

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

IN RE:
MARY E. KILLEEN
License No. 026.0110933

)
) **Docket No. 2018-27 3'**
) **2018-28**

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Elizabeth A. St. James, and the Respondent, Mary E. Killeen, represented by Ian Carleton, Esq. 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. Chapter 28; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Mary E. Killeen ("Respondent") of Aiken, South Carolina, is licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0110933. This license was originally issued July 9, 2015, and expires on March 31, 2019.
3. At all relevant times, Respondent was employed as an RN by MAS Medical Staffing. At all relevant times, Respondent was assigned to work at University of Vermont Medical Center (the "Facility") in Burlington, Vermont.
4. On July 11, 12, and 13, 2017, Respondent provided care for Patient 1.
5. On 4 occasions during these three days, Respondent's medication administration records for Patient 1 indicated that Respondent withdrew 2 tablets of hydromorphone 2 mg for Patient 1 but only administered 1 tablet to Patient 1 each time. This documentation left 4 tablets of hydromorphone unaccounted for.
6. On October 27, 2017, Respondent admitted to OPR investigator John Lewis that over a three month period, she likely diverted 15 to 20 hydromorphone tablets from the

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Facility for her own use. Respondent stated she used the drug on her time off from work.

Violation One: 26 V.S.A. §1582(a)(2) Diverting or attempting to divert drugs or equipment or supplies for unauthorized use.

7. The State re-alleges and incorporates Paragraphs 2 through 6 above.
8. As a Registered Nurse, Respondent shall not divert or attempt to divert drugs or equipment or supplies for unauthorized use.
9. Respondent diverted or attempted to divert drugs for unauthorized use as demonstrated in Paragraphs 3 through 6 above.
10. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 26 V.S.A. §1582(a)(2).

Violation Two: 3 V.S.A §129a(b)(2) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (2) failure to conform to the essential standards of acceptable and prevailing practice.

11. The State re-alleges and incorporates Paragraphs 2 through 6 above.
12. The essential standards of acceptable and prevailing practice require Registered Nurses to accurately and honestly document all nursing interventions, including the administration of medication.
13. Respondent failed to meet this standard by engaging in the conduct described in Paragraphs 3 through 6 above.
14. The essential standards of acceptable and prevailing practice require Registered Nurses to refrain from diverting medications for their own use.
15. Respondent failed to meet this standard by engaging in the conduct described in Paragraphs 3 through 6 above.
16. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(2).

Violation Three: 3 V.S.A. §129a(a)(15) Failing to exercise independent professional judgment in the performance of licensed activities when that

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judgment is necessary to avoid action repugnant to the obligations of the profession.

17. The State re-alleges and incorporates Paragraphs 2 through 6 above.
18. As a Registered Nurse, Respondent is required to exercise her own independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.
19. Respondent's conduct in Paragraphs 3 through 6 above demonstrate Respondent's failure to exercise her own professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.
20. 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 3 V.S.A. §129a(a)(15).

Understandings

21. Respondent acknowledges that the facts above are true and that the conditions set out in the Consent Order below are appropriate and necessary to protect the public.
22. 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.
23. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced Respondent's rights to a fair and impartial hearing if this agreement is not accepted by the Board and proceeds to a contested hearing.
24. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
25. Respondent is not under the influence of any drugs or alcohol at the time Respondent signs this Stipulation and Consent Order.
26. 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.
27. Respondent voluntarily waives Respondent's right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.

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28. 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 for a **MINIMUM OF TWO (2) YEARS, commencing on the date of entry of this order.** The **CONDITIONS** shall be as follows:
1. Re-issuance 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 two (2) years** of supervised nursing practice in which Respondent works at least forty (40) hours every two (2) weeks as a nurse. Part time hours of fewer 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. Monitoring. The Office of Professional Regulation, through the Enforcement Case Manager, shall be responsible for monitoring Respondent's compliance with these Conditions. All reports or correspondence regarding compliance with these conditions shall be submitted to the Case Manager in accordance with the Conditions listed below.
 4. Completion of Counseling. Respondent shall successfully complete six (6) sessions of psychoeducational counseling to ensure she fully understands the risks associated with opioid use and their implications and possible effects on one's life, as recommended in Respondent's independent evaluation. Such counseling must be done by a Licensed Alcohol and Drug Counselor, pre-approved by the Board or its designee. Within ten (10) days of the date of entry of this Order, Respondent shall provide a copy of this Stipulation and Consent Order to her treatment provider and inform him or her of Respondent's conditional license status and the accompanying conditions. Respondent's treating professional shall submit to the Board, on forms provided by the Board, acknowledgement of receipt of the Stipulation and Consent Order along with Respondent's current treatment plan.

Respondent shall cause her treatment provider to certify to the Board, in writing, that Respondent has successfully completed the six (6) above described sessions. Respondent shall authorize Respondent's treating professional to submit to the Board **monthly** reports on forms issued by the Board. Respondent shall authorize Respondent's 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.

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If after successful completion of the six (6) above described sessions Respondent's treatment provider recommends further treatment, Respondent shall continue treatment until the treating professional certifies in writing, to the Board, that treatment is no longer necessary. Respondent shall authorize Respondent's treating professional to submit to the Board **monthly** reports on forms issued by the Board. Respondent shall authorize Respondent's 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

Respondent shall participate as recommended by Respondent's treating professional in substance abuse recovery group(s), and, if recommended, shall submit **quarterly** reports documenting such attendance on forms issued by the Board.

5. Random Drug and Alcohol Testing. Respondent shall submit to random drug and alcohol testing through the Board pre-approved entity. 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 constitute a violation of this Order. Failure to check-in to determine whether Respondent is selected for testing on any given day, regardless of whether Respondent is actually selected that day, may be considered a violation of this Order.

6. Abstain from Drug and Alcohol Use. Respondent shall abstain completely from the consumption or possession of alcohol and drugs.
7. Drug Use Exception. Respondent may take scheduled/controlled medications lawfully prescribed for a bona fide illness or condition by a health care practitioner disclosed to the Board in writing by Respondent within forty-eight (48) hours of the prescription. Respondent's health care practitioner shall inform the Board, in writing and on appropriate letterhead, of knowledge of Respondent's substance abuse issue(s) within seven (7) days of entering into the practitioner/patient relationship. Additionally, the practitioner shall inform the Board of all scheduled/controlled medications prescribed – and the anticipation of how long such prescriptions will need to be taken – within seven (7) days of the prescription.

The Board or its designee may request that the practitioner document the necessity for the prescribed scheduled/controlled medications or other medications known to have abuse potential. 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.

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Respondent shall provide the Board with a current medication list of any medications taken on a scheduled or as-needed basis on forms issued by the Board within seven (7) days of the date of reinstatement and shall update this list within forty-eight (48) hours of any change in these medications.

8. 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 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 nursing employment, Respondent shall cause Respondent's immediate supervisor to submit to the Board an employer agreement form approved by the Board, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

In the event Respondent is attending a nursing program which has a clinical portion that involves actual patient care, Respondent shall provide a copy of the Stipulation and Consent Order to the Program Director. Respondent shall cause the Program Director to submit to the Board a nursing program agreement form approved by the Board, acknowledging receipt of the Stipulation and Consent Order and the ability of the program to comply with the conditions in the Consent Order during clinical experience.

9. Practice Under Supervision. Respondent shall practice as a nurse only in a setting where Respondent has onsite supervision for the entire shift by a licensed registered nurse that is in good standing with the Board.
10. Reports from Employers/Program Director. Within one (1) month of the date of reinstatement or within one (1) month of the commencement of nursing employment and **monthly** thereafter, Respondent shall cause every nursing employer Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. Moreover, on a **quarterly** basis, these reports shall include the results of the employer's medication audits of Respondent's medication administration and practices, if and when Respondent engages in medication administration. In the event 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 Respondent's performance and attendance. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance.
11. Administration of Medications. Respondent is prohibited from administering any controlled substances. This condition may be removed only by Respondent filing a petition with the Board after Respondent has worked as a nurse for six (6) months for at least forty (40) hours every two weeks (or the part time equivalent) after the date of reinstatement.

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In any such petition, Respondent must demonstrate, to the satisfaction of the Nursing Board or its designee, that Respondent can safely and competently administer such medications. Respondent must include appropriate support from Respondent's 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.

12. Types of Employment Prohibited. Respondent shall not work in a supervisory role. Respondent shall not work in a home care setting. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, temporary nursing employment agency, or as a private duty nurse or personal care provider requiring a nursing license during the effective period of this Consent Order.
13. Interview with the Board or its Designee. Respondent shall appear in person for interviews with the Board or its designee upon request.
14. Out-of-State Practice. Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board. The Board will approve out-of-state nursing practice so long as Respondent can still comply with the provisions of this Consent Order. If Respondent receives discipline on a nursing license held in another state during the conditioned period, Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.
15. Notification of Place of Employment/Personal Address/Telephone Number. Within ten (10) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of Respondent's 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 (including resignation or termination), personal address, or telephone number.
16. Notification to Other States. In the event that Respondent is licensed in nursing in any other state(s), Respondent must inform the nursing licensing board of the state(s) in which Respondent is licensed of the conditional status of Respondent's Vermont nursing license within thirty (30) days of the date of entry of this Order.
17. License Renewal. This Order does not automatically extend the license and Respondent must comply with the requirements for license renewal.
18. Release of Information Forms. This Order requires Respondent to authorize drug and/or alcohol treatment providers to report information in verbal and/or written format and/or to discuss Respondent and any and all treatment rendered to Respondent for drugs and/or alcohol with the Board or its designee. Any and all of

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this information may 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.

Respondent is entitled to revoke this consent at any time. However, any revocation shall be considered a violation of this Order. This consent expires when the conditions are removed from Respondent's nursing license.

This Stipulation and Consent Order shall itself constitute a valid written consent pursuant to the requirements of 42 C.F.R. § 2.31. Respondent understands that Respondent's treatment provider may require Respondent's to sign a separate and distinct consent meeting the requirements of 42 C.F.R. § 2.31.

19. Costs. Respondent shall bear all costs of complying with this Consent Order.
 20. Violation of this Order. If Respondent violates this Order the Board, after giving 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 Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.
 21. Completion of Conditional License Period. Respondent shall submit a petition to the Docket Clerk to remove any and all conditions on Respondent's license. The State will assent to or oppose Respondent's petition. The Board will conduct a hearing if necessary. Respondent bears the burden and must present proof that Respondent has fully complied with the terms of this Order and these conditions are no longer necessary to protect the public.
- B. Notwithstanding any provision above, the Respondent must continue to meet all 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: 5/2/18

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SECRETARY OF STATE

By: Elizabeth A. St. James
Elizabeth A. St. James
State Prosecuting Attorney

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MARY E. KILLEEN
RESPONDENT

Dated: 4/20/2018

By: Mary E. Killeen
Mary E. Killeen

APPROVED AS TO FORM ONLY:

IAN CARLETON, ESQ.
ATTORNEY FOR RESPONDENT

Dated: 4/24/18

By: T. P. Carleton
Ian Carleton, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 5.14.2018

By: E. L. Wa
Chairperson

Date of Entry: 5/14/18

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