STATE OF VERMONT
OFFICE OF THE SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
APPELLATE OFFICER

IN RE JESSICA LARSON	)	
	)	
APPEAL FROM THE VERMONT	)	
BOARD OF NUSRING	)	
License No. 026-27533	)	**Docket Nos. 2010-21(RN) and**
	)	**M2010-93**

APPELLATE ORDER AFFIRMING DECISION BY THE VERMONT BOARD OF NURSING DATED JULY 10, 2013

This matter was considered on December 11, 2013. The Appellant, Jessica Larson, was not present but was represented by Theodore Parisi, Jr., Esq. The State was represented by S. Lauren Hibbert, Esq. The Respondent filed a notice of appeal from the Vermont Board of Nursing Decision on August 6, 2013. The Appellate Officer was appointed pursuant to 3 VSA Sec. 130a. Upon the arguments, the briefs, the exhibits, and the record, the Appellate Officer makes the following decision.

Facts

The Respondent was found to have committed unprofessional conduct by reason of drug diversion for her personal use by Order of the Vermont Board of Nursing on June 18, 2010. The basic facts of the case were stipulated by the Respondent and the prosecution attorney. (The sanction by the Vermont Nursing Board was not stipulated.) The Order the Board included 23 provisions including an indefinite license suspension and conditions upon reinstatement. Condition #12 stated that upon conditional relicensing, Ms. Larson shall practice only in a setting where Ms. Larson "has direct supervision for the entire shift by a licensed registered nurse."

Ms. Larson's license was reinstated by stipulated order of the Vermont Board of Nursing on April 11, 2011. That order conditioned the reinstated license for a minimum of three years with the same conditions in the prior order with some minor modifications. There was no modification to Condition #12. On 2 May, 2013 Ms. Larson filed a motion to modify the reinstatement conditions. She expressly requested modification of conditions 2, 3, 4, 5, 6, and 7.

The Vermont Nursing Board agreed to modify condition 2 (to change the length of supervision from three years to one year) and to delete conditions 3, 4, 5, and 6. The Board initially did not agree to totally remove conditions 2 and 7 (condition 7 pertained to random drug tests). Ms. Larson requested a hearing before the Board to address the issues. At the hearing, Ms. Larson agreed to continue the effective force of condition #7. At the hearing she raised the new issue of the need for supervision by a registered nurse as contained in condition #12. She asked at the hearing that this be modified such that any supervision could be done by her proposed employer, Mark E. Logan, MD. The Board, in a five-page decision, deleted conditions #3, 4, 5, and 6. Conditions 7 and 12 were retained. Ms. Larson appealed the decision as being unsupported by the evidence, as being arbitrary and capricious, and being an abuse of discretion.

The evidence which was submitted at the hearing showed that Ms. Larson had diverted medications in the first instance in order to hold them as a possible suicide agent associated. There was no evidence that the drug diversion was part of an addiction or chronic drug abuse. During the time after her license suspension, she had acquired her BSN degree from Chamberlain College, with honors, and she graduated from Walden University with a degree as a Masters in Healthcare Administration, *summa cum laude*. She had sustained herself and her four children by working full-time in a restaurant where she met Dr. Logan. (See Petitioner's Exhibit 3). Dr. Logan is a part-owner of the restaurant. He is also a primary care physician with a subspecialty in addiction. He is an experienced physician with who is also certified in emergency room medicine. He was willing to hire Ms. Larson to be an RN in his primary care practice where she would manage primary care patients. (See Page 14, Transcript). He was willing to provide supervision to Ms. Larson. There are two other primary care nurses in Dr. Logan's primary care office and Ms. Larson would take a position as the third nurse. (See Page 20, Transcript).

The only evidence which was presented at the hearing was the testimony of Dr. Logan and Ms. Larson. There were also exhibits introduced by Ms. Larson.

The Board's order continued the requirement of supervision of Ms. Larson by an RN supervisor by saying,

> "It reflects the Board's considered judgment that supervision of a nurse's practice requires a supervisor who has specific training and experience in nursing. That training and experience brings with it an understanding of nursing practices and standards, nursing ethics, and the process by which nursing decisions are made. These facets of nursing are integral parts of the acquired culture and education of nurses. And while members of other health care professions may possess overlapping training in patient care, they do not possess the training that makes nursing practice unique. See page 3 of Decision.

The Board also expressed concern that Dr. Logan was not the optimal supervisor because of his relationship as an employer of Ms. Larson through the restaurant. The Board noted a "possible conflict of interest". See page 5 of Decision.

Issues

Was the decision supported by the evidence, arbitrary and capricious, or an abuse of discretion?

Conclusions of Law

The legal standard for a person who desires to change a stipulated order of a Vermont administrative board is a high one. Vermont Rule of Civil Procedure 60(b) is applicable. See OPR Rule 2.4. The only subdivisions of VRCP 60(b) which would be applicable to the facts are VRCP 60(b)(5) ["it is no longer equitable that the judgement should have a prospective application"] or (6) ["any other reason justifying relief from the operation of the judgement"]. The provisions of VRCP 60(b)(1-3) are not available because the motion to modify the judgment was made more than one year after the effective date of the April, 2011 order.

When making a motion to modify under VRCP 60(b), the movant has the burden to show that he or she is entitled to relief. Ms. Larson argued that the obligation of finding a Registered Nurse to supervise her was impossible to meet and that it was unjust, particularly since Dr. Logan was willing to supervise. If the misperception of the difficulty of securing a supervising RN was a "mistake" that ground for relief is barred by time under VRCP 60(b)(1)

Under our cases, relief under VRCP 60(b) is ordinarily unavailable to relieve one from the effects of a stipulation freely made. Goshy v. Morey, 149 Vt. 93, 539 A.2d 543 (1987). Courts have held that the movant's hurdle of overcoming a stipulated agreement is "more formidable than if they had litigated and lost." U.S. Steel Corp. v. Fraternal Assn. of Steelhaulers, 601 F.2d 1269, 1274 (3d Cir., 1979). Likewise, Rule 60(b)(6) may not be used to protect a party from tactical decision which in retrospect may seem ill advised. Okemo Mountain, Inc. v. Okemo Trailside Condominiums, Inc. 139 Vt. 433, 431 A.2d 457 (1981). The catchall provision of VRCP 60(b)(6) referring to "any other reason justifying relief" is intended to accomplish justice in extraordinary situations where extraordinary circumstances warrant relief. Donley v. Donley, 165 Vt. 619, 686 A.2d 943 (1996); Town of Washington v. Emmons, 2007 VT 22, 925 A.2d 1002 (mem. 2007).[1] See also Wright, Miller and Kane, *Federal Practice and Procedure*, Sec. 2857. Extraordinary circumstances rarely exist from a judgment that resulted from a party's deliberate choices. Budget Blinds, Inc. v. White, 536 F.3d 244 (3d Cir., 2008). Fault on the part of the person making a Rule 60(b)(6) motion usually means that there are no "extraordinary circumstances". See Wm. Moore, *Moore's Federal Practice*, Sec. 60.48, 3d ed. (2004). While condition #12 was not originally stipulated by the Appellant, it was stipulated in the 2011 stipulation.

The appellant also argues that the only evidence submitted at the hearing supported the modification of condition #12, and, therefore, it was mandatory that the Vermont Nursing Board should accept the evidence and grant the motion to modify. First, the evidence may not have met the "extraordinary circumstances" test. The Board may have questioned why Ms. Larson could not arrange supervision by one of the other nurses employed by Dr. Logan.[2] The Board may have also felt that supervision by a Registered Nurse was more necessary for Ms. Larson given the length of time since Ms. Larson has actively practiced nursing. Second, the Board very clearly

[1] In the Emmons case a *pro se* party stipulated to a judgement and later tried to retract it. The court stated, "The simple failure to raise these issues is not an 'extraordinary circumstance' justifying relief from judgment under Rule 60 (b)(6)."

[2] Ms. Larson's counsel argued that there was no nurse on Dr. Logan's staff who had the ability to supervise Ms. Larson because of the job description that Dr. Logan created for Ms. Larson was in the substance abuse practice. This assertion was not supported in the evidence. The testimony of Dr. Logan implied that Ms. Larson was being hired as one of the three general practice nurses. See p. 20, Transcript.

explained that, in its view, supervision by Dr. Logan was unequal to supervision by a Registered Nurse. While Ms. Larson's counsel did not accept this reasoning, the Board pointed out that there is a difference in roles between the supervising physician and a supervising nurse. An administrative board of experts in the profession may "draw its own conclusions based on its members' experience and expertise." In re Lakatos, 2007 VT 114. The Board also pointed out that there might be a conflict of interest given Dr. Logan's employer status. Given that the Board had discretion whether to continue condition #12 or not, this discretion cannot be overruled unless shown to be exercised without justification. This the Appellant has not shown.

It is also important to recognize that condition #12 was a remedial condition imposed by an administrative board made up of nurses and nursing professionals (for the most part). As such, decisions concerning sanctions and remedial orders are within the Board's broad discretion and are not set aside lightly. Professional board decisions in the area of sanctions and remedial measures are given much deference since those professionals are subject to the same sanctions and have no incentive to make the rules or remedies excessively harsh. Cf. O.P.R. v. McElroy, 2003 VT 31, 824 A.2d 567 (2002). In general, an appellate authority "will not interfere with the decision of an administrative board made in the performance of a discretionary duty in the absence of a showing of abuse of discretion." Vincent v. Vermont State Ret. Bd., 148 Vt. 531, 536, 536 A.2d 925, 929 (1987). No such abuse of discretion has been shown here.

Conclusion

In summary, Ms. Larson has not shown that the Motion to Modify condition #12 satisfied the "extraordinary circumstances" standard for modification. Likewise, she has not shown that the order of the Vermont Nursing Board was arbitrary, capricious, an abuse of discretion or unsupported by either the evidence or the permissible inferences from the evidence. The appeal is therefore DENIED.

Dated this 17th day of December, 2013.

George K. Belcher
Appellate Officer

12/19/13
Dated Entered

Appeal Rights

A party may appeal a decision of an Appellate Officer or an Administrative Law Officer to the Vermont Superior Court, Washington Unit, Civil Division, by filing with the Docket Clerk a written notice of appeal within 30 days of the date of entry of the order, in the manner provided in the Vermont Rules of Appellate Procedure 3 and 4. A check for the court filing fee, made payable to the Clerk of the Vermont Superior Court, Washington Unit, Civil Division must accompany the filing. Any request for stay pending appeal should be filed with the Superior Court.

Jessica Larson

STATE OF VERMONT
BOARD OF NURSING

In re: Jessica Larson License No. 026-27533	} } } }	Docket No. 2010-21(RN) (M2010-93)

Decision on
Motion for Modification of Conditions

Participating Board Members:
Alan Weiss, Public Member
William G. White, Jr., Public Member
Douglas Sutton, RN
Ellen Watson, APRN
Sheila Davis, LPN
Virginia Hudson, RN
Luana Tredwell, LPN
Stephen Morse, LNA (did not participate in deliberations)

Appearances:
for the Prosecution: S. Lauren Hibbert, Gabriel Gilman
for the Respondent: Theodore Parisi

Presiding Officer: Larry S. Novins

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The Vermont Board of Nursing held a hearing in the above matter on July 8, 2013 at the Capitol Plaza in Montpelier, Vermont. Ms. Larson appeared before the Board after its preliminary denial of her request to modify conditions on her license.

Background

By Board Order entered June 23, 2010 Ms. Larson's license was indefinitely suspended. Several conditions were set a prerequisites to any reinstatement. Once she met the reinstatement conditions, Ms. Larson's license would subject to a series of conditions deemed necessary and appropriate by the Board. Among them was Condition #12 requiring that she work under the supervision of a registered nurse. Ms. Larson's license was reinstated when the Board accepted a Reinstatement Stipulation and Consent Order in April, 2011. In that Stipulation and Consent Order Ms. Larson once again agreed to Condition #12 that her practice by supervised by a registered nurse.

Ms. Larson requests that Conditions 2,3,4,5,6, and 7 be removed and that Condition #12

be amended. The Board's reviewing subcommittee agreed that Conditions 3,4,5, and 6 could be removed. It denied Ms. Larson's request to remove Conditions 2 and 7. Ms. Larson made a timely request for a hearing.

At the hearing Ms. Larson specifically asked that Condition #12 which requires supervision by a registered nurse be modified to permit her to be supervised by Mark Logan, M.D. at his practice in Rutland, Vermont.

Findings of Fact

Based on the evidence presented, the Board finds as follows:

1. Ms. Larson engaged in unprofessional conduct. Her license is conditioned, and she remains 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. Ms. Larson's unprofessional conduct consisted of withdrawing drugs and not documenting administering them to patients. This happened twenty eight times between January 1, 2010 and February 7, 2010. Her license was summarily suspended in May of 2010. In June, 2010 conditions were set governing any future reinstatement. Ms. Larson met those conditions. Her license was reinstated in April of 2011. She has not practiced nursing since that date. She has worked as a waitress and furthered her education.
3. Ms. Larson's unprofessional conduct was related to her emotional state. At the time she was the subject of serious emotional and physical abuse.
4. Ms. Larson reports that she does not drink. Her motion and attached documents show that she does not have drug or alcohol addiction problems. Specifically, the evaluation by Dr. Donald A. West , M.D. indicates that Ms. Larson is not addicted to drugs and shows an "extremely low to non-existent" risk of drug abuse. The Board subcommittee concluded that Conditions 3,4,5, and 6 are not necessary for public protection. We concur.
5. Condition #2 requires that Ms. Larson be under supervision for 3 years. Part of the rationale for the three year period was the perceived need to monitor any alcohol or drug recovery. Since three years is no longer necessary to assure any recovery, a shorter period of conditions on Respondent's license may be appropriate.
6. Ms. Larson has not practiced nursing since she became eligible to do so. She has had no supervision of her practice since her license was reinstated. The Board subcommittee felt it appropriate to reduce to a minimum of one year the supervision on her practice. We concur with that modification.
7. Condition #7 requires random drug and alcohol testing. Ms. Larson did not ask for removal of Condition #8 "abstain from drug and alcohol use." In her request to the Board, her attorney represented that, if employed at Dr. Logan's practice, she would be subject to random drug testing "as an incidental to her employment." At the hearing she represented that she has no objection to condition #7 being retained.
8. Random drug and alcohol testing is the best and most accurate way to assure that a licensee does in avoid drug and alcohol use. Retaining this condition is reasonable.

9. Ms. Larson appears to be making good progress in overcoming the emotional turmoil that led to her unprofessional conduct. Her submissions show that she has led a law abiding life.

10. Ms. Larson has been gainfully employed as a waitress for over two years. During that time she has successfully satisfied her other legal obligations. She has continued her nursing education, graduating in February, 2011 with a bachelors of Science in Nursing, with honors from Chamberlin College of Nursing. And, in May, 2013 Ms. Larson received a masters in health care administration summa cum laude from Walden University.

11. Through her employment at the restaurant, Ms. Larson met Mark Logan, M.D. He is one of the owners. It was Dr. Logan who referred Ms. Larson to Dr. West for the substance abuse evaluation.

12. Dr. Logan has offered Ms. Larson employment at his medical practice and expresses a willingness to supervise her at his practice, if allowed to do so. Dr. Logan is a primary care physician who specializes in addiction. If allowed to supervise Ms. Larson, he would report on her job performance to the Board. Dr. Logan employs other registered nurses at his practice.

13. We note that Condition #12 has been imposed in numerous cases, and that many nurses have successfully obtained supervision by a registered nurse and have not sought relief from that condition. Ms. Larson seeks approval of Dr. Logan as her supervisor because, she states, no registered nurse is willing to supervise her.

Discussion

We start by noting again that Condition #12, supervision by a registered nurse, is a condition that Ms. Larson agreed to. It is a standard condition imposed in almost all cases of unprofessional conduct where supervision is required after there has been diversion of drugs. Supervision by a registered nurse is a "standard" condition. It reflects the Board's considered judgment that supervision of a nurse's practice requires a supervisor who has specific training and experience in nursing. That training and experience brings with it an understanding of nursing practices and standards, nursing ethics, and the process by which nursing decisions are made. These facets of nursing are integral parts of the acquired culture and education of nurses. And, while members of other health care professions may possess overlapping training in patient care, they do not possess the training that makes nursing practice unique.

Registered nurse supervision permits a licensee to resume practice. R.N. supervision assures the Board that the nurse licensee is not merely meeting expectations of the work place, but adhering to the required standards of nursing practice. R.N. supervision provides supervision by an individual who is familiar with the specific demands on a nurse at the workplace and who is able to judge how those demands affect the nurse's adherence to professional nursing standards. An R.N. is uniquely and best qualified to judge a nurse's ability to meet nursing practice requirements. A registered nurse remains best suited to supervise Ms. Larson.

Our original 2010 Sanctions Order required supervision by a registered nurse. So did the Stipulation and Consent Order of April, 2011. R.N. supervision was considered then to be

necessary to assure Ms. Larson's successful return to nursing. If, as Ms. Larson and the prosecution represent, her problems do not arise from drug abuse, we cannot agree that Dr. Logan's expertise in addiction makes him an especially appropriate supervisor. If anything, his personal relationship with Ms. Larson through her employment at the restaurant he co-owns and as a referring physician suggests a possible conflict of interest which could cloud his ability to impartially measure and report on her nursing performance. His vantage point as a physician/employer differs from that of a practicing R.N. On the whole, supervision by Dr. Logan supervision appears less than appropriate.

Ms. Larson's unprofessional conduct revealed significant breaches of nursing standards. Our primary concern when we consider her motion is not what conditions will assure law-abiding conduct, but what conditions will assure that she is meeting acceptable standards of nursing. That determination is best made when her practice is supervised by licensed members of her profession. We believe that supervision by a registered nurse remains as appropriate and important now as it did three years ago.

Conclusions of Law

We view Ms. Larson's request to change the supervision condition as one to modify the judgment of this Board entered in April of 2011. We bear in mind that Ms. Larson seeks relief from a judgment to which she herself consented. In deciding her motion, we exercise our discretion and professional judgment. Based on the evidence presented and Facts found above we conclude as follows:

Condition #12 remains reasonable and necessary to assure Ms. Larson's successful reentry into nursing.

Conditions 3, 4, 5, and 6 are no longer necessary.

A minimum of three years duration for the conditions on her license is no longer necessary. The subcommittee's proposal is reasonable. Condition #2 may be amended as suggested by the subcommittee.

Thus, Ms. Larson's motion is **granted in part, denied in part.**

Order

Ms. Larson's Condition #3, Completion of Substance Abuse Counseling and Treatment Plan; Condition #4, Notification to Treating Professional; Condition #5, Reports from Treating Professional; and Condition #6, Participation in Recovery Group(s) are removed.

Ms. Larson's Condition #2 shall be modified, effective the date of this decision, as follows:

(2) **Length of time of Conditions Imposed**

These conditions shall remain in place until Ms. Larson has complected all

conditions ordered. Ms. Larson shall be subject to the conditions until Ms. Larson completes a **minimum of one (1) year** of supervised practice in which she works at least forty (40) hours every two (2) weeks as a licensed registered nurse. Part time employment of less than forty (40) hours every two (2) weeks shall be credited on a pro-rated basis. Ms. Larson shall be prohibited from working more than forty (40) hours per week.

Ms. Larson's Condition #7, Random Drug and Alcohol Testing, shall remain in effect. Consideration shall be given to any testing required as part of her employment.

Ms. Larson's Condition #12, supervision by a registered nurse, shall remain in effect without change.

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, Office of Professional Regulation, 89 Main Street, Fl. 3, Montpelier, Vermont 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: _____ Date July 10, 2013
Ellen Watson, A.P.R.N.

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 7/16/13

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

IN RE: JESSICA KRISTIN LARSON License No. 026.0027533	)))	Docket No. M2010-93

REINSTATEMENT STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney S. Lauren Hibbert, and the Respondent, Jessica Kristin Larson, 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. Jessica Kristin Larson (the "Respondent") of Fair Haven, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0027533. This license was originally issued on or about August 29, 2002 and is currently set to expire on or about March 31, 2011.

3. By way of history, on or about June 23, 2010, pursuant to a Decision on Sanction from the Board of Nursing, the Respondent's license was indefinitely suspended and conditioned by the Board. Attachments A. This discipline was due in part to allegations that Respondent diverted Percocet from Rutland Regional Medical Center for her own personal use. The Respondent admitted these facts. Attachment B.

4. On or about November 15, 2010, in a letter to the Board, Respondent requested the reinstatement of her nursing license. The Respondent stated that she has met the requirements to request reinstatement which included three negative urine samples and an independent drug and alcohol evaluation. The Respondent states that since February of 2010 she has worked with a psychiatrist, psychotherapist and underwent eye movement desensitization and reprocessing to manage her depression and past

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

suicidal ideations. Additionally, the Respondent states that she has received treatment at the Headache Clinic at Dartmouth Hitchcook Medical Center for her chronic migraines and that she currently has an effective treatment plan which controls them. The Respondent further states that she received a deferred sentence on November 10, 2010 and once she completes eighteen months of probation this charge will be dismissed from her record.

Understandings

5. Respondent admits that the facts above are true and that the conditions below are necessary to protect the public.

6. 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.

7. 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.

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

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

10. 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.

11. 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.

12. 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 **REINSTATES** Respondent's license to practice registered nursing and **CONDITIONS** Respondent's license to practice nursing **FOR A MINIMUM OF THREE (3) YEARS from the date of entry below** pursuant to the conditions enumerated in Attachment A **and with the following condition amended in Attachment A:**

(6) **Participation in Recovery Group(s)**

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On recommendation of the Respondent's independent evaluator, the Respondent shall participate in an al-anon self-help group, and shall submit quarterly reports to the Board documenting such attendance on forms issued by the Board.

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: 2/28/11

By: _____
S. Lauren Hibbert
State Prosecuting Attorney

JESSICA KRISTIN LARSON
RESPONDENT

Dated: 2/24/11

By: _____
Jessica Kristin Larson

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 2/24/11

By: _____
Theodore A. Parisi, Jr., Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 4.11.11

By: _____
Chairperson

Date of Entry: 4/14/11

nu.larsonreinstatement.stip

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STATE OF VERMONT
BOARD OF NURSING

In re: Jessica Larson
License No. 026-27533

} Docket No. 2010-21

Decision on Sanction

Participating Board Members:
Ellen W. Leff, RN, Chair
Donarae Metcalf, LPN
De-Ann Welch, LPN
William G. White, Jr.
Deborah Robinson, RN
Jeanine Carr, RN
Kenneth Bush, RN

Appearances:
for Petitioner, State of Vermont: Betsy Ann Wrask, Esq.
for Respondent: Theodore A. Parisi, Jr., Esq.

Presiding Officer: George K. Belcher

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The Vermont Board of Nursing held a hearing in the above matter on June 14, 2010 at the National Life Building in Montpelier, Vermont.

Background

The State and Respondent have entered a Stipulation. The Board accepted the Stipulation of facts at its last meeting on May 10, 2010 and Respondent's license was summarily suspended. That order was dated May 11, 2010 and entered on May 14, 2010. The parties agreed that the Board shall determine if the Facts stipulated to constitute unprofessional conduct, and if so, what sanction is to be imposed. The Stipulation shall be attached to this Decision.

Findings of Fact

Based on the Stipulation and the arguments and presentation of parties, the Board finds as follows:

Attachment A

1. Respondent 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. §§ 1595 and 1598, the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.

2. The Board adopts the facts as set forth and stipulated to by the State and Respondent in paragraphs 2 through 8 of the Stipulation and Consent Order.

Conclusions of Law

1. We conclude that Ms. Larson has committed unprofessional conduct in violation of:

a. 26 V.S.A. Sec. 1582(a)(3) (Is unable to practice nursing by reason of any cause);

b. 26 V.S.A. Sec. 1582(a)(7) (Engaged in conduct of a character likely to deceive, defraud, or harm the public);

c. 3 V.S.A. Sec. 129a(b)(1) and (2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions. 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 practice); and

d. 3 V.S.A. Sec. 129a(a)(3) (Failure to comply with provisions of federal or state statutes or rules governing the practice of the profession).

For the violations above, to protect the public, health, safety and welfare, the following sanction is necessary.

Order

Ms. Larson's license shall be **indefinitely suspended.** The Board will not entertain a motion for reinstatement until at least November 14, 2010.

Before applying for reinstatement, Ms. Larson must meet the following conditions: Within forty-five (45) days of requesting reinstatement:

1) Ms. Larson shall obtain an independent evaluation report by a licensed professional specializing in drug and alcohol abuse, pre-approved by the Board or its designee;

2) The results of the report with the drug and alcohol independent evaluator must indicate that Ms. Larson does not present a risk to the safety, health, or welfare of her potential patients; and

3) Ms. Larson must submit to the Board or its designee the results of a minimum of three (3) random urine analyses administered by a person who has been pre-approved by the Board or its designee, and analyzed by a lab pre-approved by the Board or its designee which is qualified to analyze samples for forensic purposes.

4) The results of the random urinalyses shall be negative. Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine analysis shall cause that screen to be presumed to be positive.

Ms. Larson's license shall not be reinstated until these prerequisites are met.

License Conditions

(1) **Re-issuance of License**

When Ms. Larson has shown successful completion of the reinstatement conditions above, her license shall be reinstated as "conditioned." The conditions set forth below shall remain with Ms. Larson's license until further Order of the Board.

(2) **Length of time of Conditions Imposed**

These conditions shall remain in place until Ms. Larson has complected all conditions ordered. Ms. Larson shall be subject to the conditions until Ms. Larson completes a **minimum of three (3) years** of supervised practice in which she works at least forty (40) hours every two (2) weeks as a licensed registered nurse. Part time employment of less than forty (40) hours every two (2) weeks shall be credited on a pro-rated basis. Ms. Larson shall be prohibited from working more than forty (40) hours per week.

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

If recommended by the evaluating professional identified in the conditions for reinstatement, paragraph 1, Ms. Larson shall enter into and continue substance abuse counseling with a treating professional pre-approved by the Board until the treating professional shall certify in writing to the Board that such counseling is no longer necessary. Ms. Larson shall enter into and comply with the substance abuse treatment plan approved by the Board and the treating professional.

(4) **Notification to Treating Professional**

Ms. Larson shall provide a copy of this Order to the treating professional and cause the treating professional to inform the Board, in writing on professional letterhead, of receipt of the Order and the treating professional's ability to comply with the conditions related to treatment and with all other terms of this Order.

(5) **Reports from Treating Professional**

(a) Ms. Larson shall authorize and cause the treating professional to submit to the Board evidence of satisfactory progress with the treatment plan during the effective period of this Order. The first report is due commencing one month after the date of the

commencement of the conditions. Subsequent reports are due **monthly** thereafter.

(b) Ms. Larson shall authorize the treating professional to provide all information requested by the Board of Nursing, or its designee, either orally or in writing, at any time during the period this Order is in effect.

(6) Participation in Recovery Group(s)

If recommended by the treating professional, Ms. Larson shall participate in substance abuse recovery group(s), and shall submit **quarterly** reports to the Board documenting such attendance on forms issued by the Board.

(7) Random Drug and Alcohol Testing

(a) Ms. Larson shall submit to random substance abuse screenings at the request of the Board or its designee. Ms. Larson shall designate a person, who has been pre-approved by the Board or its designee, to administer random substance abuse screens. All testing shall be done on a random, unannounced basis and be analyzed by a laboratory which is qualified to analyze samples for forensic purposes and which is approved by the Board. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative.

(b) 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.

(8) Abstain from Drug and Alcohol Use

Ms. Larson shall abstain completely abstain from the consumption or possession of alcohol and drugs with the exception of drugs as outlined in Paragraph 9 for the duration of this Order.

(9) Drug Use Exception

(a) Ms. Larson shall not take controlled substances unless necessary. Ms. Larson may take scheduled/controlled medications lawfully prescribed for a bona fide illness or condition by a physician, dentist, or nurse practitioner whose identity shall be made known to the Board in writing by Ms. Larson within forty-eight (48) hours of the establishment of the practitioner/patient relationship. Ms. Larson shall ensure that the physician, dentist or nurse practitioner informs the board, in writing and on appropriate letter head, of knowledge of Ms. Larson's substance abuse issue(s) within one (1) week of entering into the practitioner / patient relationship. Ms. Larson shall inform the Board in writing of all scheduled/controlled medications prescribed, including the name of the prescribing practitioner, within forty-eight (48) hours of receiving the prescription.

(b) The Board or its designee may request at any time that the practitioner document the

continued necessity for the prescribed scheduled/controlled medication during the term of this Order for a period greater than fourteen (14) days, but if so, then the conditions herein may be revoked by the Board.

(c) Ms. Larson shall keep a written record of all medications taken, including over the counter drugs, and produce such record upon the request of the Board or it designee.

(10) **Notification to Employers/Nursing School**

(a) Employer Ms. Larson shall provide a copy of this Order to all employers in any current or future setting in which Ms. Larson practices as a registered nurse and inform them of the conditional license status.

Within ten (10) days of the date of entry of this Order or of any subsequent employment, Ms. Larson shall cause Ms. Larson's immediate supervisor to write on the employer's letterhead to the Vermont Board of Nursing acknowledging receipt of this Order and acknowledging the employer's ability to comply with the conditions required by this Order.

(b) Nursing School Should Ms. Larson attend a nursing program which has a clinical portion that involves actual patient care, Ms. Larson shall provide a copy of this Order to the Program Director. Ms. Larson shall cause the Program Director to write to the Board on school letterhead acknowledging receipt of the Order and the ability of the program to comply with the terms of this Order during Ms. Larson's clinical experience.

(11) **Reports from Employers/Program Director**

Within one (1) month of the date of entry of this Order and monthly thereafter, Ms. Larson shall cause every employer Ms. Larson has worked for during the relevant period as a registered nurse to submit to the Board an evaluation of Ms. Larson's performance during that period. This report shall be on forms issued by the Board.

(12) **Practice Under Supervision:**

Ms. Larson shall practice only in a setting where Ms. Larson has direct supervision for the entire shift by a licensed registered nurse in good standing.

(13) **Administration of Medications**

(a) Ms. Larson is prohibited from administering any controlled substances. This condition may be removed only by Ms. Larson filing a petition with the Board after she has worked as a registered nurse for twelve (12) weeks of at least forty (40) hours every two weeks (or the part time equivalent) after the date of reinstatement of her license.

(b) In any such petition, Ms. Larson must demonstrate to the satisfaction of the Board, that she can safely and competently administer such medications. In any such petition, Ms. Larson must include appropriate support from the treating professional and employer

or nursing school administrator and a description of the documentation and inventory control procedures in place.

(c) The removal of this prohibition shall not automatically result in reinstatement of all medication privileges. The Board may gradually restore those privileges through intermediary steps it deems appropriate.

(14) **Types of Employment Prohibited**

Ms. Larson shall not work for a 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 Order.

(15) **Interview with Board or its Designee.**

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

(16) **Out-of-State Practice**

Out-of-state practice can be credited toward fulfillment of this Order only if Ms. Larson shall first obtain prior approval from this Board for out-of-state practice. If Ms. Larson fails to obtain prior approval before practicing out-of-state, none of the out of state practice time will be credited toward fulfillment of this terms of this Order. The Board will approve out-of-state practice so long as Ms. Larson can still comply with the provisions of this Order.

(17) **Notification of Place of Employment, Personal Address, Telephone Number**

Within 5 days of the entry of this Order, Ms. Larson shall notify the Board in writing, of her current place of employment, personal address, and telephone number. Ms. Larson shall further notify the Board, in writing, withing forty-eight (48) hours of any change of employment, personal address, or telephone number.

(18) **Notification to Other States**

In the event that Ms. Larson is licensed in any other state(s), Ms. Larson must, within thirty (30) days, inform the nursing licensing board there of the conditioned status of Ms. Larson's license in Vermont. Failure to provide such notification will constitute a violation of this Order.

(19) **License Renewal**

If Ms. Larson's license expires while this Order remains in effect, this Order does not automatically extend the license. To continue to practice Ms. Larson must timely apply for renewal, pay the applicable fee, and demonstrate that all renewal requirements have been satisfied.

(20) **Release of Information Forms**

This Order requires Ms. Larson to authorize substance abuse treating providers to report to the Board or its designee and provide information verbally or in written form and to discuss Ms. Larson and all treatment rendered. This Order requires that any and all information from Ms. Larson's treatment providers be provided to Office of Professional Regulation investigators. Information acquired by the Board, its designees, or the Office of Professional Regulation investigators may be used for further prosecution, if it is determined that the terms of this Order, or any rules or laws governing the practice of nursing have been violated.

(21) **Costs**

Ms. Larson shall bear all costs of complying with this Order.

(22) **Violation of this Order**

If Ms. Larson violates the terms of this Order in any respect, the Board, after giving Ms. Larson notice and an opportunity to be heard, may rescind or modify this Order and impose additional appropriate disciplinary sanctions. If a complaint of unprofessional conduct is made against Ms. Larson during the term of this Order, the Order shall be automatically extended until the unprofessional conduct matter is concluded.

(23) **Completion of Conditional License Period**

(a) After the conditional license period, Ms. Larson may petition the Board to remove any and all license conditions. Ms. Larson must present proof that all terms of this Order have been met. Ms. Larson must also present proof of successful substance abuse rehabilitation. Ms. Larson must demonstrate to the satisfaction of the Board that she poses no danger to the public or the practice of nursing and that Ms. Larson can safely and competently perform her licensed duties.

(b) Notwithstanding any provision above, Ms. Larson must continue to meet all Board of Nursing requirements for maintaining a license, license renewal, and license reinstatement.

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, Office of Professional Regulation, National Life Bldg., North, FL2, Montpelier, Vermont 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: _____
Ellen Leff, RN, Chair

Date June 18, 2010

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 6/23/10

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

IN RE:
JESSICA KRISTIN LARSON
License No. 026.0027533

Docket No. 2010-21

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney BetsyAnn Wrask, and the Respondent, Jessica Kristin Larson, 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. Jessica Kristin Larson (the "Respondent") of Fair Haven, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0027533. This license was originally issued on or about August 29, 2002 and is currently set to expire on or about March 31, 2011.

3. At all times relevant, Respondent was employed as a Registered Nurse at Rutland Regional Medical Center (the "Facility"), located in Rutland, Vermont.

4. On or about March 23, 2010 in an interview with State Investigator Steve Kennedy, Respondent advised that on or about February 19, 2010, she had been placed on administrative leave from the Facility for diverting narcotics.

5. On or about March 30, 2010 in an interview with Investigator Kennedy, Facility Director of Human Resources D.T. stated that pursuant to an OmniCell (computerized drug dispensing system) high user report regarding Respondent, the Facility conducted an internal investigation which revealed that there were approximately thirty-two (32) discrepancies in Respondent's removal of narcotics from OmniCell and her documentation of administration of these narcotics. D.T.

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Attachment B

stated that on or about February 19, 2010 in a meeting among D.T., Respondent, and Director of Surgical Care S.R., the Respondent admitted to taking regulated drugs from the Facility without authorization.

6. A review of the discrepancies found by the Facility are enumerated in part below:

a. On or about January 1, 2010 at 12:54 p.m., Respondent withdrew from the OmniCell one (1) Oxycodone/Acetaminophen ("Percocet") tablet for Patient C.E. Respondent did not document administering this narcotic to C.E. in the Medication Administration Record (the "MAR"). C.E. was discharged from the Facility at 1:00 on this date.

b. On or about January 1, 2010 at 1:22 p.m., Respondent withdrew from the OmniCell two (2) Percocet tablets for Patient S.W. Respondent only documented administering one (1) Percocet tablet to S.W. in the MAR.

c. On or about January 10, 2010 at 8:07 a.m., Respondent withdrew from the OmniCell one (1) Percocet tablet for Patient R.M. Respondent did not document administering this narcotic to R.M. in the MAR.

d. On or about January 10, 2010 at 9:57 a.m., Respondent withdrew from the OmniCell one (1) Percocet tablet for Patient R.M. Respondent did not document administering this narcotic to R.M. in the MAR.

e. On or about January 13, 2010 at 8:14 a.m., Respondent withdrew from the OmniCell one (1) Percocet tablet for Patient C.B. Respondent did not document administering this narcotic to C.B. in the MAR.

f. On or about January 13, 2010 at 11:09 a.m., Respondent withdrew from the OmniCell two (2) Percocet tablets for Patient M.R. Respondent only documented administering one (1) Percocet tablet to M.R. at 11:10 a.m. in the MAR.

g. On or about January 13, 2010 at 4:37 p.m., Respondent withdrew from the OmniCell one (1) Percocet tablet for Patient C.B. Respondent did not document administering this narcotic to C.B. in the MAR. C.B. was discharged from the Facility at 4:42 p.m. on this date.

h. On or about January 13, 2010 at 6:21 p.m., Respondent withdrew from the OmniCell two (2) Percocet tablets for Patient M.R. Respondent did not document administering these tablets to M.R. in the MAR. M.R. was discharged from the Facility at 6:31 p.m. on this date.

i. On or about January 14, 2010, Respondent was not assigned to Patient E.C. On this date at 1:07 p.m., Respondent withdrew from the OmniCell two (2) Percocet tablets for Patient E.C. Respondent did not document administering these tablets

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to E.C. in the MAR. E.C. was discharged from the Facility on this date at 1:22 p.m.

j. On or about January 14, 2010, Respondent was not assigned to Patient E.R. On this date at 1:07 p.m., Respondent withdrew from the OmniCell two (2) Percocet tablets for E.R. Respondent did not document administering these tablets to E.R. in the MAR. E.R. was discharged from the Facility on this date at 1:10 p.m.

k. On or about January 14, 2010 at 2:48 p.m., Respondent withdrew from the OmniCell one (1) Percocet tablet for Patient Y.M. in two (2) separate transactions, for a total of two (2) Percocet tablets being withdrawn. Respondent only documented in the MAR that she administered one (1) tablet to Y.M. at 2:50 p.m. on this date.

l. On or about January 19, 2010 at 10:36 a.m., Respondent withdrew from the OmniCell two (2) Hydrocodone/APAP 5/500 mg (Vicodin) tablets for Patient A.P. Respondent documented an administration of this narcotic to A.P. in the MAR, but did not specify the amount of narcotic administered.

m. On or about January 19, 2010 at 5:22 p.m., Respondent withdrew from the OmniCell two (2) Hydrocodone/APAP 5/500 mg (Vicodin) tablets for Patient A.P. Respondent documented in the MAR that she administered these two (2) tablets to A.P. at 5:20 p.m. on this date; however, A.P. was discharged from the Facility at 5:28 p.m. on this date.

n. On or about January 19, 2010 at 5:31 p.m., Respondent withdrew from the OmniCell two (2) Percocet tablets for Patient H.G. Respondent only documented in the MAR that she administered one (1) tablet to H.G. at 5:35 p.m. on this date.

o. On or about January 21, 2010 at 10:04 a.m., Respondent withdrew from the OmniCell two (2) Percocet tablets for Patient A.V. Respondent only documented in the MAR that she administered one (1) tablet to A.V. at 10:10 a.m. on this date.

p. On or about January 21, 2010 at 10:05 a.m., Respondent withdrew from the OmniCell two (2) Percocet tablets for Patient S.R. Respondent only documented in the MAR that she administered one (1) tablet to S.R. at 10:10 a.m. on this date.

q. On or about January 21, 2010 at 1:48 p.m., Respondent withdrew from the OmniCell two (2) Percocet tablets for Patient A.V. Respondent only documented in the MAR that she administered one (1) tablet to A.V. at 1:50 p.m. on this date.

r. On or about January 21, 2010, Respondent documented in the MAR that she administered one (1) Percocet tablet to Patient A.V. at 3:30 p.m. on this date. However, there is no corresponding OmniCell withdrawal for this documented administration.

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s. On or about January 21, 2010 at 3:55 p.m., Respondent withdrew from the OmniCell two (2) Percocet tablets for Patient S.R. Respondent only documented in the MAR that she administered one (1) tablet to S.R. at 4:00 p.m. on this date.

t. On or about January 23, 2010 at 9:06 a.m., Respondent withdrew from the OmniCell one (1) Percocet tablet for Patient S.R. Respondent did not document administering this narcotic to S.R. in the MAR.

u. On or about January 26, 2010 at 8:01 a.m., Respondent withdrew from the OmniCell one (1) Percocet tablet for Patient W.B. Respondent did not document administering this narcotic to W.B. in the MAR.

v. On or about January 26, 2010, Respondent was not assigned to Patient J.R. On this date at 9:47 a.m., Respondent withdrew from the OmniCell two (2) Percocet tablets for J.R. Respondent only documented in the MAR that she administered one (1) tablet to J.R. at 9:50 a.m. on this date.

w. On or about January 26, 2010 at 2:12 p.m., Respondent withdrew from the OmniCell two (2) Percocet tablets for Patient W.B. Respondent only documented in the MAR that she administered one (1) tablet to W.B. at 2:15 p.m. on this date.

x. On or about January 26, 2010 at 6:51 p.m., Respondent withdrew from the OmniCell two (2) Percocet tablets for Patient W.B. Respondent only documented in the MAR that she administered one (1) tablet to W.B. at 6:55 p.m. on this date.

y. On or about January 29, 2010 at 8:33 a.m., Respondent withdrew from the OmniCell one (1) Percocet tablet for Patient W.B. Respondent did not document administering this narcotic to W.B. in the MAR.

z. On or about January 29, 2010 at 2:33 p.m., Respondent withdrew from the OmniCell two (2) Percocet tablets for Patient W.B. Respondent only documented in the MAR that she administered one (1) tablet to W.B. at 2:40 p.m. on this date.

aa. On or about January 29, 2010 at 5:48 p.m., Respondent withdrew from the OmniCell two (2) Percocet tablets for Patient C.C. Respondent documented in the MAR an administration of this narcotic to C.C. at 5:50 p.m. on this date, but did not specify the amount of narcotic administered.

bb. On or about February 7, 2010 at 3:15 p.m., Patient M.O.'s pain scale was documented as zero. On this date at 4:32 p.m., Respondent withdrew from the OmniCell two (2) Hydromorphone (Dilaudid) 2 mg tablets for Patient M.O. Respondent did not document the administration of these tablets in the MAR. M.O. was discharged from the Facility at 4:40 p.m. on this date.

7. Respondent admits that she diverted narcotics from the Facility for her own personal use.

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8. Respondent has been cited to appear in Rutland District Court on or about May 17, 2010 for the offense of Regulated Drug Fraud or Deceit, in violation of 18 V.S.A. § 4223(a)(3) and (c).

Charges

9. The State contends that the act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because allegedly the Respondent has committed unprofessional conduct in violation of:

a. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause);

b. ARBN Chapter 4, Rule IV(II)(B)(1) and (2) ("Inability to practice nursing competently" includes: (1) performance of unsafe or unacceptable patient care; and (2) failure to conform to the essential standards of acceptable and prevailing practice);

c. ARBN Chapter 4, Rule IV(II)(C) ("Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs, narcotics, chemicals, or any other type of materials);

d. 26 V.S.A. § 1582(a)(5) (Is habitually intemperate or is addicted to the use of habit-forming drugs);

e. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud, or harm the public) which includes diverting supplies, equipment, or drugs for personal or other unauthorized use pursuant to ARBN Chapter 4, Rule IV(II)(D)(4);

f. 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

g. 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).

10. The Respondent disputes the State's position and shall have the opportunity to argue that the agreed-upon facts do not constitute unprofessional conduct for any and/or all of the Charges above.

Understandings

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11. Respondent admits the facts above are true.

12. 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.

13. 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.

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

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

16. 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.

17. Respondent voluntarily waives her right to a hearing on the facts before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order. The Respondent and the State shall each be able to have a hearing on whether the facts constitute unprofessional conduct and if so, the appropriate sanction/disposition.

18. 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 parties have not reached agreement as to the sanction required, if any, as a result of the alleged unprofessional conduct described above.** The parties leave the sanction if any to be determined by the Board of Nursing at the time of the disposition hearing.

B. 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).

C. 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.

D. The Board shall hear the disposition hearing at their next meeting, scheduled for Monday, June 14, 2010.

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AGREED TO:

Dated: 5·10·10

STATE OF VERMONT
SECRETARY OF STATE

By: _____
BetsyAnn Wrask
State Prosecuting Attorney

Dated: 5-6-10

JESSICA KRISTIN LARSON
RESPONDENT

By: _____
Jessica Kristin Larson

APPROVED AS TO FORM:

Dated: 5-6-10

ATTORNEY FOR RESPONDENT

By: _____
Theodore A. Parisi, Jr., Esq.

APPROVED AND SO ORDERED:

Dated: 5-10-10

VERMONT BOARD OF NURSING

By: _____
Chairperson

Date of Entry: 5/14/10

nn.larson.stip3

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