

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

IN RE: Christine Kelly } Docket No. NU 03-0703
License No. 026-0021620 }

DEFAULT ORDER

Upon the filing of a *Notice of Hearing for Default Judgment* by the Secretary of State, the Nursing Board heard this matter on Monday 8 January 2007 at the Secretary of State's Office, Heritage Building, 81 River Street, Montpelier, Vermont.

Findings of Fact

1. Respondent is subject to the regulatory authority of this Board. 3 V.S.A. §§s 129 and 129a; 26 V.S.A. Chapter 28; Board of Nursing Administrative Rules and Office of Professional Regulation Administrative Rules.
2. The State filed a Specification of Charges (attached) against the Respondent on 20 October 2006 alleging non-compliance with license conditions.
3. The Office of Professional Regulation served Respondent with notice of the charges by certified mail and first class mail to the Respondent's last known address as provided by the Respondent to the Office of Professional Regulation. The notice of charges contained instructions detailing the Respondent's legal obligation to answer the charges and explaining the consequences of failure to file a timely response. The Office of Professional Regulation also served a notice of this default hearing to the Respondent by certified mail.
4. The Respondent did not answer the charges within the legally prescribed time as required by OPR Admin. Rule 3.3 or at any time thereafter.
5. Upon hearing the State's presentation and taking notice of its own file pursuant to 3 V.S.A. § 810(4), the Board finds the Respondent to be in default. The allegations contained in the State's specification of charges (copy attached) are therefore treated as proven and serve as the factual basis for the Board's order. OPR Admin. Rule 3.4; 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

In re: Christine Kelly

Conclusions of Law

The Respondent received adequate and legal notice of the charges as indicated by the Board's file and the State's presentation of the case to the Board. Because the Respondent failed to answer the charges of unprofessional conduct, the Board finds the Respondent in default and will treat the State's factual allegations as established pursuant to OPR Admin. Rule 3.4. The Board concludes, in this default hearing held pursuant to 3 V.S.A. § 809(d), that the Respondent has engaged in unprofessional conduct as alleged in the State's Specification of Charges.

Order

In accordance with the above findings of fact and conclusions of law, the Board of Nursing ORDERS that the Respondent's license be SUSPENDED INDEFINITELY, effective the date of this Order.

Vermont Board of Nursing:

By: Laurey M. Tyo Dated at Montpelier: 8 January 2007
Laurey M. Tyo, RN
Board Chairperson

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 1/10/07

In re: Christine Kelly

By:

Edward G. Adrian
State Prosecuting Attorney

nu.kelly.soc

STATE OF VERMONT



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

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

IN RE:)
CHRISTINE L. KELLY) Docket No. NU03-0703
License No. 026-0021620)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Christine L. Kelly, R.N.:

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); 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. Christine L. Kelly (the "Respondent") is licensed as a registered nurse holding license number 026-0021620, issued by the State of Vermont. This license was originally issued on or about June 29, 1994 and is set to expire March 31, 2007. The Respondent's license is currently conditioned pursuant to an Order entered by this Board on August 12, 2004. Attachment A. The Respondent's license was conditioned due to the Respondent's admitted diversion of Demerol from the facility where she was employed and the subsequent criminal conviction resulting from her diversion. Id.

3. At all relevant times, the Respondent was employed as a registered nurse at Grace Cottage Hospital (the "Facility") located in Townshend, Vermont.

4. Section A(7) of the Order requires the Respondent to enter into and continue substance abuse counseling and to comply with a substance abuse treatment plan approved by the Board and her treating professional. Id.

5. Section A(8) of the Order requires the Respondent to participate in recovery groups as recommended by her treating professional. Id.

6. The last report received from a treating professional was on January 9, 2006. Subsequent to that time the Respondent indicated to Elizabeth Hansen of the Board of Nursing that she

STATE OF VERMONT



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

was no longer in counseling, but was looking for a new treating professional to meet her obligations and was not having any luck in finding one.

7. Section A(10) of the Order prohibits the Respondent from administering controlled substances for a minimum period of twelve (12) weeks, at which point she is required to petition the Board for reinstatement of all medication privileges. Id.

8. On or about June 14, 2006, the director of nursing at the Facility, B.W., advised State Investigator Steve Kennedy that the Respondent had administered regulated drugs on several occasions. B.W. advised that the Respondent administered the following narcotics:

- a. On or about June 6, 2006, the Respondent administered Acetaminophen with Codeine to patient L.S.
- b. On or about June 6, 2006, the Respondent administered Oxycontin 20mg to patient J.J.
- c. On or about June 5, 2006, the Respondent administered Acetaminophen with Codeine to patient L.S.
- d. On or about June 3, 2006, the Respondent administered Oxycontin 20mg to patient J.J.
- e. On or about June 2, 2006, the Respondent administered Oxycontin 10mg to patient J.J.

9. To date, the Respondent has not petitioned the Board for reinstatement of her medication administration privileges as required by section A(10) of the Order.

Charges

10. The acts, omissions and/or circumstances described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:

- i. 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); and
- ii. 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).

Relief Requested

WHEREFORE, the license of Christine L. Kelly should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 20th day of October 2006.

STATE OF VERMONT
SECRETARY OF STATE

STATE OF VERMONT



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

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

IN RE:)
CHRISTINE L. KELLY) Docket No: NU 03-0703
License No. 026-0021620)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and Respondent Christine L. Kelly, R.N., 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.

Facts

- 2) The Respondent is licensed by the State of Vermont as a Registered Nurse under License Number 026-0021620.
- 3) Respondent's license was originally issued on June 29, 1994 and Respondent's license is currently suspended pursuant to a Summary Suspension Order entered by the Board of Nursing on August 12, 2003. (Attached and incorporated as "Attachment A").
- 4) On or about March 15, 2004, pursuant to State of Vermont v. Christine Kelly, Docket No. 1076-8-03 Wmc, the Respondent was convicted of a violation of Title 18 V.S.A. §4223(a) which states that no person shall obtain or attempt to obtain a regulated drug, or procure or attempt to procure the administration of a regulated drug by fraud, deceit, misrepresentation, or subterfuge or by the concealment of a material fact.
- 5) As a result of this conviction, the Respondent received a sentence of one to two years, all suspended, and placed on probation with standard conditions and special conditions related to drug screening, counseling, treatment and rehabilitation.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Charges

- 6) The above acts, omissions and/or circumstances described above, constitute grounds for discipline because Respondent violated:
- i. 3 V.S.A. §129a(a)(3) (Failure to comply with the provisions of state statutes or rules governing the practice of the profession); and
 - ii. 26 V.S.A. §1582(a)(5) (Being addicted to the use of habit forming drugs); and
 - iii. 26 V.S.A. §1582(a)(2) (Whether or not committed in this state, having been convicted of a crime related to the practice of nursing or a felony which evinces an unfitness to practice nursing); and
 - iv. 3 V.S.A. §129a(b)(1) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions) (Failure to practice competently includes performance of unsafe or unacceptable patient care); and
 - v. 26 V.S.A. §1582(a)(3) (The inability to practice nursing competently by reason of any cause) (The inability to practice nursing competently includes the performance of unsafe or unacceptable patient care pursuant to ARBN, Chapter 4, Rule IV(II)(B)(1)) (Any cause includes, but is not limited to, use of chemicals or any other type of materials pursuant to ARBN, Chapter 4, Rule IV(II)(C));
 - vi. 26 V.S.A. §1582(a)(7) (Engaging in conduct of a character likely to deceive, defraud or harm the public) (Conduct likely to deceive, defraud, or harm the public includes diverting supplies, equipment, or drugs for personal or other unauthorized use pursuant to ARBN, Chapter 4, Rule IV(II)(D)(4) and falsifying or altering clinical records or making inaccurate or misleading entries pursuant to ARBN, Chapter 4, Rule IV(II)(D)(3)).

Understandings

- 7) 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.
- 8) Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- 9) 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.
- 10) Respondent voluntarily waives her right to charges and a contested hearing before the Board of Nursing.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

- 11) Respondent agrees that to resolve this matter, the Order set forth below may be entered by the Board.

ORDER

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

A. Respondent's actions described above demonstrate grounds for discipline because Respondent violated:

- i. 3 V.S.A. §129a(a)(3) (Failure to comply with the provisions of state statutes or rules governing the practice of the profession); and
- ii. 26 V.S.A. §1582(a)(5) (Being addicted to the use of habit forming drugs); and
- iii. 26 V.S.A. §1582(a)(2) (Whether or not committed in this state, having been convicted of a crime related to the practice of nursing or a felony which evinces an unfitness to practice nursing); and
- iv. 3 V.S.A. §129a(b)(1) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions) (Failure to practice competently includes performance of unsafe or unacceptable patient care); and
- v. 26 V.S.A. §1582(a)(3) (The inability to practice nursing competently by reason of any cause) (The inability to practice nursing competently includes the performance of unsafe or unacceptable patient care pursuant to ARBN, Chapter 4, Rule IV(II)(B)(1)) (Any cause includes, but is not limited to, use of chemicals or any other type of materials pursuant to ARBN, Chapter 4, Rule IV(II)(C));
- vi. 26 V.S.A. §1582(a)(7) (Engaging in conduct of a character likely to deceive, defraud or harm the public) (Conduct likely to deceive, defraud, or harm the public includes diverting supplies, equipment, or drugs for personal or other unauthorized use pursuant to ARBN, Chapter 4, Rule IV(II)(D)(4) and falsifying or altering clinical records or making inaccurate or misleading entries pursuant to ARBN, Chapter 4, Rule IV(II)(D)(3)).

B. The Board of Nursing hereby **SUSPENDS THE RESPONDENT'S LICENSE INDEFINITELY**. Before applying for reinstatement, Respondent must obtain an independent evaluation report by a licensed professional specializing in substance abuse pre-approved by the Board, verifying that Respondent is capable of returning to competent practice and; (2) treatment with an substance abuse counselor pre-approved by Board and the Respondent must be able to show at a minimum that the Respondent has been completely drug free for the entire period between the date of entry of this Stipulation and the request for reinstatement and that the results of the treatment with the substance abuse counselor indicate that the Respondent does not present a risk to the safety, health or welfare of her patients. Additionally, **the Respondent may not apply for reinstatement for a MINIMUM PERIOD OF ONE (1) MONTH.**

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

C. If Respondent Kelly seeks reinstatement at a future time, once reinstated, the following conditions will apply:

The Respondent's license shall be **CONDITIONED** for a minimum period of **THREE (3) YEARS** and the following conditions shall apply:

(1) Re-issue of License.

Upon the imposition of these conditions, Respondent shall be issued a license 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 three (3) years of supervised nursing practice in which she works at least forty (40) hours every two (2) weeks as a 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. Respondent's license is additionally conditioned as follows.

(3) Completion of Substance Abuse Counseling and Treatment Plan.

Respondent shall enter into and continue substance abuse counseling with a treating professional 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.

(4) Notification to Treating Professional.

Respondent shall provide a copy of this Stipulation and Consent Order to her treating professional and cause her 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 her 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 imposition of the conditions and subsequent reports are due every month thereafter.

Respondent shall authorize her 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) Reports from Employers.

Within one (1) month of the date of the imposition of the conditions and **monthly**

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

thereafter, Respondent shall cause every nursing employer Respondent has worked for during the month to submit to the Board an evaluation of Respondent's 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 write to the Board, on school letterhead, acknowledging receipt of the Consent Order and ability of the program to comply with the conditions in the Consent Order during clinical experience.

(7) Practice Under Supervision.

Respondent shall practice only in a setting where Respondent has direct supervision for the entire shift by a Registered Nurse that is licensed and in good standing with the Board.

(8) Participation in Recovery Group

Respondent shall participate as recommended by her treating professional, in Narcotics Anonymous meetings and/or other recovery group.

(9) Random Drug Testing.

Respondent shall submit to random drug 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 screens. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes. All specimens collected for tests shall be collected in an observed setting. All screens shall be negative.

(10) 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 she has worked as nurse for twelve (12) weeks or at least 40 hours work every two weeks (or the part time equivalent) after the entry date of this Order.

In any such petition, the Respondent must demonstrate, to the satisfaction of the Nursing Board, that she can safely and competently administer such medications. In any such petition, the Respondent must include appropriate support from her 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.

(11) Interview with the Board or its designee.

Respondent shall appear in person for interviews with the Board or its designee upon request.

(12) Types of Employment Prohibited.

Respondent shall not work as a supervising nurse. Respondent shall not work for a

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency, or as a personal care provider during the effective period of this Consent Order.

(13) 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.

(14) Notification of Place of Employment/ Personal Address/Telephone Number.

Within five (5) days of the date of the imposition of the conditions, 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.

(15) 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 nursing, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that she has otherwise complied with the requirements for license renewal.

(16) Release of Information Forms.

In fulfilling the conditions of this Order which require the Respondent to authorize various persons to report information or to discuss the Respondent with the Board, the Respondent must execute a consent to disclose form which meets the requirements of 42 C.F.R. §2.31. The authorization must allow the information to also be provided to the Office of Professional Regulation investigators. Any revocation by the Respondent of such consent to disclosure during the term of this Order shall be considered a violation of this Order.

(17) Costs.

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

(18) 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

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

concluded.

(19) 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. The Respondent must also present proof of successful substance abuse rehabilitation and she must demonstrate, to the satisfaction of the Nursing Board, that she poses no danger to the public or the practice of nursing and that she can safely and competently perform the duties of a Registered Nurse.

D. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.

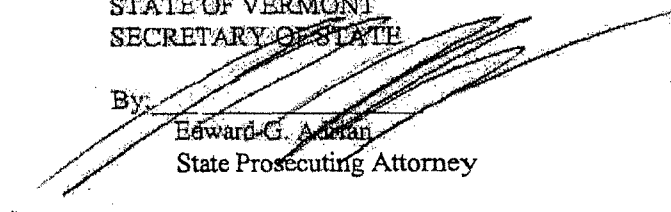
E. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

F. 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: 6/22/04

By: 

Edward G. Adman
State Prosecuting Attorney

CHRISTINE L. KELLY
RESPONDENT

Dated: 6/17/04

By: CKelly

Christine L. Kelly

Attorney for Respondent
Approved as to form:

Dated: 6/1/04

By: W. E. Kraham

William E. Kraham

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 8/9/04

By: *Joan Farrell*
Chairperson

Date of Entry: 8/12/04

nu.kelly.stip

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

**STATE OF VERMONT
BOARD OF NURSING**

In re: Christine Kelly, RN
License No. 026-0021620

}
}
}

Docket No. NU 03-0703

SUMMARY SUSPENSION ORDER

Participating Board Members:

Susan Farrell, RN, Chair
Linda Rice, RN
Susan Cota
Alan Weiss
Sandra Norton, NA
Donarae Metcalf
Elayne Clift
Laura Tyo, RN
Patricia Rock, RN
De ann Welch

Appearances:

for Petitioner, State of Vermont: Edward Adrian
for Respondent: William Kram

Presiding Officer: Larry S. Novins

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

On August 11, 2003 this matter came before the Board of Nursing on the State's request for summary suspension pursuant to 3 V.S.A. § 814(c) and 3 V.S.A. § 129 (a)(4). The respondent did@/not appear.

Findings of fact

Based on substantial credible evidence the Board finds as follows:

1. Respondent is licensed by and subject to the disciplinary authority of the Vermont Board of Nursing.
2. The Board has statutory authority to summarily suspend a license when it finds that the public health, safety, or welfare imperatively requires emergency action. In such cases, the proceedings of the Administrative Procedures Act shall be promptly instituted and determined.
3. On July 9, 2002 Ms. Kelly was terminated from her employment at Brattleboro Memorial

- Hospital for taking Demerol.
4. There is ample evidence that on more than nine occasions Ms. Kelly removed Demerol for patients when there was no order or record of drug administration.
 5. Ms. Kelly signed out Demerol for names of persons who were not patients at the hospital.
 6. Ms. Kelly signed out Demerol for a patient who already had a supply.
 7. Ms. Kelly signed out Demerol for a patient who had already received some.
 8. All the above incidents occurred between June 6, 2003 and July 1, 2003.
 9. Ms. Kelly admitted to the Hospital Director of Human Relations that she had 1) diverted Demerol, 2) was taking Demerol herself at the hospital.
 10. On June 27, 2003 Ms. Kelly was confronted about missing Demerol. At the time she was "acting strange" and carrying a sharps container with was only 1/3 full and did not need to be emptied. Ms. Kelly claimed she had lost a \$20.00 bill in the container.
 11. Ms. Kelly has been cited to appear in the Windham District Court to respond to criminal charges.
 12. Ms. Kelly appears to have a significant serious drug addiction which at the very least impairs her judgment.

Conclusions of Law

The Board finds that the allegations in the request for summary suspension have been established to the necessary degree.

The Board finds that the public health, safety, or welfare does imperatively require emergency action against the Respondent's license.

Order

Pursuant to 3 V.S.A. § 814(c), Ms. Kelly's license shall be **summarily suspended** pending a hearing on any charges that may be filed or any other resolution of this case.

Vermont Board of Nursing

By: Susan Farrell
Susan Farrell Chair

Dated: Aug. 11, 2003

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 8/12/03

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

IN RE: CHRISTINE L. KELLY, RN)
License No. 026-0021620) DOCKET No. NU03-0703

REQUEST FOR SUMMARY SUSPENSION

Board Authority

1. The Vermont Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by Nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28 and; the rules of the Board and the Vermont Office of Professional Regulation.
2. The Board of Nursing is authorized by 3 V.S.A. § 814 to summarily suspend the license of a nurse when it finds that the public health, safety or welfare imperatively requires emergency action.

Statement of Facts

3. Christine Kelly (the "Respondent") of East Dover, Vermont is a licensed registered nurse holding license number 026-0021620, issued by the State of Vermont. This license was originally issued on or about June 29, 1994 and is set to expire on March 31, 2005.
4. At all relevant times the Respondent was practicing as a registered nurse and worked at the Brattleboro Memorial Hospital (the "Hospital") located in Brattleboro, Vermont. Respondent was terminated from employment on July 9, 2003 for taking Demerol.
5. On June 27, 2003, the Respondent was confronted about 75 mg of Demerol that was missing from the narcotics storage. The Demerol came up missing from the shift that the Respondent was working on from 11:00 p.m. to 7:00 a.m. Nurse Kerry Morgan indicated that the Respondent was "acting very strange" during the shift. Ms. Morgan reported that she observed the respondent carrying a "Sharps" container that was only 1/3 full and did not need emptying. Respondent claimed that she had lost a \$20 bill in the container.
6. After this incident a review of the relevant medical records showed the following inconsistencies:
 - a. On June 6, 2003, the Respondent signed out for 75mg of Demerol for patient S.C., there was no order or record of drug administration.
 - b. On June 7, 2003, the Respondent signed out for 75mg of Demerol for patient S.B., there was no order or record of drug administration.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

- c. On June 7, 2003, the Respondent signed out for 75mg of Demerol for patient J.S., there was no order or record of drug administration.
- d. On June 10, 2003, the Respondent signed out for two 75mg of Demerol for patient S.C., there was no order or record of drug administration.
- e. On June 14, 2003, the Respondent signed out for 75mg of Demerol for patient B.S., there was no order or record of drug administration.
- f. On June 15, 2003, the Respondent signed out for 75mg of Demerol for patient A.L., there was no order or record of drug administration.
- g. On June 23, 2003, the Respondent signed out for 75mg of Demerol for patient K.W., there was no order or record of drug administration.
- h. On June 24, 2003, the Respondent signed out for 75mg of Demerol for a patient with the name of Senecal, there was no patient in the hospital with that name.
- i. On June 27, 2003, the Respondent signed out for 75mg of Demerol for patient Y.M., this was the patient that Ms. Morgan had confronted the Respondent about. Y.M. was in the birthing center which had its own supply of narcotics and the patient had already received 50 mg of Demerol.
- j. On June 28, 2003, the Respondent signed out for 75mg of Demerol for patient C.H., the patient had already received 35 mg of Demerol as per the order.
- k. On June 28, 2003, the Respondent signed out for 75mg of Demerol for patient J.C., the patient had an order for 25mg of Demerol. The records indicate that the 25mg was administered by the respondent, but there was no record of the waste.
- l. On June 29, 2003, the Respondent signed out for 75mg of Demerol for patient J.O., the patient had an order for 25mg of Demerol. The records indicate that the 25mg was administered by the respondent, but there was no record of the waste.
- m. On June 30, 2003, the Respondent signed out for 75mg of Demerol for patient M.Y., there was no order or record of drug administration.
- n. On June 30, 2003, the Respondent signed out for 75mg of Demerol for patient C.S., there was no order or record of drug administration.
- o. On July 1, 2003, the Respondent signed out for 75mg of Demerol for patient K.K., there was no order or record of drug administration.
- p. On July 1, 2003, the Respondent signed out for 75mg of Demerol, there was no patient name on the record and the Respondent indicated that it was wasted.
- q. The Hospital records indicate that on June 29 and 30, 2003 the signatures of Nurses

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Diane Vegara, Susan Ohmart, Kate Wolf and Kerry Morgan appear as having each signed out one 75mg of Demerol. All four nurses indicate that they did not sign for the Demerol and that the signatures appearing on the record are not their signatures.

7. Between July 3-21, 2003 the Respondent admitted to the Hospital Director of Human Relations Julie Green that she had 1) diverted the Demerol during the June 29 to July 1, 2003 dates; 2) that she had removed the Demerol from the Hospital; 3) was taking some of the Demerol herself at the Hospital; and 4) forged the other nurses' names on the medical records.
8. The Respondent has been cited to appear on August 25, 2003, at the Windham District Court on the offense of Obtaining a Regulated Drug by Fraud.

Request for Relief

13. The facts as set out above establish that in order to protect the public health, safety or welfare of the people of the State of Vermont emergency action is imperative.
14. The above acts and circumstances, alone or in combination, violate: 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); 3 V.S.A. §§ 129a(b)(1)(failure to practice competently by any reason of any cause on a single occasion or on multiple occasions . . . performance of unsafe or unacceptable patient care); 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause); 26 V.S.A. § 1582(a)(5) (is addicted to the use of habit forming drugs); 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public); Vermont Board of Nursing Administrative Rule (the "Rules") Chapter 4, Rule IV, II, B, 1; (performance of unsafe or unacceptable patient care); Rule Chapter 4, Rule IV, II, D. 3.; (falsifying or altering clinical records or making inaccurate or misleading entries); and Rule Chapter 4, Rule IV, II, D. 4 (diverting supplies, equipment, or drugs for personal or other unauthorized use).

WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. § 814(c), the Respondent's nursing license number 026-0021620 be summarily suspended, pending a hearing on the merits.

DATED at Montpelier, Vermont this 6th day of August, 2003.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

NU006.sum.susp.lit.wpd

STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney