

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

IN RE:

**Kelly A. McEvoy, RN
License No. 26-0022224**

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Docket No: NU54-0103

STIPULATION AND CONSENT ORDER

STIPULATION

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

- 1) The Board of Nursing has jurisdiction to investigate complaints of unprofessional conduct and to approve consent orders pursuant to 3 V.S.A. §129, and 26 V.S.A. §§1574, 1582.
- 2) Respondent is a nurse licensed by the State of Vermont holding license number 26-0022224.
- 3) At all times relevant to this Specification of Charges, Respondent was employed by Fanny Allen Health Care of Burlington, Vermont.
- 4) Respondent admits that on or about 11-3-02, she withdrew 2 tablets of Percocet from the paxis machine for patient T.R. These medications were not charted on the MAR as given.
- 5) Respondent admits that on or about 11-14-02, she withdrew 2 tablets of Percocet from the paxis machine at 5:35 p.m. for patient P.B. Again on that date, Respondent withdrew 2 tablets of Percocet from the paxis machine at 10:47 p.m. for patient T.R. These medications were not charted on the MAR as given.
- 6) Respondent admits that on or about 11-16-02, she withdrew 2 tablets of Percocet from the paxis machine for patient M.F. These medications were not charted on the MAR as given.
- 7) Respondent admits that on or about 11-23-02, she withdrew 1 dose of morphine (2mg) for patient T.B. at 8:24 a.m. There is but 1 mg charted. There is no record the balance was witnessed as wasted as required by standard disposal procedure.
- 8) Respondent admits that on or about 11-24-02, she withdrew 1 dose of morphine (2mg) for patient T.B. at 7:36 a.m. There is but 1 mg charted at 8:00

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a.m. The balance is not charted as given or witnessed as wasted as required by standard disposal procedure.

9) Respondent admits that on or about 12-1-02, she withdrew two tablets of Percocet from the paxis machine for patient C.K. These medications were not charted on the MAR as given.

10) Respondent admits that on or about 12-5-02, she withdrew two tablets of Percocet from the paxis machine for patient C.D. These medications were not charted on the MAR as given.

11) Respondent admits that on or about 12-7-02, she withdrew two tablets of Percocet from the paxis machine for patient R.O. These medications were not charted on the MAR as given.

12) Respondent admits that on or about 12-7-02, she withdrew two tablets of Percocet from the paxis machine for patient S.L. These medications were not charted on the MAR as given.

13) Respondent admits that on or about 12-17-02, she withdrew two tablets of Percocet from the paxis machine for patient E.L. These medications were not charted on the MAR as given.

14) Respondent admits that on or about 12-18-02, she withdrew two tablets of Percocet from the paxis machine for patient G.N. These medications were not charted on the MAR as given.

15) Respondent admits that on or about 12-26-02, she withdrew two tablets of Percocet from the paxis machine for patient G.G. These medications were not charted on the MAR as given.

16) Respondent admits that on or about 12-28-02, she withdrew two tablets of Percocet from the paxis machine at 7:59 a.m. for patient T.R. These medications were not charted on the MAR as given. Again on that date, Respondent withdrew two tablets of Percocet from the paxis machine at 11:56 a.m. for patient T.R. These medications were not charted on the MAR as given.

17) Respondent admits that on or about 12-29-02, she withdrew two tablets of Percocet from the paxis machine at 7:35 a.m. for patient T.R. Again on that date, Respondent withdrew two tablets of Percocet from the paxis machine at 12:00 p.m. for patient T.R. These medications were not charted on the MAR as given.

18) Respondent admits the conclusions of unprofessional conduct as set forth below in the Board's Order.

19) 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.

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20) Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

21) Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.

22) Respondent voluntarily waives her right to charges and a contested hearing before the Board of Nursing.

23) Respondent agrees that the Board may enter the Order set forth below.

ORDER

Based upon the stipulation above, it is **ORDERED AND ADJUDGED** as follows:

A. Respondent's actions described in paragraphs 4 through 17 demonstrate grounds for discipline pursuant to 26 V.S.A. §1582(a)(3) (unable to practice nursing competently by reason of any cause) and Vermont Nursing Board Rule IV(II)(B)(2), since these actions fail to conform to the essential standards of acceptable and prevailing nursing practice in that she failed to properly document medications administered.

B. Respondent Kelly A. McEvoy's license is hereby **CONDITIONED** for a term of two (2) years commencing with the date of entry of this Stipulation and Consent Order and subject to the following terms and restrictions:

(1) Length of Time Conditions Imposed.

These conditions shall remain in place until Respondent has completed **two (2) years** of supervised nursing practice in which Respondent works at least forty (40) hours every two (2) weeks in nursing. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis.

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

Within five (5) days of the date of entry of this Stipulation and Consent Order, Respondent shall notify the Board, in writing, of her current place of nursing employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in nursing employment, personal address, or telephone number.

(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 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 employment, Respondent shall cause Respondent's immediate supervisor to write to the Board, on the employer's letterhead, acknowledging receipt of the

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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.

(4) Reports from Employers/Nursing School.

Within one (1) month of the date of entry of this Stipulation and Consent Order or within one (1) month of the commencement of employment, and every month thereafter for both years the conditions are in place, Respondent shall cause every employer Respondent has worked for during the month to submit to the Board an evaluation of Respondent's 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.

Respondent shall practice 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 Vermont Board of Nursing.

(6) Types of Employment Prohibited.

Respondent shall not work as a supervising nurse.

(7) Violation of the Consent Order.

If Respondent violates the terms of this Stipulation and Consent Order in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke the terms of the conditional license and take further disciplinary action. If a complaint or charges are filed against Respondent during the term of this Consent Order, the conditional license period shall be extended until the matter is final.

(8) Reevaluation of Conditions.

In the event Respondent does not work in nursing within one (1) year of the date of entry of this Stipulation and Consent Order, Respondent may appear before the Board for reevaluation of the conditions of this Stipulation and Consent Order.

(9) Re-issue of License.

Within five (5) days of the date of entry of this Stipulation and Consent Order, Respondent shall submit her license to the Board of Nursing for a re-

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issued license labeled "conditioned".

(10) 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

(11) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on her license and after formal review by the Board, Respondent's nursing license may be formally restored by appropriate Board action. Respondent shall demonstrate, to the Board's satisfaction, that Respondent fully complied with all the terms of this Consent Order. If Respondent demonstrates to the Board's satisfaction that she has fully complied with the terms of this Stipulation and Consent Order, her license will be reinstated.

Notwithstanding any provision above, Respondent must meet all Nursing Board requirements for license renewal and license reinstatement.

C. By signing this Stipulation and Consent Order, Respondent authorizes her employer and 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 this Stipulation and Consent Order is in effect.

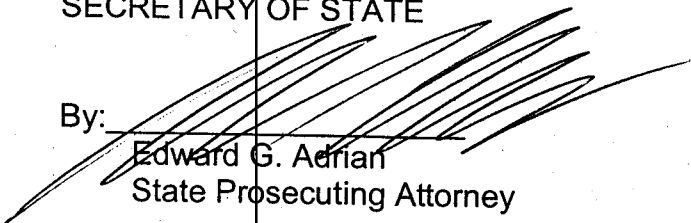
D. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

E. This Stipulation and Consent Order will remain part of the 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: 10/14/03

By: 
Edward G. Adrian
State Prosecuting Attorney

STATE OF VERMONT



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KELLY A. MCEVOY
RESPONDENT

Dated: 10/8/03

By: Kelly A. McEvoy
Kelly A. McEvoy

ATTORNEY FOR RESPONDENT
APPROVED AS TO FORM:

Dated: 10/10/03

By: [Signature]
Attorney for Respondent

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: November 10, 2003

By: Susan O. Farrell
Chairperson

Date of Entry: 11/13/03

nu.mcevoy.stip

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