

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

IN RE:

JANICE M. LING

License No. 026-0025269

Docket No: NU06-0706

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Janice M. Ling, R.N., 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, 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 ("ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

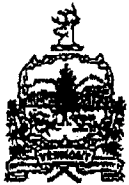
2. The Respondent, Janice M. Ling, is licensed in the State of Vermont as a Registered Nurse under license number 026-0025269. This license was originally issued on or about November 18, 1999 and is currently set to expire on March 31, 2009.

3. At all times relevant, the Respondent was employed as the Nursing Supervisor for the Lund Family Center (the "Facility") located in Burlington, Vermont.

4. On or about July 14, 2006 client A.M. was administered a urine screen due to staff concerns that A.M. was not receiving Hydrocodone as prescribed. This concern was based on a report that day by a different client who advised Facility staff that the narcotic pills she had received at Fletcher Allen Health Care appeared different from the narcotic pills she was receiving at the Facility. The results of A.M.'s urine screen were negative for opiates.

5. Upon further investigation, K.C., Director of Human Resources at the Facility, discovered that A.M. obtained a prescription for Hydrocodone/APAP 500mg ("Hydrocodone") on or about June 6, 2006. Two urine screens collected previous to A.M.'s prescription, one on May 30, 2006 and a second on May 31, 2006, were both negative for opiates. According to the Narcotic Medication Record ("NMR"), A.M. received one to two tablets of Hydrocodone daily from June 6, 2006 to June 26, 2006. Facility records indicated that eight (8) urine

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screens were collected from A.M. between June 6, 2006 and June 27, 2006. All eight urine screens indicated that A.M. was testing negative for opiates during that time period. There is no documentation that A.M.'s negative urine screens were followed up on, despite the fact that A.M. was supposed to be receiving narcotics when the screens were administered.

6. On or about June 27, 2006, A.M. obtained a new prescription for Hydrocodone. According to the NMR, A.M. received one to two tablets of Hydrocodone daily from June 27, 2006 to July 18, 2006. Urine screens collected from A.M. on June 28, June 29, and July 4, 2006 were all positive for opiates. Urine screens collected from A.M. on July 9, July 12, July 13, and July 14, 2006 were all negative for opiates. On or about July 14, 2006 A.M.'s Hydrocodone prescription was pulled from circulation. It was noted that when A.M.'s prescription was pulled, the bottle contained seven (7) white, oblong shaped pills with red marks.

7. The same day that A.M.'s medication was pulled, the Respondent took the suspicious medication to the Price Chopper Pharmacy. The Price Chopper pharmacist reportedly advised the Respondent that the pills in A.M.'s prescription bottle appeared to be Tylenol. The Facility has stock Tylenol that appears similar in shape, size, and appearance.

8. Following the July 14 discovery that A.M.'s Hydrocodone prescription had been tampered with, the Respondent advised K.C. that she had previously located an additional suspicious bottle of medication belonging to client A.S. The Respondent advised K.C. that she thought A.S.'s medication looked substituted and that she had been storing it in her office since the point that the medication was discontinued on or about June 28, 2006. Later in the investigation, the Respondent produced the prescription bottle containing A.S.'s discontinued medication. The bottle contained two white, oblong shaped pills with scratched red lettering.

9. Upon review of A.S.'s medical records, K.C. discovered that A.S. arrived at the Facility with a prescription for Hydrocodone that was filled in New Hampshire on or about June 11, 2006. According to A.S.'s NMR, A.S. received one dose of Hydrocodone on or about June 14, 2006, the day she arrived at the Facility. A.S. was administered a urine screen on or about June 14, 2006 which was positive for opiates. However, all urine screens collected from A.S. after June 14 until the point that A.S.'s prescription was discontinued on June 28, 2006, approximately five (5) screens total, were negative for opiates.

10. On or about June 30, 2007, A.S. received a prescription for Roxicet 5/325mg (Oxycodone/APAP). A.S.'s medical records reveal that urine screens given on July 1, 2006 and July 2, 2006 were both positive for opiates. However, a urine screen given on July 3, 2006 was negative for opiates. A.S.'s NMR indicates that A.S. was administered a total of five (5) tablets of Roxicet between July 1 and July 3. Additionally, A.S.'s Roxicet prescription was for twenty (20) tablets, however, A.S.'s NMR indicates that the count started at fifteen (15) tablets. There is no documentation available accounting for the five (5) missing Roxicet tablets.

11. In an interview conducted by State Investigator Amy Carlson on or about July 26, 2006, the Respondent advised that she often disposed of medication by herself. With regard to

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A.S.'s Hydrocodone prescription, the Respondent advised that she kept the discontinued medication in her office because she did not have a chance to destroy it.

#### Charges

12. The acts, omissions and/or circumstances described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:

- i. 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. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and
- ii. 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).

#### Understandings

13. This Stipulation is neither an admission of liability by the Respondent nor a concession by the State of Vermont that its charges are not well founded. To avoid delay, uncertainty, inconvenience, and expense of protracted litigation of the charges above the Parties reach a full and final Stipulation pursuant to these Understandings and the Order below.

14. Respondent understands that the Nursing Board must review and accept the terms of the Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.

15. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced her rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.

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

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

18. Respondent voluntarily enters into this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.

19. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.

20. Respondent agrees that the Order set forth below may be entered by the Board.

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21. The factual allegations above should not be read as allegations that the Respondent was involved in misappropriating narcotic medications, but rather that she failed to follow policy concerning timely destruction of narcotics.

### ORDER

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

A. The Board of Nursing hereby **CONDITIONS** the Respondent's license to practice as a registered nurse for a minimum period of **ONE (1) YEAR** commencing with the date of entry of this Stipulation and Consent Order. The conditions are as follows:

(1) Re-issue of License.

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

(2) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent completes one (1) year of supervised nursing practice in which she works at least forty (40) hours every two (2) weeks as a nurse. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis. The Respondent shall be prohibited from working more than forty (40) hours per week during the conditioned period.

(3) Medication Course.

Respondent shall complete (i.e., receive a passing grade, if applicable) a course covering the subject of medication administration, including proper medication dispensing, disposal, and documentation, with prior approval by the Board or its designee, and then submit written documentation (certificate of completion, etc.) to verify same to the satisfaction of the Board or its designee. This course must be completed within three (3) months of the date of entry of this Stipulation and Consent Order.

(4) 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 during the conditioned period in which Respondent practices as a nurse and inform them of Respondent's conditional license status.

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

In the event Respondent is attending a nursing program which has a clinical portion which involves actual patient care, she shall provide a copy of the Stipulation and Consent Order to the Program Director. Respondent shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Stipulation and Consent Order and ability of the program to comply with its conditions during clinical experience.

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(5) Reports from Employers.

Within one (1) month of the date of entry of this Order or within one (1) month of the commencement of registered nursing employment and monthly thereafter, Respondent shall cause every registered nursing employer the Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. This report shall be submitted in writing on forms issued by the Board.

In the event the Respondent is attending a nursing program, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of his performance and attendance. This report shall be submitted in writing on forms issued by the Board and accompanied by a cover letter on the school's letterhead.

(6) Practice Under Supervision.

Respondent shall practice only in a registered nurse setting where Respondent has on-site supervision for the entire shift by a licensed registered nurse that is in good standing with the Board.

(7) Types of Employment Prohibited.

Respondent shall not work as a supervising nurse. Respondent 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 Consent Order.

(8) Out of State Practice/Residence.

Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board prior to Respondent leaving the State of Vermont. If Respondent fails to receive such approval before leaving the State, none of the time spent 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 practice so long as the Respondent can still comply with the provisions of this Consent Order.

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

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

(10) License Renewal.

If the Respondent's license expires while this Order is still in effect, this Order does not automatically extend the license. In that situation, in order to continue to practice nursing, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that she has otherwise complied with the requirements for license renewal.

(11) Costs.

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

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(12) Violation of this Order.

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

(13) Completion of Conditional License Period.

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on her license. The Respondent must present proof that she has fully complied with the terms of this Order.

B. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.

C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

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

AGREED TO:

STATE OF VERMONT  
SECRETARY OF STATE

Dated: 6/2/08

By:

Edward G. Adams  
State Prosecuting Attorney

JANICE M. LING  
RESPONDENT

Dated: 6-2-08

By:

Janice M. Ling

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 6-2-08

By:

Jud. G. Barone, Esq.

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APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 6-9-08

By: S. Linda Rice  
Chairperson

Date of Entry: 6/11/08

as Reg. stp

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OFFICE OF PROFESSIONAL REGULATION  
BOARD OF NURSING

IN RE: )  
JANICE M. LING ) Docket No: NU06-0706  
License No. 026-0025269 )

**SPECIFICATION OF CHARGES**

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Janice M. Ling, R.N.:

**Board Authority**

1. The Vermont State Board of Nursing ("the Board") has authority to issue warnings or reprimands, suspend, revoke, limit, 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 pursuant to 3 V.S.A. §§129, §129a, and §814(d); 26 V.S.A. §§1582, the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.

**Statement of Facts**

2. The Respondent, Janice M. Ling, is licensed in the State of Vermont as a Registered Nurse under license number 026-0025269. This license was originally issued on or about November 18, 1999 and is currently set to expire on March 31, 2009.

3. At all times relevant, the Respondent was employed as the Nursing Supervisor for the Lund Family Center (the "Facility") located in Burlington, Vermont.

4. On or about July 14, 2006 client A.M. was administered a urine screen due to staff concerns that A.M. was not receiving Hydrocodone as prescribed. This concern was based on a report that day by a different client who advised Facility staff that the narcotic pills she had received at Fletcher Allen Health Care appeared different from the narcotic pills she was receiving at the Facility. The results of A.M.'s urine screen were negative for opiates.

5. Upon further investigation, K.C., Director of Human Resources at the Facility, discovered that A.M. obtained a prescription for Hydrocodone/APAP 500mg ("Hydrocodone") on or about June 6, 2006. Two urine screens collected previous to A.M.'s prescription, one on May 30, 2006 and a second on May 31, 2006, were both negative for opiates. According to the Narcotic Medication Record ("NMR"), A.M. received one to two tablets of Hydrocodone daily from June 6, 2006 to June 26, 2006. Facility records indicated that eight (8) urine screens were collected from A.M. between June 6, 2006 and June 27, 2006. All eight urine screens indicated that A.M. was testing negative for opiates during that time period. There is

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no documentation that A.M.'s negative urine screens were followed up on, despite the fact that A.M. was supposed to be receiving narcotics when the screens were administered.

6. On or about June 27, 2006, A.M. obtained a new prescription for Hydrocodone. According to the NMR, A.M. received one to two tablets of Hydrocodone daily from June 27, 2006 to July 18, 2006. Urine screens collected from A.M. on June 28, June 29, and July 4, 2006 were all positive for opiates. Urine screens collected from A.M. on July 9, July 12, July 13, and July 14, 2006 were all negative for opiates. On or about July 14, 2006 A.M.'s Hydrocodone prescription was pulled from circulation. It was noted that when A.M.'s prescription was pulled, the bottle contained seven (7) white, oblong shaped pills with red marks.

7. The same day that A.M.'s medication was pulled, the Respondent took the suspicious medication to the Price Chopper Pharmacy. The Price Chopper pharmacist reportedly advised the Respondent that the pills in A.M.'s prescription bottle appeared to be Tylenol. The Facility has stock Tylenol that appears similar in shape, size, and appearance.

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11. In an interview conducted by State Investigator Amy Carlson on or about July 26, 2006, the Respondent advised that she often disposed of medication by herself. With regard to A.S.'s Hydrocodone prescription, the Respondent advised that she kept the discontinued medication in her office because she did not have a chance to destroy it.

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### Charges

12. The acts, omissions and/or circumstances described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:

- i. 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes performing unsafe or unacceptable patient care pursuant to ARBN Chapter 4, Rule IV(II)(B)(1); failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(2);
- ii. 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. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and
- iii. 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).

### Request for Relief

**WHEREFORE**, the license of Janice M. Ling should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

**DATED** at Montpelier, Vermont this 30<sup>th</sup> day of November 2007.

STATE OF VERMONT  
SECRETARY OF STATE

By: \_\_\_\_\_

Edward G. Adrian  
State Prosecuting Attorney

nu.ling.soc

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