

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

IN RE:)
LUCINDA S. MORTON) **Docket No: NU 59-0303**
License No. 026-0023229)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney,
Edward G. Adrian, and Respondent Lucinda S. Morton, R.N., 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)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a); Administrative Rules of the Board of Nursing.

Facts

2. The Respondent is licensed in the State of Vermont as a Registered Nurse under License Number 026-0023229.
3. The Respondent's license was originally issued on December 12, 1996 and the Respondent's license expired on March 31, 2003.
4. At all times relevant, the Respondent was employed at the Brattleboro Retreat ("the facility") in Brattleboro, Vermont.
5. On or about March 3, 2003, the Respondent was scheduled to work at the facility.

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6. During the Respondent's shift, a co-worker smelled intoxicants on the Respondent's breath.
7. The Respondent later told the co-worker that the Respondent thought she was an "alcoholic" and that she "can't stop drinking".
8. The Respondent also told another co-worker that she had a problem with alcohol.
9. The Respondent admitted to her work supervisor that she had an alcohol problem.
10. The Respondent informed the State's Investigator that she "may have a problem" with alcohol.

Charges

11. Being habitually intemperate or addicted to the use of habit-forming drugs is unprofessional conduct upon which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(5).
12. The inability to practice nursing competently by reason of any cause is unprofessional conduct upon which the Board can base disciplinary action, which includes failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(2). 26 V.S.A. §1582(a)(3).

Understandings

13. Respondent admits the facts above are true and that the conditions below are necessary to protect the public.
14. 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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15. 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.
16. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
17. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
18. 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.
19. Respondent voluntarily waives her right to charges and a contested hearing before the Board of Nursing.
20. 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 **CONDITIONS** the Respondent's license to practice nursing for a minimum period of **THREE (3) YEARS** commencing with the date of entry of this Stipulation and Consent Order. The conditions are 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.

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

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

Respondent shall enter into and continue alcohol 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 alcohol abuse treatment plan approved by the Board and the treating professional.

(4) 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.

(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

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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) Reports from Employers.

Within one (1) month of the date of the commencement of the conditions and **monthly** thereafter, Respondent shall cause every employer Respondent has worked for during the relevant time period to submit to the Board an evaluation of Respondent's work performance and attendance during that time period. 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 write to the Board, on school letterhead, acknowledging receipt of the Consent Order and ability of the program to comply with the conditions in the Consent Order during clinical experience.

(7) 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 Board.

(8) Participation in Recovery Group.

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

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(9) Random Alcohol Testing.

Respondent shall submit to random screening 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 alcohol screens. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes. Breath testing devices shall be sufficient for these purposes. All screens shall be negative.

(10) Abstain from Alcohol.

Respondent shall abstain completely from the consumption or possession of alcohol.

(11) Interview with the Board or its Designee.

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

(12) Types of Employment Prohibited.

Respondent shall not work as a supervising nurse. 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.

(13) 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

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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.

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

Within five (5) days of the date of the commencement of the conditions, 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. Respondent shall provide a copy of this Consent Order to all nursing employers, current and future, and shall inform them of the conditional status of her license.

(15) 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 nursing, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that she has otherwise complied with the requirements for license renewal.

(16) Release of Information Forms.

In fulfilling the conditions of this Order which require the Respondent to authorize various persons to report information or to discuss the Respondent with the Board, the Respondent must execute a consent to disclose form which meets the requirements of 42 C.F.R. §2.31. The authorization must allow the information to also be provided to the Office of Professional Regulation investigators. Any

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revocation by the Respondent of such consent to disclosure during the term of this Order shall be considered a violation of this Order.

(17) Costs.

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

(18) 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.

(19) 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 alcohol 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.

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

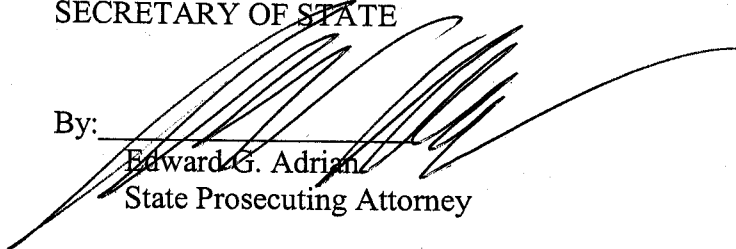
C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

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

Dated: 3/2/04

By: 

Edward G. Adrian
State Prosecuting Attorney

LUCINDA S. MORTON
RESPONDENT

Dated: Feb. 20, 2004

By: Lucinda S. Morton

Lucinda S. Morton

APPROVED AS TO FORM:

RESPONDENT'S ATTORNEY

Dated: Feb. 20, 2004

By: 

Elana Baron, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: March 8, 2004

By: Lisa Farrell

Chairperson

Date of Entry: 3/12/04

nu.morton.stip

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