

Bellevue

**STATE OF VERMONT
BOARD OF NURSING**

In re: Brenda McGowan }
Preliminary Denial of } NU20-0900
License Reinstatement }
License No.

**Decision on
Preliminary Denial of Reinstatement License without Conditions**

Board Members participating:

Alan Weiss
Donarae Metcalf, LPN
Laurey Tyo, RN
Keneth Bush, RN
Ellen Leff, RN
De ann Welch, LPN

Appearances:

for State of Vermont: Edward Adrian
for Respondent: pro se

Presiding Officer: Larry S. Novins

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

The Vermont Board of Nursing held a hearing in the above matter on August 14, 2006 at 81 River Street in Montpelier, Vermont pursuant to 3.V.S.A. § 129(e). Ms. McGowan appeared before the Board after its preliminary denial of her request for reinstatement of her license without conditions.

Findings of Fact

1. By letter dated August 7, 2006 the Board notified Ms. McGowan that it was preliminarily denying her request to eliminate the conditions imposed on her license.
2. The letter stated, "Just prior to the Board of Nursing [sic] on July 10, 2006, where your petition was scheduled to be presented, the Board office received notification from you and your employer (Bob Begley at Prison Health Services) that you were involved in an incident involving a breach of security at the correctional facility in Springfield. You had worked there since November, 2005 and had satisfactorily completed more than 4 months of work performance as an LPN. "
3. The preliminary denial letter provides no other basis for denying Ms. McGowan's request.
4. Ms. McGowan possesses a conditioned license. The conditions were imposed as part of a

- “Modified Stipulation and Consent Order” which was approved and adopted by the Board on February 1, 2002. That Order is incorporated attached to this decision. (It may be accessed on line at <http://www.vtprofessionals.org/opr1/oprdocs/all/NU20-0900.pdf>).
5. The Modified Stipulation and Consent Order had several conditions for Ms. McGowan to abide by until “Respondent has completed four (4) months of supervised practice in which she works at least forty (40) hours every two (2) weeks in nursing....”
 6. Ms. McGowan had complied with that condition by working at the correctional facility in Springfield since November of 2005.
 7. Ms. McGowan has completed all required counseling and treatment required by the Stipulation and Consent Order.
 8. There has complied with the remaining conditions imposed by the Stipulation and Consent Order.
 9. The Stipulation and Consent Order states, “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.”
 10. No “complaint or charges have been filed” against Ms. McGowan.
 11. The letter advising her of the preliminary denial does not provide notice with any specificity that any complaint or charges have been filed.

Conclusions of Law

Ms. McGowan’s request for reinstatement of her license without conditions shows that she has met the conditions of the Stipulation and Consent Order. She has shown that she is entitled to removal of the conditions.

Since the State has not filed a complaint or charges her, her request does satisfy the requirements of the Stipulation and Consent Order. Should the State file charges against her, that matter will be heard by the Board at the appropriate time.

Order

The preliminary denial of Ms. McGowan’s petition for reinstatement without conditions is **reversed**. Her request to remove the conditions on her license is granted.

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. Tye
Laurey Tye, Acting Chair

Dated: August 14, 2006

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 8/17/06

STATE OF VERMONT
BOARD OF NURSING

IN RE:)
Brenda McGowan) Docket No. NU20-0900
License No: 25-6275)

MODIFIED STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through its Attorney General, William H. Sorrell, and Respondent Brenda McGowan, who stipulate and agree as follows:

1. The Vermont Board of Nursing ("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. §§1574, and 1582, the Office of Professional Regulation's and the Board of Nursing's Rules.
2. Respondent Brenda McGowan, of Putney, Vermont is a licensed practical nurse holding license number 25-6275 issued by the State of Vermont. This license was originally issued on May 23, 1988 and it was suspended pursuant to a stipulation and consent order entered by the Board on about February 14, 2001 (attached and incorporated, "1A").
3. Respondent is also a licensed practical nurse in New Hampshire, holding license number 010315-22 issued in that State, which was suspended on about July 15, 1999 (attached and incorporated, "1C").
4. Respondent reiterates and admits to each and every paragraph of the Specification of Charges dated December 29, 2000 (attached and incorporated, "1B").

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

5. On or about June 21, 2001, the New Hampshire Board of Nursing voted to reinstate Respondent's nursing privileges in that State – "said privileges shall be suspended for one year with a stay and" ...[subject to]..."stipulations." (attached and incorporated, "2").
6. Respondent admits the conclusions of unprofessional conduct as set forth below in the Board's Order.
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 has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
9. Respondent waives any notification period and requests that this be heard at the next available Board meeting. 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.
10. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
11. 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.
12. Respondent voluntarily waives her right to charges and a contested hearing before the Board of Nursing.

13. Respondent agrees that the Board may set forth the order below.

ORDER

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

A. By engaging in the conduct described in each of the act(s), omission(s) and/or circumstance(s), in the paragraphs attached and incorporated, the Board reiterates that Respondent acted unprofessionally pursuant to and in violation of: 3 VSA § 129a(a)(3) (failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession); 3 VSA § 129a(a)(1) (Fraudulent or deceptive procurement or use of a license), and; 26 V.S.A. §1582(a)(1) (Has made or caused to be made a false, fraudulent or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing).

B. The Nursing Board, cognizant that Respondent's license has been suspended in Vermont since about February 14, 2001, (and that New Hampshire has reinstated her license with certain "stipulations"), hereby **CONDITIONS** the Respondent's license, commencing on the date this order is entered, as follows:

(1) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed **four (4) months** of supervised nursing practice in which she 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 Consent Order, Respondent 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. 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) Practice Under Supervision.

Respondent shall practice only in a setting where she has 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.

(4) Types of Employment Prohibited.

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

(5) Prohibited Hours of Work.

Respondent shall not work more than eight hour shifts, nor shall she work nights, nor more than forty hours per week, during the effective period of this Consent Order.

(6) 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 she practices as a nurse and inform them of her conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any such subsequent employment, Respondent shall cause her 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

Respondent is attending a nursing program, Respondent 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 the conditions in the Consent Order during clinical experience.

(7) Reports from Employers/Nursing School

Within one (1) month of the date of entry of this Consent Order and every month thereafter, Respondent shall cause every employer for which she has been employed as a nurse during that 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 attends nursing school, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Respondent'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 Respondent can safely and competently administer medications.

Respondent 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 Consent Order is in effect.

(8) Completion of Counseling and Treatment Plan.

Respondent shall enter into and/or 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.

Respondent 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.

(9) Approval of Changes of Treating Professional.

Respondent shall obtain prior approval from the Board or its designee of all changes of treating professional. Failure to obtain prior approval of a change of treating professional may be grounds for a charge of violation of this Consent Order.

(10) Substance Abuse Therapy and Notification to Treating Professional.

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

(11) Reports from Treating Professional.

Respondent 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 Consent 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 Consent Order and subsequent reports are due every month thereafter.

Respondent 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 Consent Order is in effect.

(12) Random Drug Testing.

Respondent shall submit to random drug screening at the request of the Board. Respondent 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. (See paragraph B(14) Drug Use Exception).

(13) Abstain from Drug Use.

Respondent shall abstain completely from the consumption or the use or possession of any drugs with the exception of prescribed medications as outlined in paragraph B(14).

(14) Drug Use Exception.

Respondent 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 Respondent within forty-eight (48) hours of the establishment of the practitioner/patient relationship. Respondent shall ensure that the physician, dentist or nurse practitioner informs the Board, in writing and on appropriate letterhead, of knowledge of Respondent's chemical dependency within one (1) week of entering into the practitioner/patient relationship. Respondent 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 Respondent would be prescribed scheduled medication, during the term of this Consent Order, for a period greater than 14 days, but if so, then the prior suspension may be reinstated at the sole discretion of the Board (or its designee). Respondent 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.

(15) Violation of the Consent Order.

If Respondent violates the terms of this 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.

(16) 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 fully restored by appropriate Board action. Furthermore, Respondent 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 Consent Order.

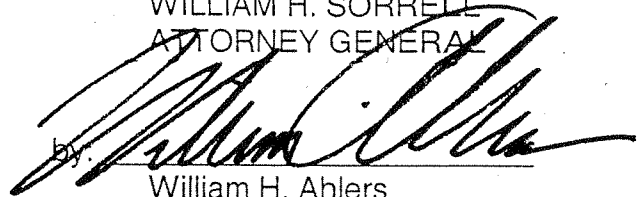
C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

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.

STATE OF VERMONT

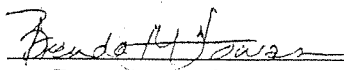
WILLIAM H. SORRELL
ATTORNEY GENERAL

Dated: 1/23/02

by: 
William H. Ahlers
Assistant Attorney General

RESPONDENT
BRENDA MC GOWAN

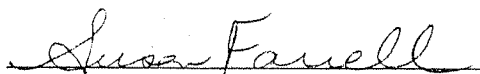
Dated: 1-21-02

by: 
Brenda McGowan

APPROVED AND SO ORDERED:

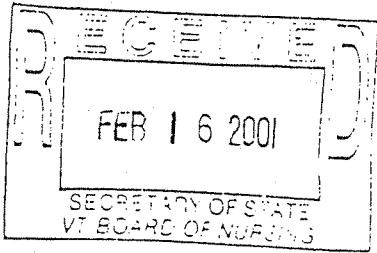
VERMONT BOARD OF NURSING

Dated: 2/11/02

by: 
Chairperson

Date of entry: 2/12/02

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609



STATE OF VERMONT
BOARD OF NURSING

IN RE:

Brenda McGowan

License No: 25-6275

)

)

)

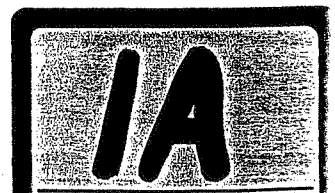
Docket No. NU20-0900

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through its Attorney General, William H. Sorrell, and Respondent Brenda McGowan, who stipulate and agree as follows:

1. The Vermont Board of Nursing 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. §§1574, and 1582, the Office of Professional Regulation's and the Board of Nursing's Rules.
2. Respondent Brenda McGowan, of Putney, Vermont is a licensed practical nurse holding license number 25-6275 issued by the State of Vermont.
3. At all times relevant, Respondent was also a licensed practical nurse in New Hampshire, holding license number 010315-22 issued in that State.
4. Respondent admits to each and every paragraph of the Specification of Charges dated December 29, 2000 (attached and incorporated).
5. Respondent admits the conclusions of unprofessional conduct as set forth below in the Board's Order.
6. 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.



7. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
8. Respondent waives any notification period and requests that this be heard at the next available Board meeting. 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 is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
10. 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.
11. Respondent voluntarily waives her right to charges and a contested hearing before the Board of Nursing.
12. Respondent agrees that the Board may set forth the order below.

ORDER

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

A. By engaging in the conduct described in each of the act(s), omission(s) and/or circumstance(s) in the paragraphs above, Respondent acted unprofessionally pursuant to and in violation of: 3 VSA § 129a(a)(3) (failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession); 3 VSA § 129a(a)(1) (Fraudulent or deceptive procurement or use of a license), and; 26 V.S.A. §1582(a)(1) (Has made or caused to be made a false,

fraudulent or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing).

B. The Nursing Board **SUSPENDS** the Respondent's license, commencing on the date this order is entered, continuing until she demonstrates, to the satisfaction of the Board: possession of at least entry level qualifications; specific rehabilitation; good moral character and fitness; methods of assuring public safety, and; that reinstatement would not be detrimental to the integrity of the profession or subversive of the public interest.

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).

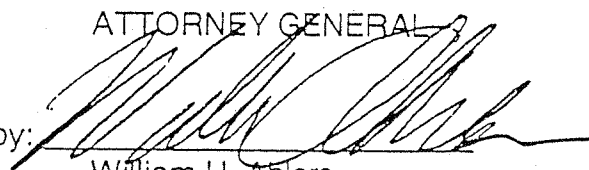
D. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

Dated: 1/17/01

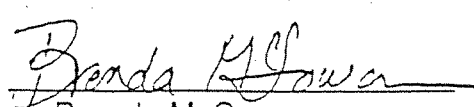
by:


William H. Ahlers
Assistant Attorney General

RESPONDENT
BRENDA MC GOWAN

Dated: 1-13-01

by:


Brenda McGowan

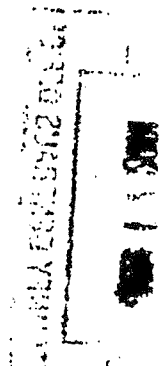
APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: Feb. 12, 2001

by: Jesse Farrell
Chairperson

Date of entry: 2-14-01



STATE OF VERMONT
BOARD OF NURSING

IN RE:

Brenda McGowan

License No: 25-6275

)
)
) Docket No. NU20-0900

SPECIFICATION OF CHARGES

1. The Vermont Board of Nursing 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. §§1574, and 1582, the Office of Professional Regulation's and the Board of Nursing's Rules.
2. Respondent Brenda McGowan, of Putney, Vermont is a licensed practical nurse holding license number 25-6275 issued by the State of Vermont.
3. At all times relevant, Respondent was also a licensed practical nurse in New Hampshire, holding license number 010315-22 issued in that State.
4. On or about May 18, 1999, Respondent was convicted of 23 V.S.A. §1201(A)(2) (Driving While Intoxicated) in Vermont District Court (Docket No.: 769-5-99 Wmcr).
5. On or about May 24, 1999, Respondent admitted the following to an Investigator/Prosecutor for the New Hampshire Board of Nursing: diverting drugs for personal use [2 doses morphine sulfate 2mg/cc, upon information and belief, from a discharged patient's medication], and; having her motor vehicle license revoked for driving while intoxicated.
6. On or about July 15, 1999, Respondent's New Hampshire nursing license was suspended pursuant to a "Settlement Agreement" executed before the New Hampshire Board of Nursing (attached and incorporated).
7. On about December 30, 1999, Respondent prepared, signed and/or filed a Licensed Practical Nurse Renewal Application, with the Vermont Secretary of State, Office of Professional Regulation.
8. At times during the Summer and/or Fall of 2000, Respondent was employed at McGirr's Nursing Home of Bellows Falls, Vermont.

Count 1

9. Paragraphs 1 to 8 are incorporated.

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609



10. Pursuant to the Settlement Agreement executed on or about July 15, 2000, Respondent admitted that, in the State of New Hampshire, she violated RSA 326-B:12 II (c) (Dishonest or unprofessional conduct including, but not limited to, intentionally harming, abusing or exploiting a patient, defrauding or harming the public in manners related to the practice of nursing, willfully failing to maintain accurate and complete nursing records, acts of omission or commission when practicing nursing as set forth in rules adopted by the board pursuant to RSA 541-A...).

11. The act(s), omission(s) and/or circumstance(s) outlined above constitute unprofessional conduct and violate: 3 VSA § 129a(a)(3) (failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession).

Count 2

12. Paragraphs 1 to 8 are incorporated.

13. Pursuant to the Settlement Agreement executed on or about July 15, 2000, Respondent admitted that, in the State of New Hampshire, she violated RSA 326-B:12 II (e) (Addiction to or abuse of alcohol or other habit-forming drugs or substances which render the licensee unfit to practice nursing).

14. The act(s), omission(s) and/or circumstance(s) outlined above constitute unprofessional conduct and violate: 3 VSA § 129a(a)(3) (failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession).

Count 3

15. Paragraphs 1 to 8 are incorporated.

16. Pursuant to the Settlement Agreement executed on or about July 15, 2000, Respondent admitted that, in the State of New Hampshire, she violated Nur 215.01(b)(5) (Misappropriating human or material resources).

17. The act(s), omission(s) and/or circumstance(s) outlined above constitute unprofessional conduct and violate: 3 VSA § 129a(a)(3) (failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession).

Count 4

18. Paragraphs 1 to 8 are incorporated.

19. On Respondent's Vermont Renewal Application, she indicated "No" when asked, "Has any state or federal licensing authority restricted, suspended, revoked or taken any other disciplinary action against a license, certificate, or registration that you hold or held in any profession or occupation?" (Question 2). The question continued, "If the answer...is 'yes', provide a copy of the order or official notification of the Board action.", though no documentation was attached.
20. The act(s), omission(s) and/or circumstance(s) outlined above constitute unprofessional conduct and violate: 3 VSA § 129a(a)(1) (Fraudulent or deceptive procurement or use of a license) and 26 V.S.A. §1582(a)(1) (Has made or caused to be made a false, fraudulent or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing).

Count 5

21. Paragraphs 1 to 8 are incorporated.
22. On Respondent's Vermont Renewal Application, she indicated "No" when asked, "Have you been convicted of a crime other than a minor traffic violation?" (Question 3). The question continued, "If the answer...is 'yes', attach the court document and a written explanation.", though no court documentation, nor explanation, was attached.
23. The act(s), omission(s) and/or circumstance(s) outlined above constitute unprofessional conduct and violate: 3 VSA § 129a(a)(1) (Fraudulent or deceptive procurement or use of a license) and 26 V.S.A. §1582(a)(1) (Has made or caused to be made a false, fraudulent or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing).

Count 6

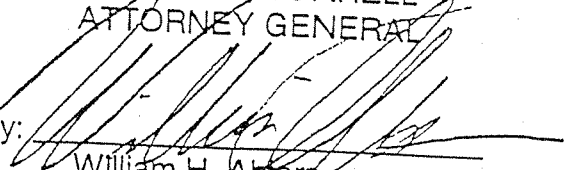
24. Paragraphs 1 to 8 are incorporated.
25. On Respondent's Vermont Renewal Application, she indicated "No" when asked, "Has your use of alcohol, drugs, or medications in any way impaired or limited your ability to practice nursing with reasonable skill and safety?" (Question 5). The question continued, "If the answer...is 'yes', please explain in detail.", though no explanation, was given.
26. The act(s), omission(s) and/or circumstance(s) outlined above constitute unprofessional conduct and violate: 3 VSA § 129a(a)(1) (Fraudulent or deceptive procurement or use of a license) and 26 V.S.A. §1582(a)(1) (Has made or caused to be made a false, fraudulent or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing).

WHEREFORE, the license of Brenda McGowan should be revoked,
suspended or otherwise disciplined.

Dated this 29th day of December, 2000 at Montpelier, Vermont.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 

William H. Ahlers
Assistant Attorney General

Office of the
ATTORNEY
GENERAL
19 State Street
Montpelier, VT
05609

BEFORE THE
NEW HAMPSHIRE BOARD OF NURSING

IN THE MATTER OF:

Brenda McGowen, LPN #010315-22

SETTLEMENT AGREEMENT

THIS AGREEMENT is entered into between the New Hampshire Board of Nursing (Board) and Brenda McGowen (Respondent) a licensed practical nurse in the state of New Hampshire over whom the Board has jurisdiction pursuant to RSA 326-B and the Board rules.

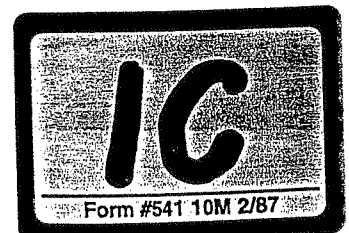
On April 12, 1999, the Board received a complaint from Ted Purdy, Administrator representing IHS at Claremont in Claremont, NH alleging Respondent admitted she removed for possible personal use 2 doses of morphine sulfate 2mg/cc from a patients medication who had been discharged.

On or about May 24, 1999, the Investigator/Prosecutor called Respondent. She admitted diverting drugs for personal use and having her motor vehicle license revoked for driving while intoxicated, thus she could not meet with the Prosecutor/Investigator.

Respondent admits to violating RSA 326-B:12 II (c) "Dishonest or unprofessional conduct, including, but not limited to, intentionally harming, abusing or exploiting a patient, defrauding or harming the public in matters related to the practice of nursing, willfully failing to maintain accurate and complete nursing records, acts of omission or commission when practicing nursing as set forth in rules adopted by the board pursuant to RSA 541-A..."; RSA 326-B:12 II (e) "Addiction to or abuse of alcohol or other habit-forming drugs or substances which render the licensee unfit to practice nursing." and Nur 215.01 (b)(5) "Misappropriating human or material resources;"

- I. To resolve the aforementioned situation in a fair and reasonable manner, the parties agree to the following terms.
 - a. Respondent's practical nurse practice privileges shall be suspended for a period of one year.
 - b. Respondent shall not seek reinstatement of her practice privileges before July 2000.
- II. Upon the petition for reinstatement of her practical nurse practice privileges, Respondent shall:
 - a. Provide the Board with three character references related to her honesty, integrity, timeliness and productive work habits;
 - b. Provide the Board with an evaluation of her chemically free state by a counselor trained in substance abuse;
 - c. Provide the Board, through oral arguments, with a comfort level that Respondent is able to safely practice nursing.
- III. Upon the reinstatement of Respondent's practice privileges, said license shall be suspended for two years. Said suspension shall be stayed for the same period of time and Respondent shall adhere to any and all stipulations imposed by the Board at that time.

This Agreement shall be considered if and when Respondent seeks any license authorized under RSA 326-B.



Settlement Agreement
B. McGowen

Respondent is aware of and understands the right to have a formal disciplinary hearing pursuant to RSA 326-B:13 and hereby waives those rights and requests that this Agreement be accepted with the same force and effect as an order entered as result of a formal hearing;

This Agreement is entered into by Respondent, voluntarily, after the opportunity to consult with counsel, and with full understanding of the legal consequences of this Agreement;

This Agreement constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings, and becomes a public record upon signature.

I have carefully read and fully understand the conditions of this Settlement Agreement:

5/12/99
(Date)

Brenda McGowen
Brenda McGowen

EXECUTED THIS 15th DAY OF July 1999

Doris G. Nuttelman
Doris G. Nuttelman, R.N., Ed.D.
Executive Director
New Hampshire Board of Nursing

This is a true, certified copy:

M. Lee Leppanen
M. Lee Leppanen, Esq
Investigator/Prosecutor for
NH Board of Nursing

10/2/00
Date



STATE OF NEW HAMPSHIRE
NEW HAMPSHIRE BOARD OF NURSING

78 REGIONAL DRIVE, BLDG. B
PO BOX 3898
CONCORD NH 03302-3898

TDD Access: Relay NH 1-800-735-2964

Nursing 603-271-2323

Nurse Asst. 603-271-6282

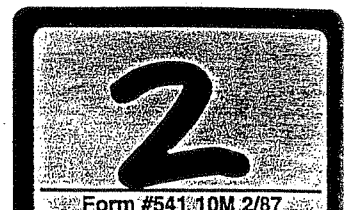
June 22, 2001

Brenda McGowan
24 King Dr
Putney VT 05346

Dear Ms. McGowan:

At its June 21, 2001 meeting, Board members voted to reinstate your registered nurse practice privileges. Said privileges shall be suspended for one year with a stay and the following stipulations:

- a. Respondent shall practice nursing in a structured health-care environment where other health-care providers are employed;
- b. Respondent shall not practice nursing in a home care environment or be employed by a staffing agency;
- c. Respondent shall not work:
 - i) more than 10 hour shifts
 - ii) nights;
 - iii) more than 40 hours per week.
- d. Upon obtaining practical nurse employment, Respondent shall provide a copy of this Agreement to the registered nurse supervisor. Within one (1) month after beginning such nursing employment, said nursing supervisor shall submit a report directly to the Board, in writing, setting forth:
 - i) the name and address of Respondent's employer;
 - ii) the duties and responsibilities to be performed by Respondent;
 - iii) a discussion of the quality of nursing care provided by Respondent, including a discussion of the ability of the Respondent to practice nursing with skill and safety to patients; and
 - iv) the nursing supervisor shall acknowledge that this Agreement was read and that the role of nursing supervisor is understood by the supervisor.
- e. Respondent shall submit to the Board on a quarterly basis work performance evaluations from her immediate nursing supervisor on a Board approved form, when employed as a practical nurse. Said evaluation shall include:
 - i) name and address;
 - ii) number of hours worked, timeliness and efficiency;



B. McGowen, LPN

June 22, 2001

Page 2

- iii) quality and safety of nursing care;
- iv) ability to safely practice nursing with reasonable skill;
- v) adherence or failure to adhere to Board stipulations.

Respondent shall continue counseling sessions with a counselor trained in substance abuse until such time as the counselor shall document treatment is no longer necessary, and Respondent shall require counselor to submit quarterly reports regarding the Respondent's progress to the Board. Quarterly reports shall indicate Respondent's:

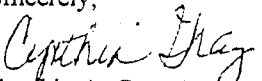
- i) name and address;
- ii) number and frequency of visits;
- iii) progress in maintaining a safe life-style;
- iv) ability to safely practice nursing with reasonable skill;
- v) adherence, or failure to adhere, to Board stipulations.

- g. At Respondent's expense, random substance abuse blood/urine testing shall be performed per hospital policy/procedure.
- h. Said stipulations shall be in force only while the Respondent is employed in a capacity for which a practical nurse license is required and subject to adequate supervision approved by the Board. Respondent is required to notify the Board, in writing, within 10 days after the commencement, termination or change in role in any such employment;

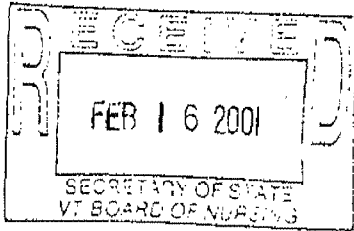
You are required to notify the Board when you obtain nursing employment so the appropriate reporting forms can be mailed to you.

If you have any questions, please call the Board office, (603) 271-2323.

Sincerely,


Cynthia A. Gray, MBA, BS(n), RN
Executive Director

CAG/sg



STATE OF VERMONT
BOARD OF NURSING

IN RE:)
Brenda McGowan)
License No: 25-6275)

Docket No. NU20-0900

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through its Attorney General, William H. Sorrell, and Respondent Brenda McGowan, who stipulate and agree as follows:

1. The Vermont Board of Nursing 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. §§1574, and 1582, the Office of Professional Regulation's and the Board of Nursing's Rules.
2. Respondent Brenda McGowan, of Putney, Vermont is a licensed practical nurse holding license number 25-6275 issued by the State of Vermont.
3. At all times relevant, Respondent was also a licensed practical nurse in New Hampshire, holding license number 010315-22 issued in that State.
4. Respondent admits to each and every paragraph of the Specification of Charges dated December 29, 2000 (attached and incorporated).
5. Respondent admits the conclusions of unprofessional conduct as set forth below in the Board's Order.
6. 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.

Office of the
ATTORNEY
GENERAL
9 State Street
Montpelier, VT
05609

7. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
8. Respondent waives any notification period and requests that this be heard at the next available Board meeting. 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 is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
10. 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.
11. Respondent voluntarily waives her right to charges and a contested hearing before the Board of Nursing.
12. Respondent agrees that the Board may set forth the order below.

ORDER

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

A. By engaging in the conduct described in each of the act(s), omission(s) and/or circumstance(s) in the paragraphs above, Respondent acted unprofessionally pursuant to and in violation of: 3 VSA § 129a(a)(3) (failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession); 3 VSA § 129a(a)(1) (Fraudulent or deceptive procurement or use of a license), and; 26 V.S.A. §1582(a)(1) (Has made or caused to be made a false,

fraudulent or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing).

B. The Nursing Board **SUSPENDS** the Respondent's license, commencing on the date this order is entered, continuing until she demonstrates, to the satisfaction of the Board: possession of at least entry level qualifications; specific rehabilitation; good moral character and fitness; methods of assuring public safety, and; that reinstatement would not be detrimental to the integrity of the profession or subversive of the public interest.

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.

STATE OF VERMONT

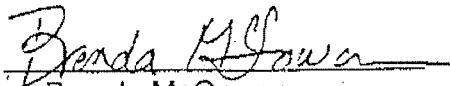
WILLIAM H. SORRELL
ATTORNEY GENERAL

Dated: 1/17/01

by: 
William H. Ahlers
Assistant Attorney General

RESPONDENT
BRENDA MC GOWAN

Dated: 1-13-01

by: 
Brenda McGowan

Office of the
ATTORNEY
GENERAL
19 State Street
Montpelier, VT
05609

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: Feb. 12, 2001

by: Glenn Farrell
Chairperson

Date of entry: 2-14-01

Office of the
ATTORNEY
GENERAL
100 State Street
Montpelier, VT
05609

STATE OF VERMONT
BOARD OF NURSING

IN RE:

Brenda McGowan

License No: 25-6275

)
)
) Docket No. NU20-0900

SPECIFICATION OF CHARGES

1. The Vermont Board of Nursing 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. §§1574, and 1582, the Office of Professional Regulation's and the Board of Nursing's Rules.
2. Respondent Brenda McGowan, of Putney, Vermont is a licensed practical nurse holding license number 25-6275 issued by the State of Vermont.
3. At all times relevant, Respondent was also a licensed practical nurse in New Hampshire, holding license number 010315-22 issued in that State.
4. On or about May 18, 1999, Respondent was convicted of 23 V.S.A. §1201(A)(2) (Driving While Intoxicated) in Vermont District Court (Docket No.: 769-5-99 Wmc).
5. On or about May 24, 1999, Respondent admitted the following to an Investigator/Prosecutor for the New Hampshire Board of Nursing: diverting drugs for personal use [2 doses morphine sulfate 2mg/cc, upon information and belief, from a discharged patient's medication], and; having her motor vehicle license revoked for driving while intoxicated.
6. On or about July 15, 1999, Respondent's New Hampshire nursing license was suspended pursuant to a "Settlement Agreement" executed before the New Hampshire Board of Nursing (attached and incorporated).
7. On about December 30, 1999, Respondent prepared, signed and/or filed a Licensed Practical Nurse Renewal Application, with the Vermont Secretary of State, Office of Professional Regulation.
8. At times during the Summer and/or Fall of 2000, Respondent was employed at McGirr's Nursing Home of Bellows Falls, Vermont.

Count 1

9. Paragraphs 1 to 8 are incorporated.

Office of the
ATTORNEY
GENERAL
19 State Street
Montpelier, VT
05609

10. Pursuant to the Settlement Agreement executed on or about July 15, 2000, Respondent admitted that, in the State of New Hampshire, she violated RSA 326-B:12 II (c) (Dishonest or unprofessional conduct including, but not limited to, intentionally harming, abusing or exploiting a patient, defrauding or harming the public in manners related to the practice of nursing, willfully failing to maintain accurate and complete nursing records, acts of omission or commission when practicing nursing as set forth in rules adopted by the board pursuant to RSA 541-A...).
11. The act(s), omission(s) and/or circumstance(s) outlined above constitute unprofessional conduct and violate: 3 VSA § 129a(a)(3) (failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession).

Count 2

12. Paragraphs 1 to 8 are incorporated.
13. Pursuant to the Settlement Agreement executed on or about July 15, 2000, Respondent admitted that, in the State of New Hampshire, she violated RSA 326-B:12 II (e) (Addiction to or abuse of alcohol or other habit-forming drugs or substances which render the licensee unfit to practice nursing).
14. The act(s), omission(s) and/or circumstance(s) outlined above constitute unprofessional conduct and violate: 3 VSA § 129a(a)(3) (failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession).

Count 3

15. Paragraphs 1 to 8 are incorporated.
16. Pursuant to the Settlement Agreement executed on or about July 15, 2000, Respondent admitted that, in the State of New Hampshire, she violated Nur 215.01(b)(5) (Misappropriating human or material resources).
17. The act(s), omission(s) and/or circumstance(s) outlined above constitute unprofessional conduct and violate: 3 VSA § 129a(a)(3) (failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession).

Count 4

18. Paragraphs 1 to 8 are incorporated.

Office of the
ATTORNEY
GENERAL
9 State Street
Montpelier, VT
05609

19. On Respondent's Vermont Renewal Application, she indicated "No" when asked, "Has any state or federal licensing authority restricted, suspended, revoked or taken any other disciplinary action against a license, certificate, or registration that you hold or held in any profession or occupation?" (Question 2). The question continued, "If the answer...is 'yes', provide a copy of the order or official notification of the Board action.", though no documentation was attached.

20. The act(s), omission(s) and/or circumstance(s) outlined above constitute unprofessional conduct and violate: 3 VSA § 129a(a)(1) (Fraudulent or deceptive procurement or use of a license) and 26 V.S.A. §1582(a)(1) (Has made or caused to be made a false, fraudulent or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing).

Count 5

21. Paragraphs 1 to 8 are incorporated.

22. On Respondent's Vermont Renewal Application, she indicated "No" when asked, "Have you been convicted of a crime other than a minor traffic violation?" (Question 3). The question continued, "If the answer...is 'yes', attach the court document and a written explanation.", though no court documentation, nor explanation, was attached.

23. The act(s), omission(s) and/or circumstance(s) outlined above constitute unprofessional conduct and violate: 3 VSA § 129a(a)(1) (Fraudulent or deceptive procurement or use of a license) and 26 V.S.A. §1582(a)(1) (Has made or caused to be made a false, fraudulent or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing).

Count 6

24. Paragraphs 1 to 8 are incorporated.

25. On Respondent's Vermont Renewal Application, she indicated "No" when asked, "Has your use of alcohol, drugs, or medications in any way impaired or limited your ability to practice nursing with reasonable skill and safety?" (Question 5). The question continued, "If the answer...is 'yes', please explain in detail.", though no explanation, was given.

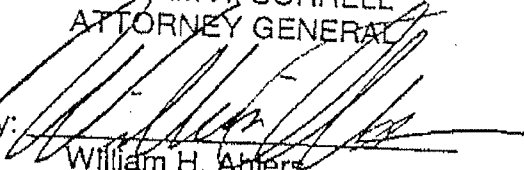
26. The act(s), omission(s) and/or circumstance(s) outlined above constitute unprofessional conduct and violate: 3 VSA § 129a(a)(1) (Fraudulent or deceptive procurement or use of a license) and 26 V.S.A. §1582(a)(1) (Has made or caused to be made a false, fraudulent or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing).

WHEREFORE, the license of Brenda McGowan should be revoked,
suspended or otherwise disciplined.

Dated this 29th day of December, 2000 at Montpelier, Vermont.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 

William H. Ahlers
Assistant Attorney General

Office of the
ATTORNEY
GENERAL
19 State Street
Montpelier, VT
05609