

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

IN RE:)
SHARON LAUB)
License Nos. 101.0023454 &)
026.0023454

M2013-109
Docket No.(2012-381)

STIPULATED REINSTATEMENT CONSENT ORDER

NOW COME the State of Vermont, by and through State Prosecuting Attorney Gabriel M. Gilman, and the respondent, Sharon Laub, by and through her attorney, Eileen Elliott, Esq., who stipulate and agree as follows:

Board Authority

1. The Vermont State Board of Nursing ("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.

Factual Background

2. Sharon Laub ("Respondent") of Burlington, Vermont is licensed by the State of Vermont as an Advanced Practice Registered Nurse under license number 101.023454. This license was originally issued on or about July 29, 1997.
3. On October 9, 2012 the Board accepted the voluntary, temporary surrender of Respondent's license. On September 9, 2013, the Board approved and entered a Stipulation and Consent Order between Respondent and the State of Vermont. The Stipulation and Consent Order set out the relevant factual background, suspended the license indefinitely, and established terms upon which Respondent could petition for conditional reinstatement of her license.
4. Chemical dependency among CRNAs presents unique challenges because access to drugs with significant abuse potential is a necessary part of CRNA functions. In formulating a re-entry plan, the parties have been guided by the American Association of Nurse Anesthetists *Peer Assistance Advisors' Recommendations for Re-entry of Anesthesia Professional[s] or Students with Chemical Dependency* (hereinafter, "AANA Reentry Recommendations").

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5. Respondent has worked cooperatively with the investigative team assigned to this matter to complete rehabilitative work, treatment, testing, and monitoring necessary to assure the Board that Respondent is in stable recovery and fit to return to nursing practice.
6. By petition dated December 11, 2013, Respondent requested that the Board consider reinstating her license. Respondent included a thorough treatment history and letters of recommendation and support from colleagues. On January 6, 2014, Respondent provided a voluminous supplement to her petition, including recommendations from all of her treatment providers and First Lab drug panels verifying sustained recovery.
7. Respondent worked with the investigative team to satisfy AANA Reentry Recommendations. In particular, Respondent has:
 - a. completed comprehensive treatment and evaluation by a board-certified addictionologist, whose report has been made available to the investigative team;
 - b. complied with treatment center recommendations for continuing care after discharge, including relapse prevention techniques;
 - c. completed more than two years out of the clinical anesthesia arena;
 - d. achieved the *Talbott* criteria for reentry;
 - e. exhibited a commitment to randomized monitoring to ensure sustained recovery;
 - f. exhibited a commitment to regular attendance at recovery-based meetings and follow-up care; and
 - g. successfully maintained abstinence with supplemental Naltrexone treatment, and without opioid replacement therapy.
8. Respondent's treatment providers—including a board-certified addictionologist pre-approved by the Board to provide an independent evaluation—unanimously are of the opinion that Respondent is capable of returning to clinical practice under appropriate conditions without undue risk to the public health, safety, and welfare, or to Respondent's own health.
9. Respondent's former employer is able to facilitate a graduated reentry plan whereby Respondent may return to registered nursing practice in a setting that does not require narcotics administration, followed by a monitored return to CRNA practice.
10. Respondent practiced as an APRN for at least 960 hours in the five years preceding this Stipulation and therefore satisfies minimum practice requirements for RN and APRN roles.
11. The parties agree that the conditions required by the Consent Order set out below meet, and in many respects exceed, treatment provider recommendations for safe and appropriate return to RN and CRNA practice. The parties agree that Respondent has demonstrated, through her documentary submissions and sustained recovery, that she is prepared to "return to nursing practice without jeopardy to the public health, safety, or welfare, or to Respondent's own health" as required by the existing Stipulation and Consent Order in this matter.

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Understandings

12. Respondent understands that the Nursing Board must review and accept the terms of this Reinstatement Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.
11. Respondent specifically waives any claim that disclosures made to the full Board during its review of this agreement will prejudice her right to a fair and impartial hearing if this agreement is not accepted by the Board and the Respondent's petition for reinstatement proceeds to a contested hearing before the same hearing panel.
12. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
13. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
14. 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.
15. Respondent voluntarily waives her right to a contested hearing on the terms of her reinstatement before the Board of Nursing and waives any right to appeal from this Reinstatement Consent Order.
16. 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. Respondent's petition is hereby **GRANTED**, as follows:
 - a. Respondent is immediately eligible to renew and revive her Registered Nurse license (026.0023454). Upon issuance, the license shall be labeled "ACTIVE-CONDITIONED." The license shall be conditioned as set out in attached CONDITIONS A.
 - b. Following successful completion of not fewer than four months of registered nurse employment, during which Respondent works at least twenty hours per week, Respondent shall seek current statements of fitness from her treating physician(s) and her immediate supervisor. Each must opine in a signed writing that Respondent's return to RN practice has been consistent with readiness to return to supervised CRNA practice without jeopardy to the public health, safety, or welfare, or to Respondent's own health. "Successful completion" shall be determined by the case manager and shall be identified by consistent adherence to

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license conditions simultaneous to sound nursing performance raising no articulable basis for concern about Respondent's fitness.

- c. Upon receipt of the documentation described in paragraph A(b), above, the case manager is authorized to restore Respondent's eligibility to renew and revive her APRN license (101.0023454). Upon issuance, the license shall be labeled "ACTIVE-CONDITIONED." The license shall be conditioned as set out in the attached CONDITIONS A & B.
 - d. The case manager shall have broad discretion to construe Respondent's license conditions as may be necessary to protect the public health, safety, and welfare. The case manager may, at his or her discretion, adjust the timing, frequency, or intensity of supervision, testing, and monitoring pursuant to the conditions. The Respondent may appeal a discretionary decision by the case manager by filing a written petition with the Board and the State, and the Board may dispose such petition with or without a hearing.
- B. Notwithstanding any provision above, the Respondent must continue to meet all applicable Nursing Board requirements for maintaining eligibility for licensure, license renewal, and license reinstatement.
- C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- D. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

Dated: 1/11/2015

STATE OF VERMONT
SECRETARY OF STATE

By: [Signature]
Gabriel M. Gilman
State Prosecuting Attorney

SHARON LAUB
RESPONDENT

Dated: 1/9/2015

By: [Signature]
Sharon Laub

APPROVED AS TO FORM:

Dated: 1/9/2015

ATTORNEY FOR RESPONDENT

By: [Signature]
Eileen Elliott, Esq.

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APPROVED AND SO ORDERED:

Dated: 1/12/15

Date of Entry: 1/13/15

VERMONT BOARD OF NURSING

By: Jeanine Carr
Chairperson

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CONDITIONS A

(1) Duration of Conditional License Period; Modification; Permanent Option to Test.

These conditions shall remain in place indefinitely pending further order of the Board and for no fewer than five years of full-time nursing practice or the part-time equivalent thereof. Respondent may petition, not more frequently than biannually, for such specific modifications to her license conditions as may be appropriate to align practice supervision with changes in Respondent's work setting or treatment progress. In any such petition, Respondent shall bear the burden of demonstrating to the Board's satisfaction that the requested modification would not jeopardize the Board's ability to monitor her recovery or otherwise endanger the public health, safety, or welfare. Any petition opposed by the State shall be determined only after an opportunity for discovery and a hearing before the Board, at which either party may present witnesses.

Notwithstanding any provision of this Consent Order to the contrary; and notwithstanding the future modification or abrogation of other conditions, Respondent shall be subject to randomized, monitored drug testing at the direction of the Board's case manager so long as Respondent may hold a Board license.

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

Respondent shall enter into and continue substance abuse counseling with a treating professional pre-approved by the Board. Respondent shall comply with the substance abuse treatment plan approved by the Board and the treating professional.

(3) Reports from Treating Professional.

Respondent shall authorize and cause Respondent's treating professional(s) to submit to the Board evidence of satisfactory progress with the treatment plan during the effective period of this Consent Order. These reports shall be submitted in writing on forms issued by the Board. The first report is due commencing the month after the date of the commencement of the conditions and subsequent reports are due **monthly** thereafter.

Respondent shall authorize Respondent's treating professional(s) to provide all information requested by the Nursing Board, either orally or in writing, at any time during the period this Consent Order is in effect.

(4) Participation in Recovery Group(s).

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

(5) Random Drug and Alcohol Testing.

Respondent shall submit to random drug and alcohol screenings at the request of the Board or its designee. Respondent shall designate a person or entity that has been pre-approved by the Board or its designee to administer random drug and alcohol screens. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes and approved by the Board. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative.

Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine screen shall cause that screen to be presumed positive. Any positive screen shall constitute a violation of this Order.

(6) Abstain from Drug and Alcohol Use.

Respondent shall abstain completely from the consumption or possession of alcohol and drugs, with the exception of medications as outlined in paragraph (7).

(7) Drug Use Exception.

Respondent shall not take controlled substances unless medically necessary. Respondent 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 Respondent within forty-eight (48) hours of the prescription. Respondent shall cause the physician, dentist or nurse practitioner to inform the Board, in writing and on appropriate letterhead, of knowledge of Respondent's substance abuse issue(s) within seven (7) days of entering into the practitioner/patient relationship. Moreover, Respondent shall cause this prescribing practitioner to inform the Board, in writing and on appropriate letterhead, of all scheduled/controlled medications prescribed – and the anticipation of how long such prescriptions will need to be taken – within seven (7) days of the prescription.

The Board or its designee may request at any time that the practitioner document the necessity for the prescribed scheduled/controlled medications or other medications known to have abuse potential. This includes medications to be administered as necessary. It is not anticipated that Respondent would be prescribed scheduled/controlled medication during the term of this Consent Order for a period greater than fourteen (14) days, but should this become necessary, the conditions herein may be modified or revoked by the Board.

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

(8) Notification to Employers/Nursing School.

Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which Respondent practices as a nurse and inform them of Respondent's conditional license status.

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Within ten (10) days of the date of entry of this Consent Order or of any subsequent nursing employment, Respondent shall cause Respondent's immediate supervisor to submit to the Board an employer agreement form approved by the Board, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

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

(9) Reports from Employers/Program Director.

Within one (1) month of the date of reinstatement or within one (1) month of the commencement of nursing employment and **monthly** thereafter, Respondent shall cause every nursing employer Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. Moreover, on a **quarterly** basis, these reports shall include the results of the employer's medication audits of Respondent's medication administration and practices. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance (i.e., consistently meeting all standards of nursing practice) and attendance.

In the event Respondent is attending a nursing program, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Respondent's performance and attendance. These reports shall be submitted in writing on forms issued by the Board. All nursing program reports shall indicate satisfactory performance (i.e., consistently meeting all standards of nursing practice) and attendance.

(10) Practice Under Supervision.

Respondent shall practice as a nurse only in a setting where Respondent has supervision for the entire shift by a licensed registered nurse, advanced practice registered nurse, or medical doctor. The case manager may, based on Respondent's work setting and progress in recovery, dictate whether supervision must be on-site or direct in nature. The case manager shall have broad discretion to inquire into the circumstances of any supervision arrangement, to require written affirmations of understanding by persons who may supervise Respondent, to make written or verbal inquiries of supervising professionals at any time, or for good cause, to disallow supervision by individuals who may be unable to provide adequate and objective supervision.

(11) Administration of Medications.

Respondent is prohibited from administering any controlled substances for at least the first two calendar months of her nursing employment under these conditions and until specific, written approval is issued by the Board's case manager. Following two calendar months of successful nursing employment, as determined by the case manager, Respondent may file with the case manager statements from her treating professional(s) and nursing supervisors opining that Respondent is prepared to administer controlled substances.

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Respondent must demonstrate, to the satisfaction of the case manager, that Respondent can safely and competently administer such medications. In any such petition, Respondent must include appropriate support from Respondent's treating professional and employer or nursing school administrator and a description of the documentation and inventory control procedures in place.

The case manager may gradually restore medication administration privileges through intermediary steps if such approach is recommended by treatment providers or warranted by the case manager's assessment of Respondent's recovery progress. For good cause, the case manager may rescind medication administration privileges.

(12) 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.

(13) Interview with the Board or its Designee.

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

(14) Out-of-State Practice.

Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board 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 Respondent can still comply with the provisions of this Consent Order.

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

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

Within ten (10) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of Respondent's current place of employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in employment (including resignation or termination), personal address, or telephone number.

(16) Notification to Other States.

In the event that Respondent is licensed in nursing in any other state(s), Respondent must inform the nursing licensing board(s) of the state(s) in which Respondent is licensed of the conditional status of Respondent's Vermont nursing license within thirty (30) days of the date of entry of this Order.

(17) License Renewal.

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If 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, Respondent must timely apply for renewal, pay the applicable fee, and demonstrate that Respondent has otherwise complied with the requirements for license renewal.

(18) Release of Information Forms.

The conditions of this Order require Respondent to authorize drug and/or alcohol treatment providers to report information in verbal and/or written format and/or to discuss Respondent and any and all treatment rendered to Respondent for drugs and/or alcohol with the Board or its designee. The conditions of this Order must allow any and all information from Respondent's treatment providers to also be provided to the Office of Professional Regulation investigators, and that the information may be used for further prosecutions if so warranted or if the Office of Professional Regulation determines that said information violates the terms of this Order or any rules or laws governing the profession of nursing.

Respondent is entitled to revoke this consent at any time. However, any revocation by Respondent of such consent shall be considered a violation of this Order.

This consent expires when the conditions are removed from Respondent's nursing license.

This Stipulation and Consent Order shall itself constitute a valid written consent pursuant to the requirements of 42 C.F.R. § 2.31.

Respondent understands that Respondent's treatment provider may require Respondent's to sign a separate and distinct consent meeting the requirements of 42 C.F.R. § 2.31.

(19) Costs.

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

(20) Violation of this Order.

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

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Initials of the Parties

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CONDITIONS B

The following supplemental conditions shall apply upon the activation of Respondent's APRN license, subject to the timeframes and modification procedures set out in Conditions A.

(1) Extraordinary Testing.

In addition to standard urinalysis testing, the case manager may direct Respondent to participate in testing of blood, saliva, or hair as may be necessary to reliably detect indicia of relapse not readily detectible by urinalysis. Respondent shall cooperate with such requests.

(2) Collaborating Provider.

Respondent shall work as a CRNA only pursuant to a collaborating provider agreement pre-approved by the Board or case manager. The collaborating provider shall be made aware of the Stipulations and Orders in this case. The case manager may request special reports on Respondent's fitness, performance, and wellbeing. Failure to provide the same, or the receipt of any report indicating risk to the public health, safety, and welfare, or to Respondent's own health, shall constitute a basis for the Board to rescind or modify the conditions of Respondent's licensure.

(3) Site Supervision Plan.

Respondent shall work as a CRNA only pursuant to a site-supervision plan pre-approved by the Board or case manager. The plan shall, at a minimum, identify responsible colleagues agreeing to provide oversight of Respondent's reentry to practice; shall describe the nature and extent of Respondent's access to potential drugs of abuse; shall specify the manner in which oversight is to be achieved in the particular setting; shall specify acceptable means of auditing Respondent's medication administration practices; shall include written protocols for reporting to the Board articulable concerns about relapse or aberrant nursing practice; and shall demonstrate that the particular site offers a degree of collaboration, oversight, and support compatible with sustained, monitored recovery.

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