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

IN RE: Kelly A. McEvoy } Docket No. NU 28-1104
License No. 026-0022224 }

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 8 January 2007 at the Secretary of State's Office, Heritage Building, 81 River Street, 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; Board of Nursing Administrative Rules and Office of Professional Regulation Administrative Rules.
2. The State filed a Specification of Charges against the Respondent on 20 October 2006 (attached) alleging non-compliance with conditions on her license.
3. The Office of Professional Regulation served Respondent with notice of the charges by certified mail and first class mail to the Respondent's last known address as provided by the Respondent to the Office of Professional Regulation. 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. The Office of Professional Regulation 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 Admin. Rule 3.3 or at any time thereafter.
5. 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 allegations contained in the State's specification of charges are therefore treated as proven and serve as the factual basis for the Board's order. OPR Admin. Rule 3.4; 3 V.S.A. § 809(d) and 3 V.S.A. § 814(c).

In re: Kelly McEvoy

Conclusions of Law

The Respondent received adequate and legal notice of the charges as indicated 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 Admin. 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 in the State's Specification of Charges.

Order

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

Vermont Board of Nursing:

By: Susan O. Farrell Dated at Montpelier: 8 January 2007
Susan O. Farrell
Board Chairperson

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 1/10/07

In re: Kelly McEvoy

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

IN RE:)
KELLY A. McEVOY) Docket No. NU28-1104
License No. 026-0022224)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Kelly A. McEvoy, 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. 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. Kelly A. McEvoy (the "Respondent") is licensed as a registered nurse holding license number 026-0022224, issued by the State of Vermont. This license was originally issued on or about June 26, 1995 and is set to expire March 31, 2007.
3. The Respondent's license is currently conditioned by the Board pursuant to a Findings of Fact, Conclusions of Law and Order entered on or about April 20, 2005. Attachment A. The Board then specified that the conditions would remain in place for a period of three (3) years by way of a Supplemental Order entered on or about June 3, 2005. Attachment B. The Respondent's license was conditioned due to her admission that she had diverted Percocet from the facility where she was employed at the time. Attachment A.
4. The Order requires the Respondent to enter into and continue substance abuse counseling with a treating professional until the treating professional notifies the Board that such counseling is no longer necessary. Id.
5. Upon information and belief, the Respondent has been discharged from substance abuse counseling, but has failed to provide notification from her treating professional to the Board that substance abuse counseling is no longer necessary.
6. The Order requires the Respondent to submit to random drug and alcohol screening and to arrange a contact person to administer the screening. Id.

7. To date, the Respondent has neither had a urine specimen collected and analyzed, nor has the Respondent organized a method of collecting urine screens with the Board.

8. The Order requires the Respondent to notify the Board when her phone number changes. Id. Elizabeth Hansen attempted to make contact with Ms. McEvoy and discovered that the last phone number provided to the Board had been disconnected.

Charges

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

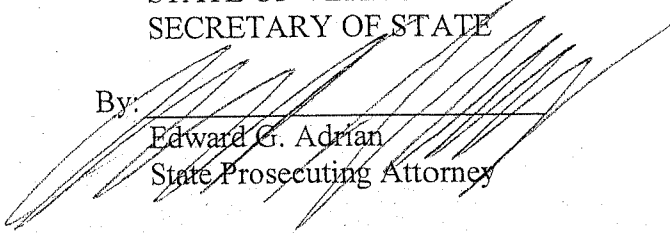
- i. 3 V.S.A. § 129a(a)(3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession); and
- ii. 3 V.S.A. § 129a(a)(4) (failing to comply with an order of the board or violating any term or condition of a license restricted by the board).

Relief Requested

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

DATED at Montpelier, Vermont this 20th day of October 2006.

STATE OF VERMONT
SECRETARY OF STATE

By: 
Edward G. Adrian
State Prosecuting Attorney

nu.mcevoy.soc

STATE OF VERMONT



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

Vergil

SUPPLEMENTAL ORDER

Order

This case was previously before the Board on April 11, 2005. The Board determined that a suspension and then a conditioned license was appropriate, but failed to specify a length of time the conditions would be imposed. After consideration at its May 9, 2005 meeting, the Board determined the following as to the length of time of conditions:

The Board of Nursing hereby **CONDITIONS** Respondent's license for **A MINIMUM OF THREE (3) YEARS** from the date of reinstatement of the Respondent's license. 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 Respondent 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.

Date: May 21, 2005

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 6/3/05

**STATE OF VERMONT
BOARD OF NURSING**

In re: Kelly A. McEvoy	}
License No. 026-0022224	} Docket No. NU 28-1104
	}
	}

**Decision on
UNPROFESSIONAL CONDUCT CHARGE**

Participating Board Members:

Alan Weiss
Sandra Norton, LNA.
Donarae Metcalf, LPN.
Margaret Luce, RN
Laurey M. Tyo, RN
Ellen W. Leff, RN
Kenneth W. Bush, RN

Appearances:

for Petitioner, State of Vermont: Edward G. Adrian
for Respondent: Pro se

Presiding Officer: Larry S. Novins

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

The Board of Nursing held a hearing in the above matter on April 11, 2005 at the Central Vermont Hospital in Berlin, Vermont.

The prosecution has the burden of proof in this matter. To prevail on any unprofessional conduct charge, it must prove the charge by a preponderance of the evidence.

Background

The State alleges in its specification of charges that Ms. McEvoy obtained Percocets for patients when there was no physician order, showed no documentation of the Percocets being administered to either patient, removed Percocets after the patients had been discharged, and used the Percocets for her personal use. The State alleges that this violates 3 V.S.A. § 129a(a)(3)(failing to comply with provisions of federal or state statutes were rules governing the practice of the profession); 3 V.S.A. § 129a(b)(1)(failure to practice confidently 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. §1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public); Vermont Board of Nursing Administrative Rule Chapter 4, Rule IV, II, B., 1; (performance of unsafe or unacceptable patient care); and Rule Chapter 4, Rule IV, II, D. (diverting supplies, equipment, or drugs for personal or other unauthorized use).

Ms. McEvoy admitted in her answer and again at the hearing that the allegations above are undisputed.

Ms. McEvoy's license was summarily suspended by the Board of Nursing on December 13, 2004 based on the allegations repeated above.

Findings of Fact

Based on the admissions of the respondent, the Board finds as follows:

1. This respondent is licensed as a registered nurse and subject to the disciplinary authority of this Board. 26 V.S.A. §1582(a), 3 V.S.A. § 129(a).
2. On October 13, 2004 Ms. McEvoy obtained 2 5/325 Percocets tablets from the hospital's Pyxis machine at Porter Hospital in Middlebury Vermont for Patient No. 2.
3. On or about October 18, 2004 Ms. McEvoy obtained 5/325 Percocets tablets from the Pyxis machine for patient No. 1.
4. There was no order for Percocets for either patient No. 1 or No. 2. There was no documentation of the Percocets being administered to either patient in their medical records.
5. The Percocets were removed by Ms. McEvoy after the patients had been discharged. Neither patient received the Percocets.
6. Ms. McEvoy admitted that she did take the Percocets from the hospital for her personal use.
7. Ms. McEvoy was practicing under a conditioned license at the time of the above-mentioned events pursuant to a stipulation and consent order dated November 17, 2003. That conditioned license was based on similar allegations.
8. Since this time, Ms. McEvoy has undertaken counseling weekly for over three months, now twice a month.
9. Ms. McEvoy has been seeing her primary care physician, is on anti-depressants and "can't believe the difference it's made."
10. She testified that she had had three babies in three years, had had problems with her marriage, but now felt much better about her whole life.

Conclusions of Law

The State has proved by a preponderance of the evidence violation of 3 V.S.A. § 129a(a)(3)(failing to comply with provisions of federal or state statutes were rules governing the practice of the profession).

The State has proved by a preponderance of the evidence violation of 3 V.S.A. § 129a(b)(1).

The State has proved by a preponderance of the evidence violation of 26 V.S.A. §1582 (a)(3). Ms. McEvoy's drug use shows an inability to practice nursing competently.

The State has proved by a preponderance of the evidence violation of 26 V.S.A. §1582(a)(5). Ms. McEvoy is addicted to the use of habit-forming drugs.

The State has proved by a preponderance of the evidence violation of 26 V.S.A. §1582(a)(7). Ms. McEvoy has engaged in conduct of a character likely to deceive, defraud or harm the public.

The State has proved by a preponderance of the evidence violation of Vermont Board of Nursing Administrative Rule Chapter 4, Rule IV, II, D. Ms. McEvoy did divert drugs for personal or unauthorized use.

Order

The suspension of Ms. McEvoy's license is to be continued. The Board will not consider an application for reinstatement for a minimum of six months from the entry of this order. No consideration will occur unless Ms. McEvoy can demonstrate continued abstinence from abused drugs, substance abuse, documentation of treatment, and an on-going treatment plan.

Before the Board will consider her reinstatement, Ms. McEvoy must also provide the Board with letters from all treatment providers containing their evaluation of Ms. McEvoy and confirming their belief that she can safely resume nursing.

If reinstated, Ms. McEvoy will be subject to the following conditions:

Re-issue of License

Within five (5) days of the date of entry of this Order, Ms. McEvoy shall submit her license to the Board of Nursing for a re-issued license labeled "conditioned".

Completion of Counseling and Treatment Plan

Ms. McEvoy shall continue counseling with a treating professional approved by the Board's designee until the treating professional notifies the Board's designee in writing that such counseling is no longer necessary in her/his professional opinion, and the Board (or its designee) agrees, in writing. Ms. McEvoy shall comply with a treatment plan approved by the professional and the Board (or its designee). This shall be done as soon as possible, and in any event, no later than 30 days after entry.

Approval of Changes of Treating Professional

Ms. McEvoy shall obtain prior approval from the Board or its designee of all changes of

treating professionals. Failure to obtain prior approval of a change of treating professional may be grounds for a charge of violation of this Order.

Substance Abuse Therapy and Notification to Treating Professional

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

Reports from Treating Professional

Ms. McEvoy 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 Order. These reports shall be submitted in writing on forms issued by the Board. A preliminary report shall accompany the treatment plan and the first report thereafter is due commencing the month after the date of entry of this Order and subsequent reports are due every month thereafter.

Ms. McEvoy shall authorize her treating professional to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period this Order is in effect.

Random Drug & Alcohol Testing

Ms. McEvoy shall submit to random drug screening at the request of the Board. Ms. McEvoy shall ensure an identified contact person, approved by the Board, shall administer random drug and alcohol tests. All screens shall be negative except for drugs prescribed for her under the care of a physician, dentist, or nurse practitioner.

Abstain from Drug Use

Ms. McEvoy shall abstain completely from the consumption or the use or possession of any drugs with the exception of prescribed medications as outlined immediately below.

Drug Use Exception

Ms. McEvoy may take 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 Ms. McEvoy within forty-eight (48) hours of the establishment of the practitioner/patient relationship. Ms. McEvoy shall ensure that the physician, dentist or nurse practitioner informs the Board, in writing and on appropriate letterhead, of knowledge of Ms. McEvoy's chemical dependency within one (1) week of entering into the practitioner/patient relationship. Ms. McEvoy shall inform the Board in writing of all 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 need for prescribed medications. It is not anticipated that Ms. McEvoy would be prescribed scheduled medication, during the term of this Order, for a period greater than 14 days, but if so, the prior suspension may be reinstated at the sole discretion of the Board (or its designee). Ms. McEvoy shall keep a written record of medications taken, including over the counter drugs, and produce such record upon the request of the Board or its designee.

Administration of Medications

For the first 12 weeks of work after reinstatement, Ms. McEvoy is not permitted to administer any medications. Thereafter, for the next 12 weeks McEvoy shall administer only non-controlled medications, and only under direct supervision. Thereafter, for the next 12 weeks, Ms. McEvoy shall administer controlled medications under direct supervision only. Thereafter, (that is, after 36 weeks, Ms. McEvoy shall administer medications under "supervision" as that term is defined by paragraph (B)16 herein. The Board may revise this provision, including reinstating it at a later date, depending on the nature of Ms. McEvoy's employment.

Any or all medication prohibitions may be reinstated, pursuant to a complaint, employer report and/or charges filed against Ms. McEvoy during the term of this Order, at the sole discretion of the Board (or its designee).

Notification of Place of Employment/ Personal Address/Telephone Number

Within five (5) days of the date of entry of this Order, Ms. McEvoy shall notify the Board, in writing, of her current place of nursing employment (if she is employed as a nurse), personal address, and telephone number. Ms. McEvoy shall further notify the Board, in writing, within forty-eight (48) hours of any change in nursing employment, personal address, or telephone number.

Notification to Employers/Nursing School

Ms. McEvoy shall provide a copy of this Order to all employers in any current or future setting in which she practices as a nurse and inform them of her conditional license status. Within ten (10) days of the date of entry of this Order or of any such subsequent employment, Ms. McEvoy shall cause her immediate supervisor to write to the Board, on the employer's letterhead, acknowledging receipt of the Order and the ability to comply with the conditions in the Order. In the event Ms. McEvoy is attending a nursing program, Ms. McEvoy shall provide a copy of this Order to the Program Director. Ms. McEvoy shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of this Order and ability of the program to comply with the conditions in this Order during clinical experience.

Reports from Employers/Nursing School

Within one (1) month of the date of entry of this Order and every month thereafter, Ms. McEvoy shall cause every employer for which she has been employed as a nurse during that month to submit to the Board an evaluation of Ms. McEvoy's performance and attendance during that month. This report shall be submitted in writing on forms issued by the Board. In the event the Ms. McEvoy attends nursing school, Ms. McEvoy shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Ms. McEvoy's performance and attendance. This report shall be submitted in writing on forms issued by the Board. Reports must indicate, to the satisfaction of the Board, that Ms. McEvoy can safely and competently administer medications.

Ms. McEvoy shall authorize her employer and her nursing school administrator to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period the Order is in effect.

Practice Under Supervision

Ms. McEvoy shall practice only in a setting where she has direct, on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing, or is in good

standing in all states that nurse is licensed.

Ms. McEvoy may work in a doctor's office provided there is another RN present at the office.

Prohibited Duties

Ms. McEvoy shall not work as a Charge Nurse.

Types of Employment Prohibited

Ms. McEvoy shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary employment agency or as a personal care provider during the effective period of this Order.

Interview with the Board or its Designee

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

License Renewal

In the event Ms. McEvoy's license is scheduled to expire during the period this Order is in effect, Ms. McEvoy shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualifications to practice nursing in the State of Vermont.

Release of Information Forms

Upon the establishment of all practitioner/patient relationships with (1) treating professionals for substance abuse treatment, and with (2) treating professionals who prescribe any medication to Ms. McEvoy, Ms. McEvoy shall execute all release of information forms which are necessary to authorize those practitioners to release information described in this Order to the Board of Nursing, its investigators, and the prosecuting attorneys for the Office of Professional Regulation. All information disclosed to the Board shall be made available to its investigators and the prosecuting attorneys for the Office of Professional Regulation. Ms. McEvoy shall specifically execute a release or disclosure form which meets the requirements of 42 C.F.R. §2.31 to permit disclosure of all information regarding Ms. McEvoy's substance abuse treatment to the Nursing Board, its investigators, and the prosecuting attorneys of the Office of Professional Regulation. Any revocation by Ms. McEvoy of such a release or disclosure during the term of this Order shall be considered a violation of this Order.

Costs

Ms. McEvoy shall bear all costs of complying with this Order.

Completion of Conditional License Period

The State's Recommendation of sanction, which the board adopted did not specify the length of the condition period. At its next meeting, the Board will issue a supplemental order setting the period of time for Ms. McEvoy's license.

Upon completion of the conditional license period, Ms. McEvoy may petition the Board to remove any and all conditions on her license and after formal review by the Board, Ms. McEvoy's nursing license may be fully restored by appropriate Board action. Furthermore, Ms. McEvoy must

demonstrate, to the Board's satisfaction, that she can safely return to unrestricted practice, that she has safely and competently administered medications and that she has fully complied with all the terms of this Order.

Out of State Practice/Residence

Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, Ms. McEvoy shall first notify the Board before beginning such practice. If Ms. McEvoy fails to notify the Board before, none of the time spent in out-of-state practice will be credited toward the fulfillment of the terms and conditions of this Order.

Violation of the Order

If Ms. McEvoy violates the terms of this Order in any respect, the Board, may as provided by law suspend her license, or revoke the terms of the conditional license and take further disciplinary action. If a complaint or charges are filed against Ms. McEvoy during the term of this Order, the conditional license period shall be extended until the matter is final.

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, Montpelier, Vermont 05609-1101 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.

Vermont Board of Nursing

By: Laurey M. Tyo
Laurey Tyo, RN, Acting Chair

Dated: 4-15-05

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 4/20/05

Bergman

STATE OF VERMONT
BOARD OF NURSING

In re: Kelly Mcevoy
License No. 26-22224

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Docket No. NU28-1104

SUMMARY SUSPENSION ORDER

On December 13, 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 Kelly Mcevoy'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: *Jessica O. Farrell*
Chair

Dated: *Dec 13, 2004*

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: *12/15/04*

9. Prior to the summary suspension hearing on December 13, 2004, the Respondent was on a Conditioned license pursuant to a Stipulation and Consent Order dated November 17, 2003. (Attached).

Charges

10. 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. § 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).

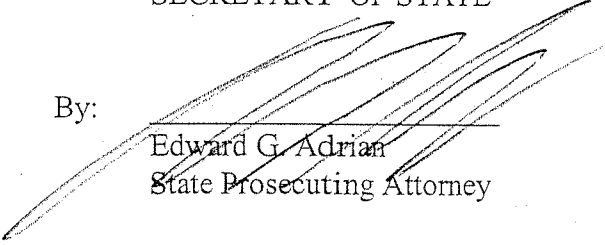
Request for Relief

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

DATED at Montpelier, Vermont this 13th day of December, 2004.

STATE OF VERMONT
SECRETARY OF STATE

By:


Edward G. Adrian
State Prosecuting Attorney

nu.mcevoy.soc

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

IN RE: KELLY A. MCEVOY) DOCKET No. NU28-1104
License No. 026-0022224)

3. Kelly A. McEvoy (the "Respondent") of Vergennes, Vermont is a registered nurse holding license number 026-0022224 issued by the State of Vermont. This license was originally issued on or about June 26, 1995 and is set to expire on March 31, 2005.
4. At all relevant times the Respondent was practicing as a registered nurse and worked at the Porter Hospital (the "Hospital") located in Middlebury, Vermont.
5. On or about October 13, 2004 the Respondent obtained two 5/325 Percocet tablets from the Hospital's Pyxis machine for Patient #2.
6. On or about October 18, 2004 the Respondent obtained two 5/325 Percocet tablets from the Pyxis machine for Patient #1.
7. There was no order for Percocet for either Patient #1 or #2; there was no documentation of the Percocet being administered to either patient in their medical records; the Percocet was removed by the Respondent after the patients had been discharged; and both patients stated that they had not received Percocet during their stay at the Hospital.
8. On or about November 17, 2004, the Respondent admitted to Investigator Brenda Tetrault that she had diverted the Percocet from the Hospital for her personal use.
9. The Respondent is currently on a Conditioned licensed pursuant to a Stipulation and Consent Order dated November 17, 2003. (Attached).



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Request for Relief

10. 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. § 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 026-0022224 be summarily suspended.

DATED at Montpelier, Vermont this 6th day of November, 2004.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

STATE OF VERMONT

NU061.sum.susp.lit.wpd



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602