safety. **The probation period shall continue** until Respondent receives written notification from the E. D. that the probation is terminated.

   b. If the E.D. determines that Respondent likely cannot provide nursing care with skill and safety, Respondent shall be so notified in writing, and Respondent may petition the Board for review of the E.D.'s determination. **The probation period shall continue** until the Board has reviewed said petition and rendered a decision. In support of the petition, Respondent shall appear before and demonstrate to the Board the ability to provide skilled, safe nursing care through oral presentation and any documents (in addition to the work reports) that Respondent wishes the Board to consider.

Should Respondent apply for any New Hampshire license under RSA 326-B authority on or after the date of this Agreement, Respondent shall by the act of filing such an application, automatically waive any statute of limitations or laches defense which may other wise be available concerning the misconduct allegations set forth above, and consents to these allegations being fully addressed in the context of her license application. Respondent shall bear the burden of proving that Respondent possesses sufficient knowledge, judgment and skills, and character qualifications to be licensed in any such future licensing proceedings;

If you have any questions, please call the Board office, (603) 271-2323.

FOR THE BOARD:

Margaret J. Walker

Margaret J. Walker, MBA, BS, RN
Executive Director

MJW/sg

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Professional Regulation