

W. Court 3/07

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

IN RE:)
MELANIE ANN MINARD) DOCKET No. NU07-0805
License No. 026-0014874)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Melanie Ann Minard, 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, 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. Melanie Ann Minard (the "Respondent") of Windsor, Vermont is a registered nurse holding license number 026-0014874, issued by the State of Vermont. This license was originally issued on or about September 20, 1982 and is set to expire on March 31, 2007. The Respondent's license was summarily suspended by the Board on October 17, 2005 and the Board's Summary Suspension Order was entered on October 24, 2005.

3. On or about August 3, 2005 the Respondent received a prescription for Endocet. On or about August 8, 2005 the Respondent received a prescription for Hydrocodone from a different treatment provider. She did not disclose her prescription for the Endocet at this time.

4. On or about August 8, 2005 the Respondent made 10 entries for the drug Fentanyl for patient M.C. The Fentanyl bag was found to have several punctures and only 93 ml in a bag that was supposed to have 125 ml. The Respondent utilized the Fentanyl for her personal use.

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5. On or about August 10, 2005 the Respondent took out morphine for patient D.B. at 3:30 PM. The patient had been discharged that day between 2:00 and 2:30.

6. August 12, 2005 the Respondent's co-worker believed that the Respondent was working while impaired at Springfield Hospital (the "Facility"). Prior to this incident the Facility had received several reports of the Respondent falling asleep while at work.

Charges

7. 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);
- (ii) 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause);
- (iii) Vermont Board of Nursing Administrative Rules Chapter 4, Rule IV, II(C) ("Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs, narcotics, chemicals or any other type of materials);
- (iv) 26 V.S.A. § 1582(a)(5) (is addicted to the use of habit forming drugs); and
- (v) 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public).

Understandings

8. Respondent admits the facts above are true and that the conditions below are necessary to protect the public.

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.

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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.

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 **INDEFINATELY SUSPENDS THE RESPONDENT'S LICENSE FOR A MINIMUM OF SIX (6) MONTHS**. The Board, if appropriate, may credit against the six month suspension the Respondent for the time her license has already been suspended under the Summary Suspension Order of October 24, 2005. Before applying for reinstatement, Respondent must obtain (1) an independent evaluation report by a licensed professional, pre-approved by the Board, specializing in drug and alcohol abuse; and (2) the results of the treatment with the drug and alcohol abuse evaluator must indicate that the Respondent does not present a risk to the safety, health or welfare of her potential patients. Once reinstated, her license will be **CONDITIONED FOR THREE (3) YEARS** and limited pursuant to the Laws of the State of Vermont and the Rules of this Board. The conditions will be as follows:

(1) Re-issue of License.

Upon the commencement of these conditions, Respondent shall be issued a license labeled "conditioned."

(2) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent completes three (3) years of supervised registered nursing in which she works forty (40) hours every two (2) weeks as a registered nurse. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis. Respondent shall be prohibited from working more than forty (40) hours per week.

(3) Completion of Substance Abuse Counseling and Treatment Plan.

Respondent shall enter into and continue substance abuse counseling with a treating professional approved by the Board until the treating professional shall certify in writing to the Nursing Board that such counseling is no longer necessary. Respondent shall enter into and comply with the substance abuse treatment plan approved by the Board and the treating professional.

(4) Notification to Treating Professional.

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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.

(5) 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. The first report is due commencing the month after the date of the commencement of the conditions and subsequent reports are due every month thereafter.

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

(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 Respondent practices as a registered nurse and inform them of Respondent's conditional license status.

Within ten (10) days of the date of entry of this Consent Order or of any subsequent registered nursing employment, Respondent shall cause Respondent's immediate supervisor to write to the Board, on the employer's letterhead, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

In the event the Respondent is attending a nursing program, Respondent shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Stipulation and Consent Order and ability of the program to comply with the conditions in the Consent Order during clinical experience.

(7) Reports from Employers.

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

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

(8) Practice Under Supervision.

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

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(9) Participation in Recovery Groups.

Respondent shall participate as recommended by her treating professional, in Narcotics Anonymous meetings and/or other recovery group(s).

(10) Random Drug and Alcohol Testing.

Respondent shall submit to random drug and alcohol screenings at the request of the Board or its designee. Respondent shall designate a person, who has been approved by the Board or its designee, to administer random drug and alcohol screens. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes and approved by the Board. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative.

(11) Abstain from Drug and Alcohol Use.

Respondent shall abstain completely from the consumption or possession of alcohol and drugs with the exception of medications as outlined in paragraph A.(12) for the period of time described in paragraph A.(2).

(12) Drug Use Exception.

The Respondent shall not take controlled substances unless necessary. Respondent may take scheduled/controlled 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 substance abuse issue(s) within one (1) week of entering into the practitioner/patient relationship. Respondent shall inform the Board in writing of all scheduled/controlled 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 necessity for the prescribed scheduled/controlled medications if the term exceeds 14 days. This includes medications to be administered as necessary. It is not anticipated that Respondent would be prescribed scheduled/controlled medication during the term of this Consent Order for a period greater than 14 days, but if so, then the conditions herein may be revoked by the Board.

Respondent shall keep a written record of all medications taken, including over the counter drugs, and produce such record upon the request of the Board or its designee.

(13) Interview with the Board or its Designee.

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

(14) Types of Employment Prohibited.

Respondent shall not work in a supervisory role. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary



nursing employment agency or as a personal care provider during the effective period of this Consent Order.

(15) 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.

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

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

(17) Notification to Other States.

In the event that the Respondent is licensed in nursing in any other state(s), she must inform the nursing licensing board of the state(s) in which the Respondent is licensed of the conditional status of her Vermont registered nursing license within thirty (30) days of the date of entry of this Order. If the Respondent fails to provide such notification, it will be considered a violation of this Order.

(18) License Renewal.

If the Respondent's license expires while this Order is still in effect, this Order does not automatically extend the license. In that situation, in order to continue to practice as a registered nurse, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that she has otherwise complied with the requirements for license renewal.

(19) Release of Information Forms.

The conditions of this Order require the Respondent to authorize drug and/or alcohol treatment providers to report information in verbal and/or written format and/or to discuss the Respondent and any and all treatment rendered to the Respondent for drugs and/or alcohol with the Board or its designee. The conditions of this Order must allow any and all information from the Respondent's treatment providers to also be provided to the Office of Professional Regulation investigators and that the information may be used for further prosecutions if so warranted or if the Office of Professional Regulation determines that said information violates the terms of this Order or any rules or laws governing the profession of nursing.

The Respondent is entitled to revoke this consent at any time. However, any revocation by the Respondent of such consent to disclosure during the term of this Order shall be considered a violation of this Order.

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This consent expires when the conditions are removed from the Respondent's nursing license.

This Stipulation and Consent Order shall constitute a valid written consent pursuant to the requirements of 42 C.F.R. § 2.31.

The Respondent understands that her treatment provider may require her to sign a separate and distinct consent meeting the requirements of 42 C.F.R. § 2.31.

(20) Costs.

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

(21) Violation of this Order.

If the Respondent violates the terms of this Order in any respect, the Board, after giving the Respondent notice and an opportunity to be heard, may rescind or modify this Order and impose additional appropriate disciplinary actions. If a complaint of unprofessional conduct is made against the Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

(22) Completion of Conditional License Period.

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on her license. The Respondent must present proof that she has fully complied with the terms of this Order. The Respondent must also present proof of successful substance abuse rehabilitation and she must demonstrate, to the satisfaction of the Nursing Board, that she poses no danger to the public or the practice of nursing and that she can safely and competently perform the duties of a registered nurse.

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

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

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

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
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Dated:

1/23/06

By:

Edward G. Adrian
State Prosecuting Attorney

MELANIE ANN MINARD
RESPONDENT

Dated:

01-20-2006

By:

Melanie Ann Minard
Melanie Ann Minard

APPROVED AND SO ORDERED:
VERMONT BOARD OF NURSING

Dated:

2/13/06

By:

Susan Farrell
Chairperson

Date of Entry:

2/16/06

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STATE OF VERMONT
BOARD OF NURSING

In re: Melanie Ann Minard }
License No. 026-0014874 }
}

Docket No. NU07-0805

DECISION ON REQUEST FOR
SUMMARY SUSPENSION ORDER

Appearances:

for Petitioner, State of Vermont:	Edward G. Adrian, prosecuting attorney
for Respondent:	Melanie Ann Minard, <i>pro se</i>
Investigating Officer:	Amy Carlson
Presiding Officer:	Larry S. Novins, Board counsel

for the Board of Nursing:

Ken Bush
Susan Farrell, Chair
Sandra Norton
Linda Rice
Alan Weiss
De-Ann Welch

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER

On 10 October 2005, this matter came before the Vermont State Board of Nursing on the prosecution's Request for Summary Suspension pursuant to 3 V.S.A. § 814(c). The Respondent appeared in person. The Board has authority to summarily suspend a license pending further proceedings if it determines that public health, safety or welfare imperatively require emergency action.

Findings of Fact:

Based on a Review of the pleadings, the file, and the evidence presented to the Board at the hearing on this matter, the Board finds:

1. The respondent is licensed by and subject to the disciplinary authority of this Board. 26 V.S.A. Chapter 28, 3 V.S.A. § 129(a), and the Administrative Rules of the Office of Professional Regulation.
2. The Respondent is a licensed nurse holding license 026-0014874.
3. The State filed a "Request for Summary Suspension" dated 27 September 2005 alleging that Respondent received controlled substance prescriptions and accessed

controlled substances from her place of employment in violation of state laws and rules.

4. The State further alleges that the public health, safety or welfare imperatively requires emergency action, and the state asks this Board to summarily suspend the Respondent's license.
5. The Respondent was provided notice of this matter and did appear at the hearing.
6. The Board has reviewed documents presented by the State, and the testimony of State investigator Amy Carlson.
7. The Board finds that the State established the allegations in its "Request for Summary Suspension" (copy attached) to the necessary degree.
8. The Board finds that emergency action is needed to protect the public health, safety and welfare.

Conclusions of Law:

The prosecution's Request for a Summary Suspension is supported by the evidence as required by 3 V.S.A. § 814(c). The Board concludes that the public health, safety and welfare imperatively require emergency action.

Order:

Pursuant to 3 V.S.A. § 814(c), the Board issues the following order which shall remain in effect until further action by the Board.

The Respondent's license is summarily suspended pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

Vermont Board of Nursing

By: Susan Farrell
Susan Farrell, RN, Chair

Date: October 17, 2005

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 10/24/05

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.

To request a stay of the Board's decision, please refer to the attached stay instructions.

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

IN RE:

**MELANIE ANN MINARD
License No. 026-0014874**

DOCKET No. NU07-0805

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Melanie Ann Minard, 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. Melanie Ann Minard (the "Respondent") of Windsor, Vermont is a registered nurse holding license number 026-0014874, issued by the State of Vermont. This license was originally issued on or about September 20, 1982 and is set to expire on March 31, 2007.

3. On or about August 3, 2005 the Respondent received a prescription for Endocet. On or about August 8, 2005 the Respondent received a prescription for Hydrocodone from a different treatment provider. She did not disclose her prescription for the Endocet at this time.

4. On or about August 8, 2005 the Respondent made 10 entries for the drug Fentanyl for patient M.C. Six of these entries had been made after the Fentanyl had been discontinued for M.C. as M.C. had been discharged from the Facility. The Fentanyl bag was found to have several punctures and only 93 ml in a bag that was supposed to have 125 ml.

5. On or about August 10, 2005 the Respondent took out morphine for patient D.B. at 3:30 PM. The patient had been discharged that day between 2:00 and 2:30. This same day the Respondent asked for a witness to a morphine cassette that she just pulled out of her pocket.

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6. August 12, 2005 the Respondent's co-worker believed that the Respondent was working while impaired at Springfield Hospital (the "Facility"). Prior to this incident the Facility had received several reports of the Respondent falling asleep while at work.

7. On or about August 29, 2005 Investigator Steven Kennedy was told by the Respondent's husband that the Respondent was currently in a drug treatment program.

Charges

8. 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);
- (ii) 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause);
- (iii) Vermont Board of Nursing Administrative Rules Chapter 4, Rule IV, II(C) ("Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs, narcotics, chemicals or any other type of materials);
- (iv) 26 V.S.A. § 1582(a)(5) (is addicted to the use of habit forming drugs); and
- (v) 26 V.S.A. § 1582(a)(7) (engages in conduct of a character likely to deceive, defraud or harm the public).

Relief Requested

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

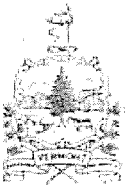
DATED at Montpelier, Vermont this 17 day of October, 2005.

STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

STATE OF VERMONT



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

IN RE: MELANIE ANN MINARD) DOCKET No. NU07-0805
License No. 026-0014874)

REQUEST FOR SUMMARY SUSPENSION

Board Authority

1. The Vermont Board of Nursing (the "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. Chapter 28 and; the rules of the Board and the Vermont Office of Professional Regulation.
2. The Board of Nursing is authorized by 3 V.S.A. § 814 to summarily suspend the license of a nurse when it finds that the public health, safety or welfare imperatively requires emergency action.

Statement of Facts

3. Melanie Ann Minard (the "Respondent") of Windsor, Vermont is a licensed ^{Nurse} ~~nursing assistant~~ holding license number 026-0014874, issued by the State of Vermont. This license was originally issued on or about September 20, 1982 and is set to expire on March 31, 2007.
4. On or about August 3, 2005 the Respondent received a prescription for Endocet. On or about August 8, 2005 the Respondent received a prescription for Hydrocodone from a different treatment provider. She did not disclose her prescription for the Endocet at this time.
5. On or about August 8, 2005 the Respondent made 10 entries for the drug Fentanyl for patient M.C. Six of these entries had been made after the Fentanyl had been discontinued for M.C. as M.C. had been discharged from the Facility. The Fentanyl bag was found to have several punctures and only 93 ml in a bag that was supposed to have 125 ml.
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8. On or about August 29, 2005 Investigator Steven Kennedy was told by the Respondent's husband that the Respondent was currently in a drug treatment program.

Request for Relief

9. 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.
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); 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause); Vermont Board of Nursing Administrative Rules Chapter 4, Rule IV, II, C ("Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs, narcotics, chemicals or any other type of materials). 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);

WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. § 814(c), the Respondent's nursing license number 026-0014874 be summarily suspended, pending a hearing on the merits.

DATED at Montpelier, Vermont this 27th day of September, 2005.

STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

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