

**State of Vermont
Board of Nursing**

In re: Danielle M. Martel
License Number: 025.0009017

Docket Number: 2007-252
Follow up Number: M2009-201

Order Removing Conditions

On June 8, 2015, the Vermont Board of Nursing considered Danielle M. Martel's request for removal of the conditions imposed on her LPN license by Board Order dated June 11, 2012.

Based on the representations of the Board staff, the Board finds that Respondent has met all the requirements of the Order and that removal of the conditions is appropriate.

The Board hereby **removes the conditions** imposed on Danielle M. Martel's license by the Order referenced above.

So Ordered.

Vermont Board of Nursing, by



Ellen Watson, APRN, Vice Chair

Date: 6-8-2015

Date of Entry: 6 / 9 / 15

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

IN RE:
DANIELLE M. MARTEL
License No. 025.0009017

Docket No. M2009-201

STIPULATION AND REINSTATEMENT CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney Gabriel M. Gilman, and the respondent, Danielle M. Martel, and stipulate and agree as follows:

Board Authority

1. The Vermont State Board of Nursing ("Board") has authority to issue warnings or reprimands; suspend, revoke, limit, or condition current licenses; or prevent the renewal of lapsed licenses if, after disciplinary hearing, the Board finds that a respondent has engaged in unprofessional conduct. 3 V.S.A. §§ 129(a), 129a, 814(d); 26 V.S.A. §§ 1595, 1598; the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Danielle Marie Martel ("Respondent"), of St. Albans, Vermont was licensed by the Board as a licensed practical nurse ("LPN") between August 21, 2006 and September 10, 2007.
3. On or about July 25, 2007, Respondent was involved in a traffic stop where prescribed medications, including narcotics, were found in a vehicle owned by Respondent and driven by her then-partner, K.G. Substances discovered by police included 3.5 – 500mg Acetaminophen-Hydrocodone Bitartrate, 6 - 0.5mg Alprazolam, 1 – 0.5mg Lorazepam, 1 – 5mg Oxycodone-Acetaminophen, 2- 50mg Imitrex, 2 – 5mg Dextroamphetamine Sulfate, and 1 – 60mg MS Contin. In a subsequent law-enforcement interview, Respondent acknowledged diverting Morphine (MS Contin) and Percocet (Oxycodone-Acetaminophen) pills from her place of nursing employment at the time. Respondent did not use these substances herself, but provided them for the illicit use of K.G. The number of pills Respondent diverted was fewer than ten.

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4. By ORDER of September 10, 2007, under docket no. NU15-0807, the Board summarily suspended Respondent's license. A copy of the Summary Suspension Order is attached hereto as Exhibit A.
5. On or about September 17, 2007, the State filed a Specification of Charges formalizing the same allegations of drug diversion arising from the July 25, 2007 traffic stop. A copy of the Specification of Charges is attached hereto as Exhibit B.
6. On or about November 5, 2007, the Board issued a Default ORDER suspending Respondent's license indefinitely and for a minimum term of six months. A copy of the Default Order is attached hereto as Exhibit C.
7. By letter to Board staff dated February 14, 2012, Respondent requested reinstatement of her license and has supplied documents tending to illustrate successful rehabilitation, including:
 - i. Letters of recommendation from (a) two Franklin county business leaders, (b) a colleague at Respondent's place of non-nursing employment, and (c) a treatment provider for a Women's support group in which Respondent participates; and
 - ii. Urinalysis records obtained during Respondent's participation in supportive counseling, confirming long-term abstinence from alcohol and other screened substances.
8. Further to her motion for reinstatement, Respondent voluntarily submitted to a three-session independent evaluation by a specialist approved by the Board. The evaluator found no evidence that Respondent has a substance-abuse disorder or any mental or physical impairment affecting her ability to practice nursing. These findings were consistent with more than sixty-eight clean drug screens described *supra* at ¶7(ii). The evaluator opined, "It is my professional opinion that Ms. Martel has shown that she is capable of practicing nursing safely and competently, without posing a risk to the safety, health, and welfare of her potential patients/clients."
9. Since the events of late 2007, Respondent has made positive changes in her life, evidenced by steady employment, obedience to the requirements of law, successful completion of rehabilitative programming, establishment of healthy interpersonal relationships, and constructive participation in Franklin County business and civic organizations.
10. It is in the mutual interest of the Respondent and the people of the State of Vermont that Respondent be permitted to maximize her human potential by rejoining the nursing professions and resuming her professional training under conditions appropriate to assure the public health, safety, and welfare.

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(2) Work Setting Limitation

Respondent shall have On-site Supervisor
~~Respondent shall work only in institutional settings where she encounters licensee-~~
~~colleagues regularly~~ throughout work shifts. 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. *SLH JH*

(3) Notification to Employers/Nursing School

Respondent shall provide a copy of this Stipulation and Consent Order, together with its attachments, to all employers or nursing schools in any current or future setting in which Respondent practices, accepts employment, or trains as a nurse during the effective period of this Consent Order.

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

(4) Employer Reports

Within one month of the date of reinstatement or within one month of the commencement of nursing employment and quarterly (i.e., every three months) thereafter, Respondent shall cause every nursing employer for which Respondent has worked in the preceding reporting period to submit to the Board an evaluation of Respondent's work performance and attendance. These reports shall include the results of the employer's audits of Respondent's medication administration and practices. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance. No reporting is required of nurse-training programs or facilities hosting the clinical portions of nurse-training programs, provided that those entities are notified of this Consent Order pursuant to section (3), *supra*.

(5) Drug Use and Testing

Respondent shall refrain from consuming or possessing, outside her direct employment duties, any regulated drug, except as prescribed to Respondent for legitimate medical reasons and with contemporaneous notice to the Board. Respondent shall notify the Board immediately if she is prescribed any benzodiazepine, opiate, hypnotic, or amphetamine drug. On request of the Board or its designee, Respondent shall execute waivers permitting the Board to examine any medical and counseling records the Board may request. Respondent shall not use alcohol in a manner that impairs her ability to practice or to maintain an orderly, industrious lifestyle.

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During the effective period of this Consent Order, the Board or its designee may, upon any reasonable suspicion of illegal or un-prescribed drug use or inappropriate alcohol use, direct without further proceedings that Respondent register immediately with a testing laboratory approved by the Board and report for drug and alcohol testing, at Respondent's expense, on such a basis as the Board may direct, or on a random basis at the direction of the approved laboratory. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative. Any valid, positive screen shall constitute a violation of this Order unless consistent with legitimate use pursuant to a prescription made known to the Board before the test.

Failure to appear for, refusal to provide, unjustified delay in providing, adulteration of, dilution of, or tampering with a sample for any urine screen shall cause that screen to be presumed positive.

(6) Interview with the Board or its Designee

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

(7) Notification of Place of Employment/Personal Address/Telephone Number

Within ten 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 hours of any change in employment (including resignation or termination), personal address, or telephone number.

(8) Contact Restriction

Respondent shall have no contact whatsoever with K.G., whether in-person, by telephone, by post, through third-parties, or by electronic means.

(9) Violation of this Order

If Respondent violates the terms of this Order in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may rescind or modify this Order and may impose additional, appropriate disciplinary actions. If a complaint of unprofessional conduct is made against the Respondent during the conditional license period, the conditional license period shall continue until such complaint is resolved.

(10) Completion of Conditional License Period

After the two-year, conditional license period, Respondent may petition the Board or its designee to remove any and all conditions on her license. Respondent shall bear the burden producing satisfactory evidence that she has complied fully with the terms of this Order and

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that unrestricted licensure would pose no danger to the public or to the integrity of the nursing professions.

- 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:

Dated: 6/2/12

STATE OF VERMONT
SECRETARY OF STATE

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

DANIELLE M. MARTEL
RESPONDENT

Dated: 6/1/12

By: [Signature]
Danielle M. Martel

APPROVED AND SO ORDERED:

Dated: 6/11/12

Date of Entry: 6/12/12

VERMONT BOARD OF NURSING

By: [Signature]
Chairperson

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Understandings

11. Respondent understands that the Nursing Board must review and accept the terms of this Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.
12. Respondent specifically waives any claim that any disclosures made to the full Board during its review of this agreement prejudice her right to a fair and impartial hearing in any future proceeding before the same Board.
13. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
14. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
15. 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.
16. 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.
17. 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 authorizes the conditional reinstatement of Respondent's license. Respondent's license will be **CONDITIONED** for a period of at least **TWO YEARS**, commencing with the date the license is deemed "active-conditioned." The conditions will be as follows:

(1) Issuance of Conditioned License

Upon entry of this Order, Respondent shall be issued a license labeled "inactive-conditioned." Thereafter, upon completion of a ~~clinical skills refreshment~~ course ~~required by the ARBN~~, Respondent shall be issued a license labeled "active-conditioned." So long as Respondent is compliant with the terms of this Order, the Board shall issue any temporary permit necessary to facilitate Respondent's participation in clinical training.

Board approved Refresher *SLH*
JM

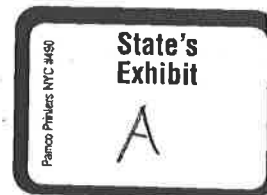
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**VERMONT SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
STATE BOARD OF NURSING**



In re: Danielle Martel }
License No. 025-0009017 }
Docket No. NU15-0807 }

SUMMARY SUSPENSION ORDER

On Monday 10 September 2007, this matter came before the Vermont State Board of Nursing by petition of the State of Vermont seeking a summary suspension pursuant to 3 V.S.A. § 814(c). The hearing took place at the Secretary of State's Office of Professional Regulation, Montpelier, Vermont.

The Board has authority to suspend summarily a license pending further proceedings if it determines that public health, safety or welfare imperatively require emergency action.

**Findings of Fact &
Conclusions of Law:**

Based on a review of the evidence presented at the hearing of this matter, the Board finds:

1. The Respondent is licensed by and subject to the disciplinary authority of this Board. 26 V.S.A. Chapter 28, 3 V.S.A. § 129(a)(3); and the Administrative Rules of the Office of Professional Regulation.
2. The State filed a "Request for Summary Suspension" dated 29 August 2007 alleging that Respondent Danielle Marie Martel diverted morphine and oxycodone (Percocet) in June 2007 from Birchwood Terrace Health Care in Burlington Vermont where she worked at that time. The State alleges that the Respondent admitted taking the controlled substances in an interview with an investigator for the Office of Professional Regulation in August 2007.
3. The State argues that public health, safety or welfare imperatively requires emergency action, and the state asks this Board to suspend summarily the Respondent's license prior to a full hearing on the merits.
4. The Board has considered the evidence related to the allegations in the State's Request for Summary Suspension.
5. The Board finds that the State has, in its presentation of evidence, met its burden to the necessary degree of showing an imperative need for emergency action to protect the public health, safety and welfare.
6. Pursuant to 3 V.S.A. § 814(c), the Board issues the following temporary order, which shall remain in effect until further action by this Board.

ORDER

The Board of Nursing GRANTS the State of Vermont's Request for Summary Suspension.

The Respondent's license is SUMMARILY SUSPENDED pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

- END -

Vermont Board of Nursing

By: Susan O. Farrell Dated at Montpelier: 10 September 2007
Susan O. Farrell, RN
Board Chairperson

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 9/13/07

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

IN RE:
DANIELLE MARIE MARTEL
License No. 025-0009017

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Docket No. NU15-0807

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Danielle Marie Martel, L.P.N.:

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. Danielle Marie Martel (the "Respondent") of St. Albans, Vermont is a licensed practical nurse holding license number 025-0009017, issued by the State of Vermont. This license was originally issued on or about August 21, 2006 and is set to expire on January 31, 2008.
3. During all relevant times the Respondent was practicing as a licensed practical nurse at Birchwood Terrace Health Care (the "Facility") in Burlington, Vermont.
4. On or about July 25, 2007 the Respondent was stopped for a traffic violation by Sergeant Scott Graham of the Williston Police Department. At this time, the Sergeant found located in the vehicle marijuana pipes and narcotic and controlled medications in the front and back seats of the vehicle, as well as in the trunk and the Respondent's purse. At the time of the stop the Respondent denied knowledge of the pills.
5. The pills were subsequently identified as 3.5- 500mg Acetaminophen-Hydrocodone Bitartrate, 6 - .5mg Alprazolam, 1 - .5mg Lorazepam, 1 - 5mg Oxycodone-Acetaminophen, 2 - 50mg Imitrex, 2 - 5mg Dextroamphetamine Sulfate and 1 - 60mg MS Contin.
6. On or about August 3, 2007, the Respondent was interviewed by Investigator Pamela Barney-Hango. The Respondent denied taking any narcotics from the Facility. After further questioning, the Respondent admitted that in June, 2007 she took approximately ten pills from the Facility including Morphine and Percocet. The Respondent admitted this in a sworn statement indicating that she was "sorry for any discomfort that she put the residents through." At this time the Respondent also indicated that she made sure all of her medication documentation at the facility was correct because "Medicaid charges for every pill and didn't

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[sic] want anyone to be suspicious."

7. At the time the Respondent was interviewed she indicated that she was participating in a drug abuse counseling program.

8. The Respondent's license was summarily suspended by the Board on or about September 10, 2007.

Charges

9. 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(a) (3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession);
- ii. 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession);
- iii. 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause);
- iv. Vermont Board of Nursing Administrative Rules Chapter 4, Rule IV, II, C ("Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs, narcotics, chemicals or any other type of materials);
- v. 26 V.S.A. § 1582(a)(5) (is habitually intemperate or is addicted to the use of habit forming drugs);
- vi. 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public); and
- vii. 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).

Relief Requested

WHEREFORE, the license of Danielle Marie Martel should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 17th day of September, 2007.

STATE OF VERMONT



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nu.martel.soc

STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

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

In re Danielle Martel }
License No. 025-0009017 }
Docket No. NU15-0807 }

DEFAULT ORDER

Upon the filing of a *Notice of Hearing for Default Judgment* by the Secretary of State, the Nursing Board heard this matter on Monday 5 November 2007 at the Secretary of State's Office of Professional Regulation, in the National Life Building at Montpelier, Vermont.

Findings of Fact

1. Respondent is subject to the regulatory authority of this Board. 3 V.S.A. §§ 129 and 129a; 26 V.S.A. Chapter 28; Administrative Rules for the Board of Nursing ("Nursing Rules") and the Administrative Rules for the Office of Professional Regulation ("OPR Rules").
2. The State filed a Specification of Charges dated 17 September 2007 ("Charges"), which allege unprofessional conduct against the Respondent.
3. The Office of Professional Regulation ("OPR") served notice of the charges via certified and first class mail at the address Respondent provided to OPR pursuant to 3 V.S.A. §129a (14). The notice of charges contained instructions detailing the Respondent's legal obligation to answer the charges and explaining the consequences of failure to file a timely response. OPR also served a notice of this default hearing to the Respondent by certified mail.
4. The Respondent did not answer the charges within the legally prescribed time as required by OPR Rule 3.3 or at any time thereafter.
5. The Respondent appeared for the hearing and acknowledged that she received the Charges.
6. Upon hearing the State's presentation and taking notice of its own file pursuant to 3 V.S.A. § 810(4), the Board finds the Respondent to be in default. The factual allegations contained in the State's specification of charges (copy attached) are therefore treated as proven and serve as the factual basis for the Board's order. OPR Rule 3.4; 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

Conclusions of Law

The Respondent received adequate and legal notice of the charges as evidenced by the Board's file and the State's presentation of the case to the Board. Because the Respondent failed to answer the charges of unprofessional conduct, the Board finds the Respondent in default and will treat the State's factual allegations as established pursuant to OPR Rule 3.4. The Board concludes, in this default hearing held pursuant to 3 V.S.A. § 809(d), that the Respondent has engaged in unprofessional conduct as alleged by the State of Vermont.

Order

In accordance with the above findings of fact and conclusions of law and effective the date of this order, the Board of Nursing ORDERS that the Respondent's license be SUSPENDED INDEFINITELY and

The Board further ORDERS that the suspension run for a minimum of SIX MONTHS starting as of the date of entry of this order

- END -
(signature page to follow)

Vermont Board of Nursing:

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

Dated at: Montpelier, Vermont 5 November 2007

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 11/8/07