

**STATE OF VERMONT
BOARD OF NURSING**

In re: James H. Kreis
License No. 026-11783

}
}
}

Docket No. 2010-650(RN)

Appearances:

Petitioner, State of Vermont: S. Lauren Hibbert
Respondent: Did not appear

Presiding Officer: Larry S. Novins

DEFAULT ORDER

The Board held a hearing on the above matter on July 9, 2012 at the National Life Building in Montpelier, Vermont. Mr. Kreis did not attend and was not represented by counsel.

Findings of Fact

1. Mr. Kreis is licensed as a registered nurse and is therefore subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 26 V.S.A. § 1582(a), the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.
2. On May 17, 2012 Mr. Kreis was sent a Notice of Charges in this matter by certified mail to his last known address. A copy of the Specification of Charges is attached to this Default Order.
3. OPR Rule 3.3 requires that an Answer be filed within 20 days of the date on which the notice of charges was mailed by the Director.
4. Licensees are required to notify the Board of any change of address within 30 days. 3 V.S.A. § 129a(a)(14).
5. Stamps on the envelope indicate that Mr. Kreis received the notice of charges on May 22, 2012. Mr. Kreis did not file an answer to the charges in the required time.
6. On June 22, 2012 notice of the Default Hearing scheduled for this date was mailed to Mr. Kreis at that same address by certified mail. Mr. Kreis signed the return receipt on June 27, 2012.
7. Mr. Kreis has still not answered the charges.
8. Upon hearing the State's presentation and taking notice of its own file, the Board finds Mr. Kreis to be in Default. The allegations contained in the State's Specification of Charges are therefore treated as the facts on which the Board's Order is based. OPR Rule 3.4, 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

Conclusions of Law

Mr. Kreis has received adequate or constructive notice of the charges in this matter as

indicated by the Board's file and the State's presentation. Because Mr. Kreis has failed to answer the charges, the State's factual allegations are treated as if proved. O.P.R. Rule 3.4.

Accordingly, the Board finds, in this Default Hearing held pursuant to 3 V.S.A. §809(d), that Mr. Kreis has engaged in the unprofessional conduct alleged in the State's Specification of Charges.

Order

In accordance with the above Findings of Fact and Conclusions of Law, Mr. Kreis's license is hereby **Suspended Indefinitely** effective as of the date of the hearing. Should Mr. Kreis apply for reinstatement, the Board at that time will determine whether any conditions can permit him to resume practice while protecting public health and safety.

Appeal Rights

This is a final administrative determination by the Vermont Board of Nursing.

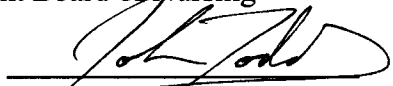
A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, National Life Bldg., North, FL2, Montpelier, VT 05620-3402 within 30 days of the entry of this order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.

To request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Nursing

By:


John Todd, APRN Chair
ACTING

Date: July 9, 2012

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY:

7/11/12

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

IN RE:)
JAMES H. KREIS) **Docket No. 2010-650**
License No. 026.0011783)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, James H. Kreis, RN:

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. James H. Kreis (the "Respondent") of Perkinsville, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0011783. This license was originally issued on or about November 8, 1976 and expires on March 31, 2013.
3. At all times relevant, Respondent was employed as a Registered Nurse at Mt. Ascutney Hospital and Health Center (the "Facility") which is located in Windsor, Vermont.
4. On or about August 9, 1999, Respondent entered into a Stipulation and Consent Order with the State. Respondent's license was reprimanded and conditioned until Respondent's probation for criminal convictions was successfully completed. Attachment A. The Stipulation resulted from Respondent's conviction of two counts of disturbing the peace in violation of 13 V.S.A. § 1027(a)(i) and one count of stalking in violation of 13 V.S.A. § 1062 which resulted from behavior directed towards a co-worker.
5. On or about May 24, 2010, after a romantic relationship with K.B., RN, ended, Respondent put a sign on her car that said "KEB SUX." Respondent admitted leaving the note on the car. K.B. expressed to her supervisor that she was fearful of and intimidated by Respondent's actions; and therefore, Respondent was instructed to have no contact with K.B.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

6. On or about October 17, 2010, a patient's daughter requested that Respondent and others stop turning her mother who was experiencing pain. Respondent berated the patient's daughter stating, in part, "Are you a nurse?," despite the fact that she was attempting to leave the hospital.
7. Respondent acknowledged that he could have handled the situation on October 17, 2010 in a better manner. Respondent stated that he was being treated for an illness with medication at the time and he was more aggressive than he should have been.
8. After Respondent was terminated from the Facility, he began sending inappropriate text messages to M.H., RN, which led M.H. to contact the police and the State's Attorney's office with her concerns. The text messages included a message dated November 21, 2010 which stated "Only regret in losing u as a friend s the possibility of seeing u naked and checking out your ta(i)ts. I'm going 2 Australia in January. Want to come." Another text message stated "Can we be friends? I'm going to be in a drug induced state for about 6 months. Sorry about what's happened." M.H. also received a text message which stated "I'm off the effexor so will not be so aggressive."

Charges

9. 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. The State incorporates paragraphs 5 through 8, 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause) which includes failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Rule 11.2(b)(2);
 - b. The State incorporates paragraphs 6 through 8, 26 V.S.A. § 1582(a)(6) (Has a mental, emotional, or physical disability, the nature of which interferes with ability to practice nursing competently);
 - c. The State incorporates paragraphs 5 through 8, 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); and
 - d. The State incorporates paragraphs 5 through 8, 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).

Relief Requested

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

WHEREFORE, the license of James H. Kreis should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 16 day of May, 2012.

STATE OF VERMONT
SECRETARY OF STATE

By: S. Lauren Hibbert
S. Lauren Hibbert
State Prosecuting Attorney

nu.kreis.soc

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

STATE OF VERMONT
BOARD OF NURSING

IN RE:)

James Herbert Kreis)

✓ License No: 26-11783)

Docket No. NU56-0499

SPECIFICATION OF CHARGES, STIPULATION AND CONSENT ORDER

SPECIFICATION OF CHARGES

1. The Vermont Board of Nursing has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §§129, 129a, 814; 26 V.S.A. §§1574, and 1582, and the Board of Nursing Rules.
2. Respondent James Herbert Kreis, of Wilder, Vermont, is a nurse holding license number 26-11783 issued by the State of Vermont. By way of history, this license is currently on extended status.
3. At all times relevant, Respondent was employed at the Veteran's Administration Hospital of White River Junction, Vermont.
4. During parts of 1995-96, Respondent engaged in behavior directed at a co-worker, which lead to charges of disturbing the peace by telephone and stalking.
5. On or about January 12, 1999, Respondent was convicted in Vermont District Court of two counts of 13 V.S.A. §1027(a)(i), disturbing the peace by telephone, a misdemeanor (Docket No.: 61-1-97 Wrcr) and one count of 13 V.S.A. §1062, stalking, a misdemeanor (Docket No.: 1396-10-98) as a result of said behavior.

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

6. The above actions constitute unprofessional conduct and violate: 26 V.S.A. §1582(a)(6) (Has a mental, emotional or physical disability, the nature of which interferes with ability to practice nursing competently).
7. WHEREFORE, the license of James Herbert Kreis should be disciplined.

STIPULATION

1. The Vermont Board of Nursing has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §§129, 129a, 814; 26 V.S.A. §§1574, and 1582, and the Board of Nursing Rules.
2. Respondent James Herbert Kreis, of Wilder, Vermont, is a nurse holding license number 26-11783 issued by the State of Vermont. By way of history, this license is currently on extended status.
3. At all times relevant, Respondent was employed at the Veteran's Administration Hospital of White River Junction, Vermont.
4. Respondent admits that during parts of 1995-96 he engaged in behavior directed at a co-worker, which lead to charges of disturbing the peace by telephone and stalking.
5. Respondent admits that on or about January 12, 1999, he was convicted in Vermont District Court of two counts of 13 V.S.A. §1027(a)(i), disturbing the peace by telephone, a misdemeanor (Docket No.: 61-1-97 Wrcr) and one count of 13 V.S.A. §1062, stalking, a misdemeanor (Docket No.: 1396-10-98) as a result of said behavior.

6. Respondent admits the conclusions of unprofessional conduct as set forth below in the Board's Order.
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 specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
10. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
11. 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.
12. Respondent voluntarily waives his right to charges and a contested hearing before the Board of Nursing.
13. Respondent agrees that the Board may set forth the order below.

ORDER

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

A. By engaging in the conduct described in the paragraphs above, Respondent acted unprofessionally pursuant to and in violation of: 26 V.S.A. §1582(a)(6) (Has a mental, emotional or physical disability, the nature of which interferes with ability to practice nursing competently).

B. The Nursing Board **REPRIMANDS** Respondent's license, and commencing on the date this order is entered by the Vermont Board of Nursing, **CONDITIONS** Respondent's license to practice as a nurse as follows:

(1) Length of Time Conditions Imposed.

The Board being cognizant that Respondent has been and continues to be on probation as a result of the above criminal convictions (on or about January 19, 1999), the conditions shall remain in place until Respondent has successfully completed the terms of his probation and then produces written documentation to confirm such to the Board or its designee. Respondent represents that said probation is for a period of not less than one year.

(2) Counseling and Counseling Reports.

The Respondent shall maintain seeing his current treating mental health professional, John Roberts, CADAC, of Lebanon, New Hampshire as mandated by the terms of his probation order. Any change of mental health professional shall require notification and approval of the Board or its designee within one month. The mental health professional shall file a report with the Board (or its designee) on a monthly basis confirming Respondent's compliance,

progress, and his/her belief that Respondent could safely practice in the field of nursing.

(3) Interview with the Board or its designee.

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

(4) Re-issue of License.

Within five (5) days of the date of entry of this Consent Order, Respondent shall submit his license to the Board of Nursing for a re-issued license. His license will be labeled "conditioned".

(5) 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 his current place of employment, or lack of employment if applicable, as a nurse, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in employment as a nurse, personal address, or telephone number.

(6) 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 he practices as a nurse and inform them of her conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any subsequent employment, Respondent shall cause his 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 Respondent is attending a nurse schooling program, Respondent shall provide a copy of the Stipulation and Consent Order to the Program Director. 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.

(7) Reports from Employers/Nursing School

Within **one (1) month** of the date of entry of this Consent Order **and every month thereafter**, Respondent shall cause every nursing employer he 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 attends a nursing school, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Respondent's performance and attendance. This report shall be submitted in writing on forms issued by the Board. Respondent shall authorize his employer and/or his nurse school administrator to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period the Consent Order is in effect.

(8) License Renewal.

In the event Respondent's license is scheduled to expire during the period this Consent Order is in effect, Respondent shall apply for

renewal of the license, pay the applicable fee, and otherwise maintain qualifications to practice as a nurse in the State of Vermont.

(9) Violation of the Consent Order.

If Respondent violates the terms of this Consent Order, including the terms of his probation, in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke the terms of the conditional license and take further disciplinary action.

(10) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on his license and after formal review by the Board, Respondent's nurse license may be fully restored by appropriate Board action. Respondent, however, must demonstrate, to the satisfaction of the Nursing Board, that he poses no danger as a nurse and that he can safely and competently perform the duties of a nurse. Such proof shall include appropriate support from his probation officer and mental health counselor that he has successfully completed the terms of his probation.

Notwithstanding the requirements of this sub-section, the Board may review the supporting documentation submitted by Respondent, or submitted on Respondent's behalf, during the conditional licensing period and automatically lift a condition or conditions, if appropriate, without further petition by Respondent at the end of the conditional licensing period.

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

D. 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)(7).

E. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

Dated: 7/26/99

by: William H. Ahlers
William H. Ahlers
Special Assistant Attorney General

RESPONDENT
JAMES HERBERT KREIS

Dated: 22 July 99

by: James H. Kreis
James Herbert Kreis

GEOFFREY J. VITT, ESQ.
VITT & JONES
RESPONDENT'S ATTORNEY

Approved as to Form:

Date: 7/22/99

by: Geoffrey J. Vitt
Geoffrey J. Vitt, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 8.9.99

by: Jessie D. Farrell
Chairperson

Date of entry: 8-9-99

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