

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

IN RE:

AMY T. KOENIG

License No. 026.0020778

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Docket No. 2010-309

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney BetsyAnn Wrask, and the Respondent, Amy T. Koenig, RN, 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. § 1582; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Amy T. Koenig (the "Respondent") of Northfield, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0020778. This license was originally issued on or about October 2, 1992 and is currently set to expire on or about March 31, 2011.
3. By way of history, on or about July 13, 2010 pursuant to a Stipulation and Consent Order, the Board warned Respondent's nursing license and imposed an administrative penalty on the Respondent. Attachment A. This discipline was due in part to Respondent practicing nursing without an active license, despite reminders to renew her license by the facility in which she worked. Attachment A.
4. At all times relevant, Respondent was employed as a Registered Nurse at Berlin Health and Rehabilitation Center (the "Facility"), located in Berlin, Vermont. Respondent was terminated from the Facility in or around May 2010.
5. On or about June 2, 2010 in a complaint to the Board, J.M., a former resident of the Facility, filed a complaint against Respondent. J.M. advised in part that Respondent kissed him/her while J.M. was a Facility resident; that after J.M. left the Facility, J.M.

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and Respondent would occasionally text each other; and that Respondent subsequently asked J.M. to move in with her and they began a sexual relationship.

6. J.M. is considered a vulnerable adult.
7. On or about June 11, 2010 in an interview with State Investigator Karl Packer, Respondent admitted that while J.M. was at the Facility, Respondent hugged and kissed J.M. on the forehead and received discipline for such. Respondent advised that she exchanged phone numbers with J.M. while J.M. was at the Facility. Respondent admitted that after J.M. was released from the Facility in or around September 2009, she saw J.M. on a couple of occasions as friends, and they would exchange phone text messages. Respondent admitted that thereafter, in or around February 2010, she asked J.M. to live with her when she knew J.M. had psychiatric issues. Moreover, Respondent admitted that after about three (3) months of J.M. living with her, she and J.M. began a consensual sexual relationship. Respondent advised that ultimately, her relationship with J.M. ended and J.M. moved out of Respondent's home.
8. A review of Respondent's personnel file reveals that on or about September 7, 2009, Respondent received a Written Warning for engaging in an inappropriate relationship with a resident (J.M.) after Respondent admitted to kissing this resident on the forehead. As a result, Respondent was assigned to a different wing in the Facility, and was prohibited from entering this resident's room without another staff member present.
9. By kissing J.M. while J.M. was a resident of the Facility; by thereafter engaging in a friendship with J.M.; and by asking J.M. to live with her and by engaging in a sexual relationship with J.M., Respondent has violated essential nursing standards of practice and 26 V.S.A. § 1582(a)(3); ARBN Chapter 4, Subchapter 4, Rule II(B)(1) and (2); 3 V.S.A. § 129a(b)(1) and (2); and 3 V.S.A. § 129a(a)(3).

Charges

10. 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:
 - a. 3 V.S.A. § 129a(b)(1) and (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: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and
 - b. 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).

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Understandings

11. 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.
12. 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.
13. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
14. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
15. 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.
16. 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.
17. 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 **INDEFINITELY SUSPENDS** Respondent's license to practice nursing **FOR A MINIMUM OF FIVE (5) DAYS from the date of entry below**. Prior to requesting reinstatement, Respondent must successfully complete (i.e., receive a passing grade, if applicable) a professional boundaries course focusing on professional boundaries with prior approval by the Board or its designee, and then submit written documentation of completion (certificate of completion, etc.) to verify the same to the satisfaction of the Board or its designee. The Respondent's license shall not be reinstated until this prerequisite is met, regardless of whether more than five (5) days have passed since the suspension went into effect. Once reinstated, Respondent's license will be **CONDITIONED FOR A MINIMUM OF ONE (1) YEAR** commencing with the date of reinstatement. The conditions will be as follows:

(1) Re-issue of License.

Upon the imposition of these conditions, Respondent shall be issued a license labeled "conditioned."

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(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 a **minimum of one (1) year** 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. The Respondent shall be prohibited from working more than forty (40) hours per week during the conditioned period.

(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 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 the 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.

(4) Reports from Employers/Program Directors.

Within one (1) month of the date of entry of this Order or within one (1) month of the commencement of nursing employment and **monthly** thereafter, Respondent shall cause every 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. 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.

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 her performance and attendance. These reports shall be submitted in writing on forms issued by the Board. All nursing program reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance.

(5) Practice Under Supervision.

For the first six (6) months of the conditioned period, Respondent shall practice nursing 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. If during the first six (6) months of the conditioned period, Respondent's monthly employer reports are deemed satisfactory by the Board, then thereafter, for the remainder of the conditioned period, Respondent shall practice nursing only in a setting where Respondent has, at a minimum, on-site supervision for the entire shift by a registered nurse that is licensed and in good standing with the Board.

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(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 nursing employment agency, or as a private duty nurse or personal care provider requiring a nursing or nursing assistant license during the effective period of this Consent Order.

(7) 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 prior to Respondent practicing nursing outside the State of Vermont. If Respondent fails to receive such approval before practicing nursing outside the State of Vermont, none of the time spent practicing nursing 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 nursing practice so long as the Respondent can still comply with the provisions of this Consent Order.

If the Respondent receives discipline on a nursing license held in another state during the conditioned period, the Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.

(8) 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 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 (including resignation or termination), personal address, or telephone number.

(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 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 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

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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.

- 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:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 1/5/11

By: *Betsy Ann Wrask*

Betsy Ann Wrask
State Prosecuting Attorney

AMY T. KOENIG
RESPONDENT

Dated: 1/5/11

By: *Amy T. Koenig*

Amy T. Koenig

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 1/10/11

By: *Janine Law*

Chairperson

Date of Entry: 1/11/11

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IN RE:

AMY T. KOENIG

License No. 026.0020778

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Docket No. 2009-205

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney Betsy Ann Wrask, and the Respondent, Amy T. Koenig, RN, 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. § 1582; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Amy T. Koenig (the "Respondent") of Northfield, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0020778. This license was originally issued on or about October 2, 1992 and is currently set to expire on or about March 31, 2011.
3. On or about March 31, 2009, Respondent's license lapsed. Respondent's license was not renewed until on or about April 27, 2009.
4. During the time her license was lapsed, Respondent was working as a Registered Nurse at Central Vermont Home Health & Hospice (the "Facility"), located in Barre, Vermont.
5. Prior to her license lapsing, the Facility sent out a voicemail reminder to all nursing staff that licenses needed to be renewed and copies needed to be turned in to the Facility Human Resources Department by March 31, 2009.
6. Respondent's supervisor, Clinical Supervisor B.B., also reminded Respondent at least twice that she needed to provide the HR Department with a copy of her renewal.

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Attachment A

Respondent assured B.B. that she had renewed her license, and that she would get a copy for B.B.

7. In fact, Respondent had not yet renewed her license, and continued to see patients and bill insurance companies for her visits. Respondent worked for approximately one (1) to one and a half (1 ½) weeks without an active license.
8. On or about April 20, 2009 while Respondent was on vacation, the Facility found that Respondent's license had not yet been renewed.
9. On or about April 27, 2009, Respondent resigned from the Facility after being requested to do so, due to her continuing to see patients and bill insurance, despite not having renewed her license but telling the Facility that she had done so.
10. On or about January 13, 2010 in an interview with State Investigator Gregory D. Kelly, Home Care Director S.B. advised that Respondent did not renew her license when she should have, despite being asked several times if it was renewed. S.B. advised that each time Respondent was asked by a Facility member whether her license was renewed, Respondent answered in the affirmative. S.B. advised that the Facility had to refund insurance companies for the care Respondent billed because she was not actively licensed as a nurse when she provided that care.
11. By failing to renew her license before it lapsed and despite several reminders by her Facility; by assuring the Facility that her license had been renewed when it had not; and by providing care to patients without an active license and by thereafter billing insurance for that care, when an active license was required, Respondent has violated 3 V.S.A. § 129a(b)(1) and (2).

Charges

12. 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:
 - a. 3 V.S.A. § 129a(b)(1) and (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: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and
 - b. 3 V.S.A. § 129a(a)(3) (Failing to comply with statutes or rules governing the practice of the profession).

Understandings

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13. Respondent admits the facts above are true.
14. 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.
15. 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.
16. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
17. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
18. 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.
19. 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.
20. 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 **WARNS** the Respondent's nursing license and imposes an **ADMINISTRATIVE PENALTY IN THE AMOUNT OF TWO HUNDRED FIFTY DOLLARS (\$250.00)** on the Respondent. This penalty is to be paid within sixty (60) days of the date of entry of this Order.
- 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 the Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

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