

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

IN RE:	)	
LINDSAY C. MARSHA	)	Docket No. 2013-295
License No. 026.0077360	)	

STIPULATION AND CONSENT ORDER

NOW COMES the State of Vermont, by and through the State Prosecuting Attorney
S. Lauren Hibbert, and the Respondent Lindsay C. Marsha, RN, who stipulate as follows:

Board Authority

1. The Vermont State Board of Nursing (the "Board") has authority to issue warnings or reprimands; suspend, revoke, limit, or condition current licenses; or prevent the renewal of lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. § 129(a); 3 V.S.A. § 129a; 3 V.S.A. § 814(d); 26 V.S.A. § 1582; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation.

Stipulated Facts

2. Lindsay C. Marsha (the "Respondent") of Poultney, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0077360. This license was originally issued on or about June 6, 2011 and is currently set to expire on or about March 31, 2015. Prior to be licensed as a Registered Nurse, Respondent was a Licensed Practical Nurse under license number 025.0068608 that was originally issued on or about July 19, 2010 and expired on January 31, 2012.
3. At all times relevant, Respondent was employed at Fletcher Allen Health Care (the "Facility"), located in Burlington, Vermont. She worked in a unit that treated individuals with Cystic Fibrosis.
4. On January 2, 2013 Respondent wrote an email to her supervisors disclosing that she was in a personal relationship with J.M., a patient with Cystic Fibrosis whom she had cared for on multiple occasions. She requested to be removed from his direct care. She married J.M. later in the month.
5. Respondent viewed J.M.'s medical record several times on March 25, and March 26, 2013 when she did not have a legitimate reason to do so.
- 6.

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7. Respondent and J.M disclosed they were divorcing on April 22, 2013.
8. On May 5, 2013, Respondent told her supervisor that she had been asked to be on the personal care team of C.K., another patient with Cystic Fibrosis whom she had cared for. She also explained the relationship had become personal, and she asked to be removed from his care when he was at FAHC.
9. Respondent's employment was to be terminated on May 14, 2013 but she resigned instead. Respondent maintained a personal relationship with C.K. until his disease-related death in May, 2014.
10. Prior to entering into this Stipulation and Consent Order, the Board's Investigative team requested that Respondent seek a forensic assessment from a licensed psychologist to determine if Ms. Marsha poses a threat to the health, safety or welfare of her patients. Claire Gilligan, Psy.D., met with Ms. Marsha, performed the evaluation, and concluded that Respondent does not provide a risk to the health, safety or welfare of her potential patients.

Violations

11. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:
 - a. 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 Rule 11.2(b)(1) and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Rule 11.2(b)(2); and,
 - b. 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

12. Respondent acknowledges that the facts above are true and that the conditions set out in the Consent Order below are appropriate and necessary to protect the public.
13. 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.
14. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced Respondent's rights to a

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fair and impartial hearing if this agreement is not accepted by the Board and proceeds to a contested hearing.

15. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
16. Respondent is not under the influence of any drugs or alcohol at the time Respondent signs this Stipulation and Consent Order.
17. 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.
18. Respondent voluntarily waives Respondent's right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
19. 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 **CONDITIONS** the Respondent's license to practice nursing **for one (1) year from the date of entry below**. The conditions are as follows:

1) Term of Conditions:

Upon the imposition of these conditions, Respondent shall be issued a license labeled "conditioned." Respondent shall be subject to the conditions until Respondent completes a **minimum of 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.

2) Required Mental Health Treatment:

Respondent is required to complete mental health treatment as recommended by the independent evaluator, Claire Gilligan Psy.D. Respondent's mental health treatment provider must read this stipulation and consent order and the evaluation completed by Claire Gilligan Psy D. The mental health treatment provider must provide a treatment plan and provide proof of compliance on a monthly basis. If recommended by the mental health treatment provider, Respondent may cease treatment while under the conditions of this order.

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3) Required Course Work:

Respondent must successfully complete (i.e., receive a passing grade, if applicable) the following courses that have prior approval by the Board or its designee, and then submit written documentation of completion:

- i. Professional Boundaries
- ii. Patient Privacy

These courses must be completed within ninety (90) days of the date of entry of this Stipulation and Consent Order, or as otherwise agreed to by the Board.

4) Notification to Employers/Nursing School and Required Reports:

Within ten (10) days of the date of entry of this Order, Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current employment or in the event of future practice, within ten (10) days of an employment offer, and inform them of Respondent's conditional license status. Respondent's immediate supervisor shall submit to the Board an employer agreement on the Board approved form. If the Respondent is in a nursing program that has a clinical portion involving patient care, Respondent shall give Stipulation and Consent Order to the Program Director. The Director shall submit to the Board a nursing program agreement on a Board approved form.

Within one (1) month of receipt of the agreement form every nursing employer or program director shall submit to the Board an evaluation of Respondent's work performance and attendance on a monthly basis. These reports shall be submitted in writing on forms issued by the Board. All reports shall be satisfactory.

5) Practice Under Supervision.

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

6) Types of Employment Prohibited.

Respondent shall not work in a supervisory role. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency, or as a private duty nurse or personal care provider requiring a nursing or nursing assistant license during the effective period of this Consent Order.

7) Out-of-State Practice and Licensing.

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Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board. Failure to seek approval shall result in out-of-state practice not being credited toward the fulfillment of the terms and conditions of this Consent Order.

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

8) Notification of Employment/ Personal Address/Telephone Number:

Within ten (10) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of 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 (including resignation or termination), personal address, or telephone number.

9) Notification to Other States:

In the event that the Respondent is licensed in nursing in any other state(s), she must inform the other nursing licensing boards of the conditional status of her Vermont nursing license within thirty (30) days of the date of entry.

10) License Renewal and Costs:

If the Respondent's license expires while this Order is still in effect, this Order does not automatically extend the license. Respondent must timely apply for renewal and pay the applicable fee.

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

11) 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.

12) 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. Respondent shall have the burden of proof.

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- 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: 9/22/14

By: [Signature]
S. Lauren Hibbert
State Prosecuting Attorney

Lindsay C. Marsha
RESPONDENT

Dated: 9/18/2014

By: [Signature]
Lindsay C. Marsha

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 9/18/2014

By: [Signature]
Eileen Elliott, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 10/13/2014

By: [Signature]
Vice-Chairperson

Date of Entry: 10/13/14

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