

Journal

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

IN RE:

BARBARA A. LONG

License No. 025-0004461

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Docket No. NU17-0904

STIPULATION AND CONSENT ORDER

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent Barbara A. Long, L.P.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, Barbara A. Long, is a licensed practical nurse holding license number 025-0004461 issued by the State of Vermont. This license was originally issued on or about May 24, 1978 and is set to expire on January 31, 2008.

3. The Respondent's license is currently conditioned for a period of three (3) years pursuant to a Stipulation and Consent Order entered by this Board on or about December 16, 2004. Attachment A. The Respondent's license was conditioned due to her admitted drug diversion.

4. At all relevant times to these charges, the Respondent was employed as a licensed practical nurse at the Southwest Vermont Medical Center (the "Hospital") located in Bennington, Vermont.

5. On or about May 23, 2006, the Board received an employer report, dated May 6, 2006, from the Respondent's employer covering the month of April 2006. In the report, the Respondent's employer indicated that the Respondent has struggled with several ongoing issues at work. Specifically, the Respondent has difficulty arriving at work on time and completing required documentation without being reminded.

6. Additionally, staff at the Facility documented two instances in which the Respondent was not able to safely perform her duties.

STATE OF VERMONT



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

a. On or about April 10, 2006 D.B., an R.N. at the Facility, called Respondent's supervisor, K.R., due to D.B.'s concern regarding the Respondent's behavior and ability to safely perform her duties. D.B. described the Respondent as appearing very tired with difficulty focusing. D.B. noted that the Respondent seemed unable to process patient information and had to be asked several times to complete the same task. K.R. then met with D.B. and the Respondent. During the meeting, K.R. observed that the Respondent appeared tired, her speech was thick, and at times she seemed to exhibit a vacant stare. The Respondent advised K.R. that she had not slept well the night before and attributed her speech to a very dry mouth caused by her medication. At that point, the Respondent was asked to report off duty and consult her physician for an assessment regarding her ability to safely perform her job duties. Shortly after the meeting, D.B. advised K.R. that the Respondent was still on the unit and D.B. could not get the Respondent to leave. Approximately an hour later, K.R. was again informed that the Respondent remained on the unit and was continuing to work. K.R. spoke to the Respondent advising her that she needed to leave immediately. The Respondent then left the Facility as instructed.

b. On or about May 9, 2006, staff member S.B. asked registered nurse B.B. to observe the Respondent during her nursing report. S.B. reported that the Respondent was fifteen minutes late to report and S.B. was concerned that the Respondent was unable to concentrate and focus on the report. B.B. observed that the Respondent was writing her report in very small writing with her eyes very close to the paper. During her approximate five minute observation, B.B. also noted that Respondent's eyes closed and her head bobbed a few times. B.B. asked the Respondent to come to her office where B.B. noted the Respondent's speech continued to be slow and garbled and the Respondent had difficulty expressing herself. The Respondent advised B.B. that she had difficulty sleeping the night before and had taken Dexapin. B.B. advised the Respondent that she was not safe to work that day and requested that the Respondent go home. The Respondent left the Facility and called B.B. when she arrived home and again after the Respondent had slept for a few hours.

Charges

7. 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

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- (iii) 3 V.S.A. §129a(a)(3) (failing to comply with the provisions of state statutes or rules governing the practice of the profession).

Understandings

8. 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.
9. 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.
10. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
11. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
12. 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.
13. 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.
14. 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 **INDEFINATELY SUSPENDS** the Respondent's license to practice nursing until separate independent evaluations of the Respondent are completed by 1) the Respondent's neurologist/psychiatrist and 2) the Respondent's internist. The Respondent's license may be reinstated only after the Board receives confirmation from both of the Respondent's treating professionals referenced above that the Respondent is capable of returning to the practice of nursing and does not present an identifiable risk of harm to the public or her patients. If reinstated, the Respondent's license may be conditioned by this Board if appropriate.
- 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).

STATE OF VERMONT



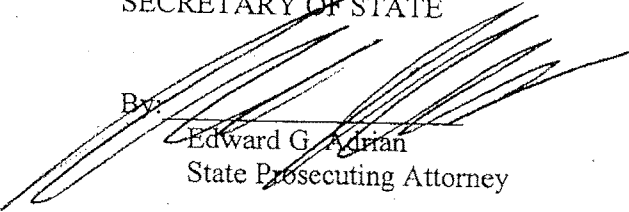
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Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

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: 10/2/06

By: 

Edward G. Adrian
State Prosecuting Attorney

BARBARA A. LONG
RESPONDENT

Dated: 10/30/06

By: Barbara A. Long

Barbara A. Long

APPROVED AND SO ORDERED:
VERMONT BOARD OF NURSING

Dated: Nov. 13, 2006

By: James O. Farrell

Chairperson

Date of Entry: 11/15/06

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STATE OF VERMONT



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

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

IN RE:)
BARBARA A. LONG) Docket No. NU17-0904
License No. 025-0004461)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Barbara A. Long, L.P.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. 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, Barbara A. Long, is a licensed practical nurse holding license number 025-0004461 issued by the State of Vermont. This license was originally issued on or about May 24, 1978 and is set to expire on January 31, 2008.

3. The Respondent's license is currently conditioned for a period of three (3) years pursuant to a Stipulation and Consent Order entered by this Board on or about December 16, 2004. Attachment A. The Respondent's license was conditioned due to her admitted drug diversion.

4. At all relevant times to these charges, the Respondent was employed as a licensed practical nurse at the Southwest Vermont Medical Center (the "Hospital") located in Bennington, Vermont.

5. On or about May 23, 2006, the Board received an employer report, dated May 6, 2006, from the Respondent's employer covering the month of April 2006. In the report, the Respondent's employer indicated that the Respondent has struggled with several ongoing issues at work. Specifically, the Respondent has difficulty arriving at work on time and completing required documentation without being reminded.

6. Additionally, staff at the Facility documented two instances in which the Respondent was not able to safely perform her duties.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
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Montpelier, VT
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a. On or about April 10, 2006 D.B., an R.N. at the Facility, called Respondent's supervisor, K.R., due to D.B.'s concern regarding the Respondent's behavior and ability to safely perform her duties. D.B. described the Respondent as appearing very tired with difficulty focusing. D.B. noted that the Respondent seemed unable to process patient information and had to be asked several times to complete the same task. K.R. then met with D.B. and the Respondent. During the meeting, K.R. observed that the Respondent appeared tired, her speech was thick, and at times she seemed to exhibit a vacant stare. The Respondent advised K.R. that she had not slept well the night before and attributed her speech to a very dry mouth caused by her medication. At that point, the Respondent was asked to report off duty and consult her physician for an assessment regarding her ability to safely perform her job duties. Shortly after the meeting, D.B. advised K.R. that the Respondent was still on the unit and D.B. could not get the Respondent to leave. Approximately an hour later, K.R. was again informed that the Respondent remained on the unit and was continuing to work. K.R. spoke to the Respondent advising her that she needed to leave immediately. The Respondent then left the Facility as instructed.

b. On or about May 9, 2006, staff member S.B. asked registered nurse B.B. to observe the Respondent during her nursing report. S.B. reported that the Respondent was fifteen minutes late to report and S.B. was concerned that the Respondent was unable to concentrate and focus on the report. B.B. observed that the Respondent was writing her report in very small writing with her eyes very close to the paper. During her approximate five minute observation, B.B. also noted that Respondent's eyes closed and her head bobbed a few times. B.B. asked the Respondent to come to her office where B.B. noted the Respondent's speech continued to be slow and garbled and the Respondent had difficulty expressing herself. The Respondent advised B.B. that she had difficulty sleeping the night before and had taken Dexapin. B.B. advised the Respondent that she was not safe to work that day and requested that the Respondent go home. The Respondent left the Facility and called B.B. when she arrived home and again after the Respondent had slept for a few hours.

Charges

7. 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

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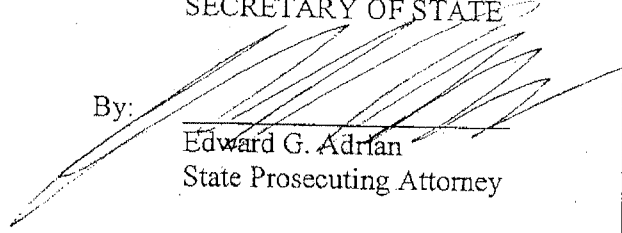
(iii) 3 V.S.A. §129a(a)(3) (failing to comply with the provisions of state statutes or rules governing the practice of the profession).

Request for Relief

WHEREFORE, the license of Barbara A. Long should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 18th day of July 2006.

STATE OF VERMONT
SECRETARY OF STATE

By: 

Edward G. Adrian
State Prosecuting Attorney

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STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
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STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

IN RE:

BARBARA A. LONG

License No. 025-0004461

DOCKET No. NU17-0904

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by State Prosecuting Attorney, Edward G. Adrian and the Respondent, Barbara A. Long, L.P.N., who stipulate and agree as follows:

Board Authority

1. The Vermont Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28 and; the Rules of the Board and the Vermont Office of Professional Regulation.

Statement of Facts

2. Barbara A. Long (the "Respondent") of Pownal, Vermont is a licensed practical nurse holding license number 025-0004461 issued by the State of Vermont. This license was originally issued on or about February 1, 2004 and is set to expire on January 31, 2006. The Respondent's license was summarily suspended by the Board on October 11, 2004 based upon the facts below.
3. At all relevant times, the Respondent was practicing as a licensed practical nurse and worked at the Southwest Vermont Medical Center (the "Hospital") located in Bennington, Vermont.
4. From April-August, 2004 diverted from the Hospital, the regulated drug Phenergan approximately 53 times for her personal use.
5. On August 12, 2003, Bridget Brominski, an R.N. employed at the Hospital, requested a report be run from the Pyxis machine on the activity for Pheregan from April 2004 to July 2004. This action was prompted by an email from Karen Davis, an R.N. at the Hospital and a supervisee of Ms. Brominski's. Ms. Davis stated in her email that when she went to remove Phenergan from the Pyxis machine for a patient, the bin was empty. Ms. Davis called the Pharmacy to restock the bin and when the technician came up, he mentioned to her that this had occurred before, meaning the bin had gone empty.
6. The Pyxis report indicated that an unusual number of "cancel remove" code functions was observed to be attributable to the Respondent. Another report

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Attachment A

showed that the Respondent had 53 transactions of the cancel remove code for Phenergan.

7. When questioned about this and shown the records by the Director of Integrated Clinical Services, the Vice President of Human Services and Chief Operating and Nursing Officer, the Respondent admitted to taking the Phenergan.
8. On December 2, 2004, the Board received an independent evaluation of the Respondent by Evita Cabo, L.C.M.H.C., who met with the Respondent on September 16, 2004. Ms. Cabo states that she supports the reinstatement of the Respondent's license with conditions that she attend therapy sessions and be mentored with close supervision to insure that she is not a danger to the public.

Charges

9. The above acts and circumstances, alone or in combination, violate: 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); 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause); 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public); Vermont Board of Nursing Administrative Rules, Chapter 4, Rule IV, II, D. 4 (diverting supplies, equipment, or drugs for personal or other unauthorized use).

Understandings

10. 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.
11. 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.
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 charges and a contested hearing before the Board of Nursing.
16. Respondent agrees that the order set forth below may be entered by the Board.

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Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

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 nursing for a minimum period of **THREE (3) YEARS** commencing with the date of entry of this Stipulation and Consent Order. The conditions are as follows:

(1) Re-issue of License.

Upon the commencement 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 three (3) years of supervised nursing practice in which she works 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. Respondent shall be prohibited from working more than forty (40) hours per week, not including nursing school. Respondent's license is additionally conditioned as follows.

(3) Completion of Drug Abuse Counseling and Treatment Plan.

Respondent shall enter into and continue drug abuse counseling with a treating professional approved by the Board until the treating professional shall certify in writing to the Nursing Board that such counseling is no longer necessary. Respondent shall enter into and comply with the drug abuse treatment plan approved by the Board and the treating professional.

(4) Notification to Treating Professional.

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

(5) Reports from Treating Professional.

Respondent shall authorize and cause her treating professional 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 entry of the order and subsequent reports are due every month thereafter.

Respondent shall authorize her treating professional 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.

(6) Notification to Employers/Nursing School.

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Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

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 entry of this Order and 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.

(7) Reports from Employers.

Within one (1) month of the date of entry of this Order or within one (1) month of the subsequent 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. 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 her 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.

(8) Administration of Medications.

Respondent is prohibited from administering any controlled substances. This condition may be removed only by the Respondent filing a petition with the Board after she has worked as nurse for twelve (12) weeks for at least 40 hours work every two weeks (or the part time equivalent) after the entry date of this Order.

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

The removal of this prohibition shall not automatically result in the reinstatement of all medication privileges. The Board may gradually restore those privileges through whatever intermediary steps it determines are appropriate.

(9) Practice Under Supervision.

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



288
It is understood that Respondent is currently taking the following medications prescribed by her primary care physician, Peter Wither, MD.: Xanax, Zolofid, and Doxepin.

(10) Participation in Recovery Group.

Respondent shall participate as recommended by her treating professional, in Narcotics Anonymous meetings and/or other recovery group(s).

(11) Random Drug Testing.

Respondent shall submit to random drug screenings at the request of the Board or its designee. Respondent shall designate a person, who has been approved by the Board or its designee, to administer random drug screens. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative, unless the Respondent screens positive for a drug for which she has a current, valid prescription.

(12) Abstain from Drug Use.

Respondent shall abstain completely from the consumption or possession of drugs with the exception of prescribed medications as outlined in paragraph A.(13) for the period of time described in paragraph A.(2).

(13) Drug Use Exception.

Respondent shall not take controlled substances unless 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 establishment of the practitioner/patient relationship. Respondent shall ensure that the physician, dentist or nurse practitioner informs the Board, in writing and on appropriate letterhead, of knowledge of Respondent's substance abuse issue(s) within one (1) week of entering into the practitioner/patient relationship. Respondent 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.

The Board or its designee may request at any time that the practitioner document the continued necessity for the prescribed scheduled/controlled medications if the term exceeds 14 days. 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 14 days, but if so, then the conditions herein may be revoked by the Board ^{after hearing and a determination by} ~~the board that such revocation is~~

Respondent 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 its designee.

(14) Interview with the Board or its Designee.

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

(15) Types of Employment Prohibited.

Respondent shall not work as a supervising nurse, with the exception of supervising LNAs and other unlicensed assistive persons. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing

Respondent is currently to protect the public.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

employment agency or as a personal care provider during the effective period of this Consent Order.

(16) 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.

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

Within five (5) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of 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.

(18) Notification to Other States.

In the event that the Respondent is licensed as a nurse in any other state(s), she must inform the nurse licensing board of the state(s) in which the Respondent is licensed of the conditional status of her Vermont nursing license within thirty (30) days of the date of entry of this Order. If the Respondent fails to provide such notification, it will be considered a violation of this Order.

(19) 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 he has otherwise complied with the requirements for license renewal.

(20) Release of Information Forms.

In fulfilling the conditions of this Order which require the Respondent to authorize various persons to report information or to discuss the Respondent with the Board, the Respondent must execute a consent to disclose form which meets the requirements of 42 C.F.R. §2.31. The authorization must allow the information to also be provided to the Office of Professional Regulation investigators. Any revocation by the Respondent of such consent to disclosure during the term of this Order shall be considered a violation of this Order.

(21) Costs.

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

(22) 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

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

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.

(23) 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. The Respondent must also present proof of successful drug abuse rehabilitation and she must demonstrate, to the satisfaction of the Nursing Board, that she poses no danger to the public or the practice of nursing and that she can safely and competently perform the duties of an L.P.N.

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

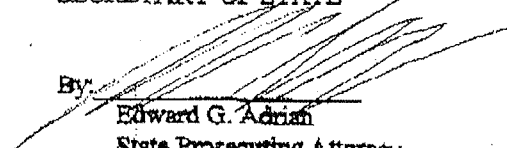
C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

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

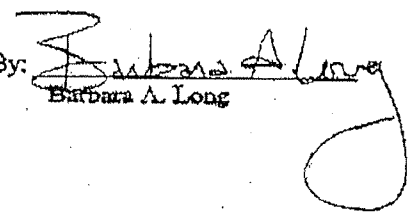
Dated: 12/9/04

By: 

Edward G. Adrian
State Prosecuting Attorney

BARBARA A. LONG
RESPONDENT

Dated: 12-09-04

By: 

Barbara A. Long

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Approved as to Form:

ATTORNEY FOR RESPONDENT

Dated: 12/9/04

By: [Signature]
Stephen L. Saltonstall, Esq.

APPROVED AND SO ORDERED: VERMONT BOARD OF NURSING

Dated: Dec. 13, 2004

By: [Signature]
Chairperson

Date of Entry: 12/16/04

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

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In re:	Barbara Long	}	Docket No. NU17-0904
License No.	025-0004461	}	
		}	

January 9, 2006

The Nursing Board held a hearing on the above matter on 12 December 2005. Board members Kenneth W. Bush, Susan O. Farrell, Chairperson, Ellen W. Leff, Donarae Metcalf, Sandra Norton, Laurey M. Tyo and Alan Weiss participated. The Respondent did not appear. Kevin F. Leahy was the presiding officer.

Findings of Fact and Conclusions of Law

1. Respondent is subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 26 V.S.A. Chapter 28, the Administrative Rules of the Board of Nursing and the Rules of the Office of Professional Regulation.
2. The State and the Respondent jointly filed a Stipulation and Consent Order (the Order), which was accepted by this Board on 13 December 2004 and entered by the Office of Professional Regulation on 16 December 2004.
3. The Order was based on the Respondent's diversion of prescription medications.
4. The Respondent petitioned to have her license conditions, imposed pursuant to the Order modified via a letter to the Board dated 12 October 2005.
5. Her petition was preliminarily denied on 18 November 2005 citing concerns over the brief duration of the Order's application and insufficient justification for any modification.
6. The Respondent timely appealed the preliminary denial and seeks a Board ruling on her request for modification.
7. Respondent carries the burden of proof to justify the appropriateness of any modification(s) she may request.
8. The crux of the Respondent's appeal is for non-specific modifications to attend an educational program. However, the Respondent does not identify the specific obstacle the Order creates for pursuing her desired educational path, the Respondent offers no specific language that can assist the Board is weighing whether a modification might be appropriate; and the Respondent offers no evidence or compelling justification why any particular modification will give equal or greater protection to the public welfare.
9. No cause is shown by the Respondent warranting a change at this time; and based on the

record before the Board, there if no justification for modifying the Order.

Order

In accordance with the above findings of fact and conclusions of law, the Board ORDERS that the Office of Professional Regulation's 18 November 2005 preliminary denial of Respondent's petition for modifications is AFFIRMED; and the Board further ORDERS that Respondents appeal of the Office of Professional Regulation's 18 November 2005 preliminary denial of Respondent's petition for modifications is DENIED.

Vermont Board of Nursing:

By: Susan O. Farrell
Susan O. Farrell, RN
Chairperson

Date: 1/26/06

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 1/31/06

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, 26 Terrace Street, Drawer 09, Montpelier, Vermont 05609-1106 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.

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

IN RE:)
BARBARA A. LONG) DOCKET No. NU17-0904
License No. 025-0004461)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by State Prosecuting Attorney, Edward G. Adrian and the Respondent, Barbara A. Long, L.P.N., who stipulate and agree as follows:

Board Authority

1. The Vermont Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28 and; the Rules of the Board and the Vermont Office of Professional Regulation.

Statement of Facts

2. Barbara A. Long (the "Respondent") of Pownal, Vermont is a licensed practical nurse holding license number 025-0004461 issued by the State of Vermont. This license was originally issued on or about February 1, 2004 and is set to expire on January 31, 2006. The Respondent's license was summarily suspended by the Board on October 11, 2004 based upon the facts below.
3. At all relevant times, the Respondent was practicing as a licensed practical nurse and worked at the Southwest Vermont Medical Center (the "Hospital") located in Bennington, Vermont.
4. From April-August, 2004 diverted from the Hospital, the regulated drug Phenergan approximately 53 times for her personal use.
5. On August 12, 2003, Bridget Brominski, an R.N. employed at the Hospital, requested a report be run from the Pyxis machine on the activity for Pheregan from April 2004 to July 2004. This action was prompted by an email from Karen Davis, an R.N. at the Hospital and a supervisee of Ms. Brominski's. Ms. Davis stated in her email that when she went to remove Phenergan from the Pyxis machine for a patient, the bin was empty. Ms. Davis called the Pharmacy to restock the bin and when the technician came up, he mentioned to her that this had occurred before, meaning the bin had gone empty.
6. The Pyxis report indicated that an unusual number of "cancel remove" code functions was observed to be attributable to the Respondent. Another report

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

showed that the Respondent had 53 transactions of the cancel remove code for Phenergan.

7. When questioned about this and shown the records by the Director of Integrated Clinical Services, the Vice President of Human Services and Chief Operating and Nursing Officer, the Respondent admitted to taking the Phenergan.
8. On December 2, 2004, the Board received an independent evaluation of the Respondent by Evita Cabo, L.C.M.H.C., who met with the Respondent on September 16, 2004. Ms. Cabo states that she supports the reinstatement of the Respondent's license with conditions that she attend therapy sessions and be mentored with close supervision to insure that she is not a danger to the public.

Charges

9. The above acts and circumstances, alone or in combination, violate: 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); 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause); 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public); Vermont Board of Nursing Administrative Rules, Chapter 4, Rule IV, II, D. 4 (diverting supplies, equipment, or drugs for personal or other unauthorized use).

Understandings

10. 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.
11. 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.
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 charges and a contested hearing before the Board of Nursing.
16. Respondent agrees that the order set forth below may be entered by the Board.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

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 nursing for a minimum period of **THREE (3) YEARS** commencing with the date of entry of this Stipulation and Consent Order. The conditions are as follows:

(1) Re-issue of License.

Upon the commencement 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 three (3) years of supervised nursing practice in which she works 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. Respondent shall be prohibited from working more than forty (40) hours per week, not including nursing school. Respondent's license is additionally conditioned as follows.

(3) Completion of Drug Abuse Counseling and Treatment Plan.

Respondent shall enter into and continue drug abuse counseling with a treating professional approved by the Board until the treating professional shall certify in writing to the Nursing Board that such counseling is no longer necessary. Respondent shall enter into and comply with the drug abuse treatment plan approved by the Board and the treating professional.

(4) Notification to Treating Professional.

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

(5) Reports from Treating Professional.

Respondent shall authorize and cause her treating professional 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 entry of the order and subsequent reports are due every month thereafter.

Respondent shall authorize her treating professional 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.

(6) Notification to Employers/Nursing School.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

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 entry of this Order and 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.

(7) Reports from Employers.

Within one (1) month of the date of entry of this Order or within one (1) month of the subsequent 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. 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 her 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.

(8) Administration of Medications.

Respondent is prohibited from administering any controlled substances. This condition may be removed only by the Respondent filing a petition with the Board after she has worked as nurse for twelve (12) weeks for at least 40 hours work every two weeks (or the part time equivalent) after the entry date of this Order.

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

The removal of this prohibition shall not automatically result in the reinstatement of all medication privileges. The Board may gradually restore those privileges through whatever intermediary steps it determines are appropriate.

(9) Practice Under Supervision.

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



(10) Participation in Recovery Group.

Respondent shall participate as recommended by her treating professional, in Narcotics Anonymous meetings and/or other recovery group(s).

(11) Random Drug Testing.

Respondent shall submit to random drug screenings at the request of the Board or its designee. Respondent shall designate a person, who has been approved by the Board or its designee, to administer random drug screens. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative, unless the Respondent screens positive for a drug for which she has a current, valid prescription.

(12) Abstain from Drug Use.

Respondent shall abstain completely from the consumption or possession of drugs with the exception of prescribed medications as outlined in paragraph A.(13) for the period of time described in paragraph A.(2).

(13) Drug Use Exception.

Respondent shall not take controlled substances unless 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 establishment of the practitioner/patient relationship. Respondent shall ensure that the physician, dentist or nurse practitioner informs the Board, in writing and on appropriate letterhead, of knowledge of Respondent's substance abuse issue(s) within one (1) week of entering into the practitioner/patient relationship. Respondent 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.

The Board or its designee may request at any time that the practitioner document the continued necessity for the prescribed scheduled/controlled medications if the term exceeds 14 days. 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 14 days, but if so, then the conditions herein may be revoked by the Board, *after hearing and a determination by the board that such revocation is*

Respondent 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 its designee.

(14) Interview with the Board or its Designee.

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

(15) Types of Employment Prohibited.

Respondent shall not work as a supervising nurse, with the exception of supervising LNAs and other unlicensed assistive persons. 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.

(16) 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.

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

Within five (5) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of 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.

(18) Notification to Other States.

In the event that the Respondent is licensed as a nurse in any other state(s), she must inform the nurse licensing board of the state(s) in which the Respondent is licensed of the conditional status of her Vermont nursing license within thirty (30) days of the date of entry of this Order. If the Respondent fails to provide such notification, it will be considered a violation of this Order.

(19) 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 he has otherwise complied with the requirements for license renewal.

(20) Release of Information Forms.

In fulfilling the conditions of this Order which require the Respondent to authorize various persons to report information or to discuss the Respondent with the Board, the Respondent must execute a consent to disclose form which meets the requirements of 42 C.F.R. §2.31. The authorization must allow the information to also be provided to the Office of Professional Regulation investigators. Any revocation by the Respondent of such consent to disclosure during the term of this Order shall be considered a violation of this Order.

(21) Costs.

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

(22) 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

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

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.

(23) 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 full complied with the terms of this Order. The Respondent must also present proof of successful drug abuse rehabilitation and she must demonstrate, to the satisfaction of the Nursing Board, that she poses no danger to the public or the practice of nursing and that she can safely and competently perform the duties of an L.P.N.

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

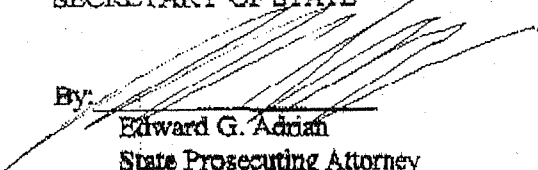
C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

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

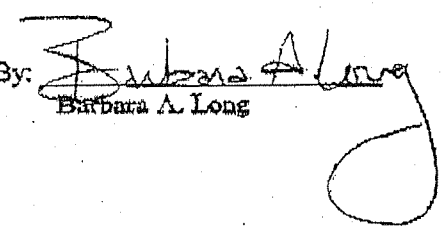
Dated: 12/9/04

By: 

Edward G. Adrian
State Prosecuting Attorney

BARBARA A. LONG
RESPONDENT

Dated: 12-09-04

By: 

Barbara A. Long

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Approved as to Form:

ATTORNEY FOR RESPONDENT

Dated: 12/9/04

By: 
Stephen L. Saltonstall, Esq.

APPROVED AND SO ORDERED: VERMONT BOARD OF NURSING

Dated: Dec. 13, 2004

By: 
Chairperson

Date of Entry: 12/16/04

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

nu.long2.stip.wpd

7. When questioned about this and shown the records by the Director of Integrated Clinical Services, the Vice President of Human Services and Chief Operating and Nursing Officer, the Respondent admitted to taking the Phenergan. The Affidavit of Investigator Steven Kennedy attached hereto further sets forth the allegations.

Charges

8. The above acts and circumstances, alone or in combination, violate: 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); 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause); 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public); Vermont Board of Nursing Administrative Rules, Chapter 4, Rule IV, II, D. 4 (diverting supplies, equipment, or drugs for personal or other unauthorized use).

Request for Relief

WHEREFORE, the license of Barbara A. Long should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 14th day of October, 2004.

STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

nu.long.soc.wpd

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

IN RE: BARBARA A. LONG) DOCKET No. NU17-0904
License No. 025-0004461)

1. The Vermont Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by Nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28 and; the rules of the Board and the Vermont Office of Professional Regulation.
2. The Board of Nursing is authorized by 3 V.S.A. § 814 to summarily suspend the license of a nurse when it finds that the public health, safety or welfare imperatively requires emergency action.

3. Barbara A. Long (the "Respondent") of Pownal, Vermont is a licensed practical nurse holding license number 025-0004461 issued by the State of Vermont. This license was originally issued on or about February 1, 2004 and is set to expire on January 31, 2006
4. At all relevant times the Respondent was practicing as a licensed practical nurse and worked at the Southwest Vermont Medical Center (the "Hospital") located in Bennington, Vermont.
5. From April-August, 2004 diverted from the Hospital, the regulated drug Phenergan approximately 53 times for her personal use. The Affidavit of Investigator Steven Kennedy attached hereto further sets forth the allegations.

6. The facts as set out above establish that in order to protect the public health, safety or welfare of the people of the State of Vermont emergency action is imperative.
11. The above acts and circumstances, alone or in combination, violate: 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); 3 V.S.A. §§ 129a(b)(1)(failure to practice competently by any reason of any cause on a single occasion or on multiple occasions . . . performance of unsafe or unacceptable patient care); 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause); 26 V.S.A. § 1582(a)(5) (is addicted to the use of habit forming drugs); 26 V.S.A. §



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

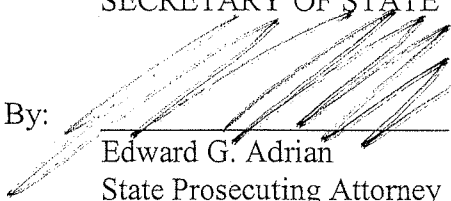
1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public); Vermont Board of Nursing Administrative Rule (the "Rules") Chapter 4, Rule IV, II, B, 1; (performance of unsafe or unacceptable patient care); and Rule Chapter 4, Rule IV, II, D. 4 (diverting supplies, equipment, or drugs for personal or other unauthorized use).

WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. § 814, the Respondent's nursing license number 025-0004461 be summarily suspended.

DATED at Montpelier, Vermont this 4TH day of October, 2004.

STATE OF VERMONT
SECRETARY OF STATE

By:


Edward G. Adrian
State Prosecuting Attorney

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STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

AFFIDAVIT

STATE OF VERMONT
Bennington County S.S.

NOW COMES Stephen Kennedy, affiant, being duly sworn and upon oath, deposes and says he has probable cause to believe that Barbara Long has committed the offenses of Petty Larceny and Embezzlement, a violation of Title 13 V.S.A. sections 2502 and 2531.

DEFENDANT

Barbara Ann Long

36 Puddles Road

Pownal VT 05261

DOB: 7/19/56 age 48

POB: Cambridge NY

Date of Offense: Between April 2004 and August 2004

Place of Offense: Southwest Vermont Medical Center

The above stated offenses occurred in the Town of Bennington, Bennington County Vermont.

1. I am a full time law enforcement officer, certified by the Vermont Criminal Justice Training Council since April of 1977 and employed as an Investigator for the Secretary of state.
2. On 9/16/04 I was assigned a case of possible drug theft at the Southwest Vermont Medical Center in Bennington based on a complaint from Katherine Riley.
3. On 9/21/04 I met with Katherine Riley R.N. at the Southwest Vermont Medical Center. Riley is the Director of Integrated Clinical Services and Women and Children Services at the facility. She provided the following information; On 8/11/04, Karen Davis RN, sent an e-mail to her supervisor Bridget Bromirski RN, stating that when she went to remove phenergan (promethazine) from the Pyxis machine in the Women's and Children unit for a patient, the bin was empty. She called the Pharmacy to restock the bin and when the technician came up he mentioned to her that this had occurred before, meaning the bin had gone empty. Davis expressed her concern that this may be a recurring problem. On 8/12/04 Bridget Bromirski RN requested a report be run from the Pyxis machine on the activity for

the phenergan for the past three months from April 2004 to July 2004. The report showed an unusual number of "cancel remove" code functions of this drug by one nurse, Barbara Long. On 8/14/04 Riley requested a pyxis report for the same time period for all activity by Barbara Long and also a report of all cancel remove codes used by Long. The report showed 97 cancel remove codes transactions for Barbara Long. 53 of these transactions were for phenergan. On 8/20/04 Riley requested a report for all cancel remove activity for all users on the Women's and Children unit for the same time period. Riley eliminated all other entries from all other users. This report showed that Long had 64 transactions of the cancel remove code. The next highest number for any other user was 13. On 8/25/04 Riley requested a manual count of the phenergan in the machine at the start of the day shift. On 8/25/04 at 8am Laurie Lincoln R.Ph. did the count. The count was 12. From 8am on 8/25/04 to 8am on 8/26/04 there was only one patient on the unit that had an order for phenergan. On 8/26/04 at 8am Edward Lanoue R.Ph. conducted a count of the phenergan. The count was 7. A Pyxis report for this 24-hour time period showed only one user accessed the phenergan. The user was Barbara Long and the phenergan was accessed under the cancel remove code. The report showed Long accessed the machine on 8/25/04 at 4.47pm and at 10.19pm for patient SW. The code was cancel remove. Riley said the patient was not medicated according to the nurse's notes.

4. A Pyxis is computerized secure drug storage machine. Each user is given a user name and password to access patient drugs. The drugs are stored in compartments and the particular compartments are opened after the user name, password and desired drug is entered. The cancel remove code is a code that indicates the user went into the machine for a particular patient and drug and then the activity was canceled meaning the patient was not given the drug.
5. Riley said Long had been employed at the Hospital since April 7, 1977 as a LPN. On 8/27/04 Long was placed on disability. Riley said that on 8/27/04, Mary Wicker, Craig Ghidotti and herself met with Long at the Hospital. They discussed the drug shortage. Riley said that Long first denied any involvement. They asked her to explain the high number of cancel remove codes for phenergan. Riley said that Long denied again any involvement. Riley said Long was confronted with the records and Long admitted to taking the phenergan and that a problem exists. Riley said that Long told her Long was injecting the drug to relieve anxiety.
6. On 9/21/04 I met with Bridget Bromirski RN at SWVMC. Bromirski confirmed that she received e-mail from Karen Davis on 8/11/04 concerning phenergan shortage. Previous to the e-mail Bromirski was unaware of any shortage and when she was made aware she informed Laurie Lincoln and Katherine Riley. She said that she had requested a Pyxis report on 8/12/04 and had assisted Riley in the review of the reports.
7. On 9/21/04 I met with Kelly Davis at SWVMC. She said that on 8/11/04 she went to remove phenergan from the Pyxis machine. She entered her code and when the drawer opened it was empty. She called the Pharmacy to restock the drug and when

the technician came to fill the drawer he commented that he had to charge the unit for 8 missing vials and that the month before he had to charge the unit for 12 missing vials. Davis thought this number of phenergan usage to be high and reported this fact to her supervisor, Bridget Bromirski.

8. On 9/21/04 I met with Mary Wicker at SWVMC. Wicker is the Chief Operating Officer and Chief Nursing Officer of the SWVMC. Wicker she was involved in the discussion with Barbara Long at the Hospital on 8/27/04. Wicker said Long first denied taking the drug. Then later when Long was showed the records she began to cry and said, "I took it".
9. On 9/21/04 I met with Craig Ghidotti at SWVMC. Ghidotti is the Vice President of Human Services for SWVMC. Ghidotti said he was present at the meeting with Long on 8/27/04 and was present when Long admitted to taking the phenergan.
10. On 9/21/04 I met with Rudy Weaver at SWVMC. Weaver is the Director of Human Resources at the Hospital. Weaver said that she spoke to Long on 9/9/04. Long told him that she could not believe she did what she did referring to taking the phenergan. Weaver said that on one other occasion after 9/9/04 while speaking to Weaver at the Hospital Long commented she could not believe she did something so stupid, referring to taking the phenergan.
11. On 9/21/04 I met with Laurie Lincoln R.Ph. at SWVMC. Lincoln is the Director of Pharmacy. Lincoln said that on 8/25/04 at 8.58.am she conducted a physical count of the phenergan at the Pyxis machine in the Women's and Children unit. Lincoln said the count was 12. Lincoln also said that the cost of the phenergan was \$1.26 per vial. She said that because the phenergan had been removed form the Pyxis machine with the code cancel remove, no patient had been charged for the cost of the drug. She said the Hospital assumed the cost of the missing phenergan. As Director of the Pharmacy she is also the keeper of the drug records. I showed her copies of the Pyxis reports that I had obtained concerning the phenergan situation and she confirmed that they are accurate records of her pharmacy.
12. On 9/21/04 I met with Edward Lanoue R.Ph. at SWVMC. Lanoue is a staff pharmacist at the hospital. Lanoue said that on the morning of 8/26/04 he conducted a physical count of the phenergan at the Pyxis machine in the Women's and Children unit. The count was 7. Over the 24-hour period, 5 vials had come up missing. According to the record Long had been the only person to access the phenergan by using the cancel remove code on 8/25/04 at 4.47pm and at 10.19pm for patient SW.
13. Examination of the Pyxis record indicates that Barbara Long used the cancel remove code to access phenergan on these dates and times for the following patients; Pt. EA 5/25/04 7.21pm, / Pt. AA 7/20/04 5.30pm, 7/20/04 9.00pm, 7/21/04 9.07pm, 7/22/04 6.30pm, 7/22/04 7.23pm, 7/22/04 9.20pm, 7/22/04 10.17pm, 7/23/04 10.24pm, 7/27/04 4.36pm, 7/29/04 6.07pm, 8/1/04 10.59pm/ Pt. TB 6/25/04 10.13pm/ Pt. DB 5/20/04 6.48pm/ Pt. KB 6/20/04 9.15pm/ Pt. SB 5/22/04 4.55pm/ Pt. JD 5/6/04

7.18pm/ Pt. KB 6/3/04 5.45pm/ Pt. CG 4/23/04 8.21pm/ Pt. JG 5/17/04 7.56pm/ Pt. KG 5/18/04 7.27pm/ Pt. IH 7/4/04 6.34pm/ Pt. AH 8/12/04 4.21pm/ Pt. LK 5/11/04 4.06pm/ Pt. DL 4/2/04 7.08pm, 4/2/04 9.29pm, 4/3/04 7.06pm/ Pt. SM 6/11/04 4.10pm/ Pt. CM 7/2/04 6.30pm/ Pt. BM 4/14/04 6.13pm/ Pt. CN 5/22/04 8.17pm/ Pt. LP 8/12/04 5.36pm/ Pt. MP 5/12/04 4.30pm/ Pt. MP 7/3/04 8.21pm/ Pt. DP 6/3/04 8.50pm, 6/5/04 6.19pm, 6/5/04 7.59pm/ Pt. AQ 4/27/04 7.20pm/ Pt. DR 5/6/04 11.22pm, 5/8/04 5.36pm/ Pt. SR 4/17/04 11.19pm, 4/18/04 5.08pm/ Pt. DS 6/9/04 8.37pm/ Pt. KS 4/7/04 4.12pm/ Pt. CS 6/7/04 5.59pm, 6/7/04 10.35pm/ Pt. NS 4/17/04 8.07pm/ Pt. DS 6/1/04 9.39pm/ Pt. OT 7/8/04 7.12pm/ Pt. MV 8/9/04 6.13pm, 8/9/04 7.30pm/ Pt. SW 6/29/04 8.33pm. These total 53 instances where entry was made and at least one vial of phenergan 25mg was removed. The incident that occurred on 8/25/04 where a count was taken and 5 vials were missing totals at least 58 occurrences.

14. On 9/24/04 I met with Long at the Bennington Police Department. I showed Long the Pyxis report of the 53 entries. She admitted to taking at least one vial of phenergan on the occasions listed on the report. She also admitted to taking the 5 vials on 8/25/04. She said she would access the machine using her code and a patient name that had an order for the drug. She said she would use the cancel remove code so the patient was not charged for the drug. She said she did not inject the drug at work but would take it home and inject it and then return the empty vials to the Sharps container at work. Long said she used the drug to help her relax. She said that as a nurse she knew how the drug would work. Long said the drug would help her sleep and relax. She said she is very sorry and that she is now seeing a drug counselor. Long was issued a citation to appear in Bennington District Court.
15. Phenergan or Promethazine is not a regulated drug. The drug is used post operatively to potentiate the effect of a narcotic drug. It also has a sedative effect as well.
16. Southwest Vermont Healthcare Inc. is a corporation registered in the State of Vermont. Barbara Long, a hospital employee, removed at least \$73.08 worth of phenergan from the Hospital. She fraudulently converted the phenergan, hospital property, to her own use without authorization.
17. Based on the records, witness interviews and the defendant's own admission I believe she has committed the above stated offenses.

Subscribed to and sworn to before me on this
4th day of OCT. 2004.

Ronald West
Notary Public

[Signature]
Affiant
10/4/04
Date

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STATE OF VERMONT
BOARD OF NURSING

In re: Barbara Long
License No. 25-4461

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Docket No. NU17-0904

SUMMARY SUSPENSION ORDER

On October 11, 2004, this case came before the Board of Nursing for a hearing on the State's request for summary suspension. *

Based upon the evidence presented by the parties, the Board finds that the allegations in the request for summary suspension have been established to the necessary degree. Therefore, the Board finds that the public health, safety, or welfare imperatively require emergency action against the Respondent's license.

Pursuant to 3 V.S.A. § 814(c), Respondent Barbara Long's nursing license is SUMMARILY SUSPENDED until a hearing on charges has been held and determined, or other resolution of this case.

BOARD OF NURSING

By: Juan Farrell
Chair

Dated: 10.11.04

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 10/13/04

* Respondent's motion to continue was denied at the start of the hearing.