

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

**IN RE:** )  
**JANET M. MESSINA** ) **Docket No. 2012-118**  
**License No 025.0004602** )

**STIPULATION AND CONSENT ORDER**

**STIPULATION**

NOW COME the State of Vermont, by and through State Prosecuting Attorney S. Lauren Hibbert, and the Respondent, Janet M. Messina, LPN, who stipulate and agree as follows:

**Board Authority**

1. The Vermont State Board of Nursing (the "Board") has authority to issue warnings or reprimands; suspend, revoke, limit, or condition current licenses; or prevent the renewal of lapsed licenses if, after disciplinary hearing, the Board finds that 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 (the "ARBN"); and the Rules of the Office of Professional Regulation.

**Stipulated Facts**

2. Janet M. Messina (the "Respondent") of Colchester, Vermont is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025.0004602. This license was originally issued on or about March 27, 1979 and expires on January 31, 2014.
3. At all times relevant, Respondent was employed as a Licensed Practical Nurse at Fletcher Allen Health Care (the "Facility") which is located in Burlington, Vermont.
4. On or about January 20, 2012, Respondent violated patient confidentiality and the HIPAA policy of the Facility because she disclosed the diagnosis of a sexually transmitted disease to the mother of a sixteen year old patient. The mother had not been authorized to receive this information.
5. Respondent states that training that Respondent's employer provided regarding confidentiality was done on-line while Respondent was on duty and repeatedly disrupted. Also, the parties concede that the confidentiality exception for minors is not straight forward.
6. The Respondent has no prior disciplinary record.

**Violations**

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7. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:
  - a. 3 V.S.A. § 129a(b)(1) and (2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and
  - b. 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).

### Understandings

8. This Stipulation is neither an admission of liability by the Respondent nor a concession by the State of Vermont that its charges are not well-founded. To avoid delay, uncertainty, inconvenience, and expense of protracted litigation of the charges above, the Parties reach a full and final Stipulation pursuant to these Understandings and the Order below. The Respondent does not dispute that the State could prove at least some of charges by a preponderance of the evidence if this matter went to a hearing and agrees that the conditions below are necessary and appropriate.
9. 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.
10. 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.
11. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
12. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
13. Respondent voluntarily enters into this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.

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14. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
15. Respondent agrees that the Order set forth below may be entered by the Board.

**ORDER**

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

- A. The Board of Nursing hereby **WARNS** the Respondent's license.
- B. Respondent's license is **CONDITIONED** as follows:
- a. Respondent shall, within ninety days of this Order, at her own expense, complete a course pre-approved by the Board in HIPAA and Confidentiality. Failure to complete the course within this timeframe is a violation of this Order.
  - b. Upon receipt of satisfactory evidence of completion of the course, the Board or its designee shall terminate the conditions upon Respondent's license and restore the license to unencumbered status.
- C. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- 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 Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

Dated: 3/27/2013

STATE OF VERMONT  
SECRETARY OF STATE

By: S. Lauren Hibbert  
S. Lauren Hibbert  
State Prosecuting Attorney

JANET M. MESSINA  
RESPONDENT

STATE OF VERMONT



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Dated: March 25, 2013

By: Janet M. Messina  
Janet M. Messina

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: March 26, 2013

By: Beth A. Danon  
Beth A. Danon, Esq.

APPROVED AND SO ORDERED:

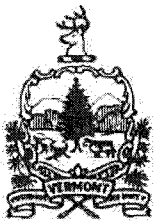
VERMONT BOARD OF NURSING

Dated: 4/8/13

By: Flavie Carr  
Chairperson

Date of Entry: 4/8/13

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