

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

IN RE:	)	
ELYSSA A. LEVERENZ	)	Docket No. 2021-16
License No. 026.0135456	)	

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Jennifer B. Colin, and Respondent Elyssa Leverenz, represented by Nicole Andreson, Esq., who stipulate and agree as follows:

Board Authority

1. The Vermont State Board of Nursing (the “Board”) has authority to issue warnings or reprimands; suspend, revoke, limit, or condition current licenses; or prevent the renewal of lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. § 129(a); 3 V.S.A. § 129a; 3 V.S.A. § 814(d); 26 V.S.A. Chapter 28; the Administrative Rules of the Board of Nursing (the “ARBN”); and the Rules of the Office of Professional Regulation.

Alleged Facts

2. Elyssa A. Leverenz (“Respondent”) of Middlebury, Vermont is licensed by the State of Vermont as a Registered Nurse (“RN”) under license number 026.0135456. This license was originally issued June 3, 2018 and expires on March 31, 2023.
3. At all times relevant, Respondent was employed as a RN at Birchwood Terrace Health and Rehabilitation, a nursing home located in Burlington, Vermont (the “Facility”).
4. At the Facility, controlled drugs are kept in a secure storage area (a “med cart”) and can only be accessed with a key. When a controlled drug is physically removed from a med cart, it must be documented in the narcotic log.
5. When any medication, controlled or non-controlled, is administered to a patient, it must be documented in the medication administration record (the “MAR”).
6. On October 6, 2020, Respondent was working the evening shift at the Facility from 11:00 p.m. to 7 a.m.

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7. During this time, Respondent was the only staff person with access to the med cart.
8. At approximately 12:00AM, respondent removed five containers of liquid morphine – two containers from med cart 1 and three containers from med cart 2. Respondent brought them into the medication room and closed the door.
9. Respondent exited the medication room approximately seven (7) minutes later and returned the containers to the med carts. Respondent did not administer any doses of liquid morphine immediately after this.
10. When questioned about her actions, Respondent explained that she brought the morphine into the medication room to “pre-pull” syringes, that she knew the correct doses “by memory”, and that she intended to administer the pre-pulled doses to patients later.
11. However, there were no scheduled doses of liquid morphine to be administered to patients from med cart 1. As for the doses of liquid morphine scheduled to be administered from med cart 2, Respondent pulled each dose at the time of administration.
12. Respondent documented administering numerous non-controlled drugs to four patients between approximately 5:00AM and 5:10AM.
13. However, Respondent did not enter the rooms of these patients at any time close to 5:00AM. Respondent entered the rooms of other residents during this window of time.
14. A resident (“Patient G.S.”) was scheduled to receive a non-controlled drug at 12:00AM. Respondent documented administering the medication at approximately 12:00AM, however Respondent did not enter Patient G.S.’s room at any time close to 12:00AM.
15. A resident (“Patient P.R.”) was scheduled to receive a non-controlled drug at 2:00AM. Respondent documents administering the medication at approximately 2:00AM, however Respondent did not enter Patient P.R.’s room at any time close to 2:00AM.

Patient K

16. A resident (“Patient K”) had a medication order for 2mg of liquid morphine sulfate concentrate, also known as liquid morphine, to be administered every four (4) hours for pain, including at 12:00AM and 4:00AM. Morphine sulfate is a controlled drug.
17. Respondent documented in the narcotic log withdrawal of one dose of liquid morphine for Patient K at approximately 12:00AM, and a second dose at approximately 4:00AM.

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18. In the narcotic log, Respondent incorrectly documented the amount of liquid morphine withdrawn for both the 12:00 a.m. and 4:00 a.m. doses.
19. Respondent documented in the MAR administration of one dose of liquid morphine to Patient K at approximately 12:00 a.m., and a second dose at approximately 4:00 a.m.
20. Respondent did not enter Patient K's room at any time close to 12:00AM or 4:00AM.
21. The two liquid morphine doses pulled for Patient K were unaccounted for.

Patient D.G.

22. A resident ("Patient D.G.") had a medication order for Lorazepam 1mg tablet every six (6) hours, including one dose at 6:00AM. Lorazepam is a controlled drug.
23. The Lorazepam tablet must be crushed in order for Patient D.G. to tolerate the medication.
24. Respondent did not crush the Lorazepam tablet.
25. Respondent inaccurately documented withdrawal and administration of Patient D.G.'s scheduled 6:00AM Lorazepam dose.

Pre-Stipulation Evaluation

26. Respondent and her counsel engaged with OPR upon the filing of the Specification of Charges.
27. As part of the effort to resolve the case by Stipulation, Respondent was evaluated by a pre-approved mental health/substance use professional and submitted to random urinalyses.
28. While the evaluation and UA's indicate Respondent is able to practice safely if subject to conditions, Respondent has elected to resolve the case with a voluntary indefinite suspension and will petition for reinstatement should she decide to return to the practice in the future.

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

29. The State re-alleges and incorporates Paragraphs 2 through 25 above.
30. As a RN, Respondent shall not divert or attempt to divert drugs, equipment, or supplies for unauthorized use.

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31. Respondent diverted or attempted to divert drugs for unauthorized use as demonstrated in Paragraphs 2 through 25 above.
32. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 26 V.S.A. §1582(a)(2).

Violation Two: 3 V.S.A §129a(b)(1) 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.

30. The State re-alleges and incorporates Paragraphs 2 through 25 above.
31. As a RN, Respondent has an obligation to provide safe and acceptable patient care.
32. Respondent provided unsafe and unacceptable patient care by engaging in the conduct described in Paragraphs 2 through 25 above.
33. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(1).

Violation Three: 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.

34. The State re-alleges and incorporates Paragraphs 2 through 25 above.
35. All nurses must properly document and account for medications, especially controlled drugs.
36. Respondent's conduct in paragraphs 2 through 25 above demonstrate that Respondent failed to conform with this essential standard of acceptable and prevailing practice.
37. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(2).

Violation Four: 26 V.S.A. §1582(a)(3) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

42. The State re-alleges and incorporates Paragraphs 2 through 25 above.

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43. As a RN, Respondent is prohibited from engaging in conduct likely to cause harm to any member of the public.
44. Respondent's conduct in paragraphs 2 through 25 above demonstrate that Respondent failed to comply with this requirement.
45. 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 26 V.S.A. §1582(a)(3).

Understandings

50. This Stipulation is neither an admission of liability by Respondent nor a concession by the State of Vermont that its charges are not well-founded. To avoid delay, uncertainty, inconvenience, and the expense of protracted litigation, the Parties enter this full and final Stipulation pursuant to these Understandings and the Order below. Respondent does not dispute that the State may be able to prove these charges by a preponderance of the evidence if this matter proceeds to a merits hearing.
51. Respondent understands that the 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.
52. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced Respondent's rights to a fair and impartial hearing if this agreement is not accepted by the Board and proceeds to a contested hearing.
53. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
54. Respondent is not under the influence of any drugs or alcohol at the time Respondent signs this Stipulation and Consent Order.
55. 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.
56. Respondent voluntarily waives Respondent's right to a contested hearing before the Board and waives any right to appeal from this Stipulation and Consent Order.
57. Respondent agrees that the Order set forth below may be entered by the Board.

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ORDER

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

- A. A. The Board of Nursing hereby **INDEFINITELY SUSPENDS** Respondent's license to practice as a Registered Nurse **from the date of entry below**. No sooner than forty-five (45) days prior to requesting reinstatement, Respondent must, at her own cost:
1. Obtain an independent substance abuse evaluation report by a pre-approved licensed professional specializing in drug and alcohol abuse ("Independent Evaluator") who has verified receipt of this Stipulation and Consent Order. The results of the Independent Evaluation must indicate that Respondent does not present a risk to the safety, health or welfare of Respondent's potential patients, as well as any recommendations that would ensure Respondent is safe to practice. The evaluation must be submitted to the Enforcement Unit Case Manager.
 2. Submit to the Enforcement Unit Case Manager the results of a minimum of three (3) random urine analyses:
 - a. When Respondent is ready to petition for reinstatement, Respondent shall contact the Enforcement Unit Case Manager to set-up the drug screen process and receive instructions. Once registered with the pre-approved person or entity, Respondent will have approximately 45 days to submit a minimum of three (3) random urine analyses. The process by which Respondent learns whether she is selected to provide a sample on any given day will be governed by the policy of the pre-approved person or entity conducting the testing at that time.
 - b. The drug screens must be collected in an observed setting; administered by a pre-approved person or entity; and analyzed by a pre-approved lab qualified to analyze samples for forensic purposes, the results of which shall be negative.
 - c. Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any drug screen shall cause that screen to be presumed positive; and
 3. If recommended by an Independent Evaluator, enter into a treating professional agreement and substance abuse treatment plan with a pre-approved treating professional(s) and follow all recommendations.
- B. If reinstated, Respondent's license **SHALL BE CONDITIONED** pursuant to whatever terms the Board finds reasonable at the time of Respondent's reinstatement request, taking into account the independent evaluation, drug screen results, the facts above, and anything else the Board deems relevant at that time.

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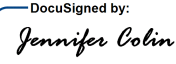


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- C. Notwithstanding any provision above, the Respondent must continue to meet all Board requirements for maintaining a license, license renewal and license reinstatement.
- D. This Stipulated and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- 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.
- F. This Stipulation and Consent Order shall be applicable as a matter of law to all other licenses issued by the Board of Nursing, as provided in 3 V.S.A. §129(l).

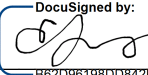
AGREED TO:Dated: 1/6/2022

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SECRETARY OF STATE

By: 
Jennifer B. Colin
State Prosecuting Attorney

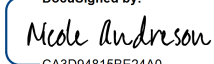
Dated: 1/6/2022

RESPONDENT

By: 
Elyssa A. Leverenz

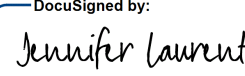
APPROVED AS TO FORM:Dated: 1/6/2022

ATTORNEY FOR RESPONDENT

By: 
Nicole Andreson, Esq.

APPROVED AND SO ORDERED:Dated: 1/10/2022

VERMONT BOARD OF NURSING

By: 
Chairperson

Date of Entry: 1/24/2022

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