

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

IN RE:

JUDY ANN MCCARTHY

License No. 026-0012713

Docket No: NU 37-1204

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Judy Ann McCarthy, R.N. who stipulate and agree as follows:

Board Authority

1. The Vermont State Board of Nursing ("the Board") has authority to approve consent orders, issue warnings or reprimands, suspend, revoke, limit, condition or prevent the renewal of current or lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. §129(a)(5); 3 V.S.A. §814; 26 V.S.A. §1582(a); Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. The Respondent, Judy Ann McCarthy, is licensed in the State of Vermont as a Registered Nurse under license number 026-0012713. This license is currently set to expire on March 31, 2007.

3. At all times relevant, the Respondent was employed as a R.N. by Rutland Regional Medical Center ("RRMC"), located in Rutland, Vermont.

4. On or about November 17, 2004, the Respondent committed the following acts at RRMC while she was off-duty:

- a. The Respondent changed and documented the administration of IV fluids for a relative, who was a patient at RRMC, after obtaining a physician's order on her own. After obtaining the order, the Respondent went into the medication room and retrieved the ordered solution, hung the IV and set the ordered rate on the pump.
- b. The Respondent went into the medication room attempting to obtain pain medication for this same relative, rather than waiting for his nurse to retrieve the medication.

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Charges

5. The acts, omissions and/or circumstances described above constitute grounds for discipline because Respondent violated:
 - (I) 3 V.S.A. §129a(a)(3) (failure to comply with the provisions of state statutes or rules governing the practice of the profession); and
 - (ii) 26 V.S.A. §1582 (a)(3) (is unable to practice nursing competently by reason of any cause) which includes failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV (II)(B)(2).

Understandings

6. Respondent admits the facts above are true and agrees to the following terms.
7. 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.
8. 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.
9. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
10. Respondent is not under the influence of any drugs or alcohol at the time she signs the Stipulation and Consent Order.
11. 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.
12. 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.
13. 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 as a registered nurse for a minimum period of **SIX (6) MONTHS** 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 six (6) months of supervised nursing in which she works forty (40) hours every two (2) weeks as a registered 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.

(3) Notification to Employers/Nursing School.

Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which Respondent practices as a registered nurse and inform them of Respondent's conditional license status.

Within ten (10) days of the date of entry of this Consent Order or of any subsequent registered 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 the Respondent is attending a nursing program, 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 the conditions in the Consent Order during clinical experience.

(4) Reports from Employers.

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

In the event the Respondent is attending a nursing program, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of 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.

(5) Practice Under Supervision.

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

(6) Interview with the Board or its Designee.

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

(7) 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 personal care provider during the effective period of this Consent Order.

(8) Out of State Practice/Residence.

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

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

Within five (5) days of the date of entry of this 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.

(10) Notification to Other States.

In the event that the Respondent is licensed in nursing in any other state(s), she must inform the nursing licensing board of the state(s) in which the Respondent is licensed of the conditional status of her Vermont registered 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.

(12) Costs.

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

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(13) 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.

(14) 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.

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

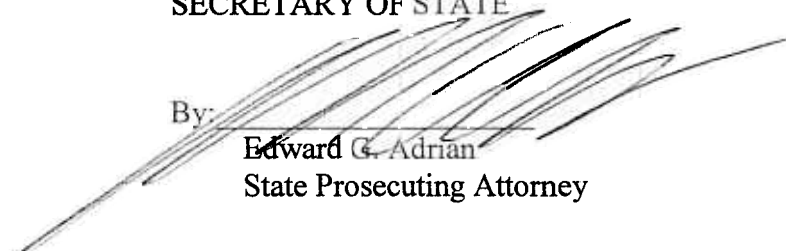
C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

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

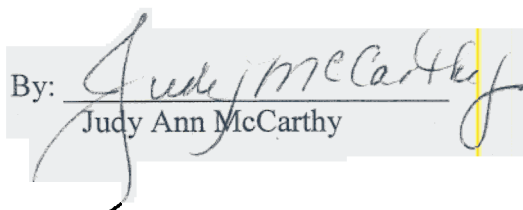
Dated: 12/9/

By: 

Edward G. Adrian
State Prosecuting Attorney

JUDY ANN MCCARTHY
RESPONDENT

Dated: 11/6/05

By: 

Judy Ann McCarthy

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

Approved as to form:

By: John Paul Faignant
John Paul Faignant, Esq.
Attorney for Respondent

APPROVED AND SO ORDERED:
VERMONT BOARD OF NURSING

Dated: 12-12-05

By: Sinda Rice
Chairperson (acting)

Date of Entry: 12/14/05

nu.mccarthy.stip

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**STATE OF VERMONT
SECRETARY OF STATE
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BOARD OF NURSING**

IN RE:)
JUDY ANN MCCARTHY) **Docket No: NU 37-1204**
License No. 026-0012713)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Judy Ann McCarthy, R.N.:

Board Authority

1. The Vermont State Board of Nursing ("the Board") has authority to issue warnings or reprimands, suspend, revoke, limit, condition current licenses, or prevent the renewal of lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct pursuant to 3 V.S.A. §129, §129a, and §814(d); 26 V.S.A. §1582, the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.
2. Failure to comply with the provisions of state statutes or rules governing the practice of the profession is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(3).
3. The inability to practice nursing by reason of any cause is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(3).
4. This inability to practice nursing competently includes failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(2).

Statement of Facts

5. The Respondent, Judy Ann McCarthy, is licensed in the State of Vermont as a Registered Nurse under license number 026-0012713. This license is currently set to expire on March 31, 2007.
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(ii) 26 V.S.A. §1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(2).

Relief Requested

WHEREFORE, the license of Judy Ann McCarthy should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 1st day of August 2005.

STATE OF VERMONT

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State Prosecuting Attorney

nu.mccarthy.soc

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