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

IN RE:	)	
DARCIE JEAN NASH	)	**Docket No. 2010-151**
License No. 026.0029983	)	

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney BetsyAnn Wrask, and the Respondent, Darcie Jean Nash, 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.

Statement of Facts

2. Darcie Jean Nash (the "Respondent") of Passumpsic, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0029983. This license was originally issued on or about August 11, 2004 and is currently set to expire on or about March 31, 2011. Respondent has also been licensed by the State of Vermont as a Licensed Nursing Assistant under license number 075.0013872. Respondent's LNA license was originally issued on or about August 29, 2003 and expired on or about November 30, 2004.

3. At all times relevant, Respondent was employed as a Registered Nurse in the Med/Surg at Northeastern Vermont Regional Hospital (the "Facility"), located in St. Johnsbury, Vermont.

4. The Facility's PYXIS (electronic medication dispensing machine) policy regarding wasting medications requires that when a Schedule C-II through C-V controlled substance is removed from the PYXIS and requires disposal (wasting of whole or partial doses), the disposal must be performed by two (2) licensed staff and documented in the PYXIS by using the Waste function.

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5. On or about April 6, 2010 in a Statement of Complaint, Chief Nursing Officer V.H. reported that Respondent's narcotic medication administration had been restricted subsequent to a chart review. V.H. advised that the Facility suspected Respondent had committed narcotic diversion based upon a PYXIS report of anomalous use related to Respondent's narcotic drug administration, and subsequent chart review for the months of January, February, and March 2010.

6. The PYXIS Anomalous Usage Report covering the period of on or about December 25, 2009 through on or about March 24, 2010 indicated that Respondent withdrew from the PYXIS abnormally high amounts of Fentanyl; Hydromorphone (Dilaudid); Morphine; Percocet; and Oxycodone.

7. On or about April 5, 2010, Chief Nursing Officer V.H., Registered Nurse J.O., and Pharmacy Director M.A. met with Respondent regarding their suspicions of diversion. Respondent reported for a drug screen immediately following the interview, but that drug screen came back diluted. At the summary suspension held in this matter, the Respondent's supervisor testified that part of the documentation problems may have been attributed to technology issues and asked that Respondent remain employed at the Facility. Based in part on this testimony, the Board denied the State's request for summary suspension.

Statement of Facts re: Patient Y.W.

8. On or about December 30, 2009, Patient Y.W. was ordered to be administered Morphine 3-5mg IV every hour as needed for severe pain.

9. On or about January 1, 2010, Nurse S.P. documented in her Nurse's Notes that Y.W. was pain-free.

10. On or about January 2, 2010 at 09:04, Respondent removed from the PYXIS one (1) Morphine 10mg 1ml tubex for Y.W. Respondent did not document the amount of this narcotic administered to Y.W. in the Electronic Medication Administration Record (the "EMAR"). Moreover, Respondent did not document wasting any of this narcotic. Furthermore, Respondent's removal of this narcotic on this date was the only instance this narcotic was removed from the PYXIS for Y.W.

11. On or about January 2, 2010 at 14:01, Y.W. was discharged from the Facility.

Statement of Facts re: Patient H.S.

12. On or about January 3, 2010, Patient H.S. was ordered to be administered one (1) to two (2) tablets Hydrocodone/Apap (Vicodin) 5/500mg every four (4) hours as needed for pain.

13. On or about January 3, 2010 at 19:30, Respondent removed from the PYXIS two (2) tablets Vicodin for H.S. On this date at 19:32, Respondent documented in the EMAR

STATE OF VERMONT

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05609-1107

that she administered one (1) tablet Vicodin to H.S. at 19:31. Respondent did not document wasting the remaining tablet of this narcotic.

Statement of Facts re: Patient L.J.

14. On or about January 3, 2010, Patient L.J. was ordered to be administered Morphine 2-5mg IV every four (4) hours as needed for pain.

15. On or about January 3, 2010 at 15:37, Respondent removed from the PYXIS one (1) Morphine 10mg 1ml tubex for L.J. On this date at 18:38 (approximately three (3) hours later), Respondent documented in the EMAR that she administered Morphine 4mg to L.J. at 15:30. Respondent did not document wasting the remaining 6mg of this narcotic.

16. On or about January 3, 2010 at 18:31, Respondent removed from the PYXIS one (1) Morphine 10mg 1ml tubex for L.J. On this date at 18:36, Respondent documented in the EMAR that she administered Morphine 5mg to L.J. at 18:36, in violation of L.J.'s order.

17. On or about January 4, 2010, L.J.'s order was increased to Morphine 3-5mg IV every hour as needed for pain.

18. On or about January 5, 2010 at 13:08, Respondent removed from the PYXIS one (1) Morphine 10mg 1ml tubex for L.J. On this date at 15:04 (approximately two (2) hours later), Respondent documented in the EMAR that she administered Morphine 1mg to L.J. at 13:45. Respondent did not document wasting the remaining 9mg of this narcotic.

19. On or about January 6, 2010 at 09:24, Respondent removed from the PYXIS one (1) Morphine 10mg 1ml tubex for L.J. On this date at 14:32 (approximately five (5) hours later), Respondent documented in the EMAR that she administered Morphine 5mg to L.J. at 10:45. Respondent did not document wasting the remaining 5mg of this narcotic.

Statement of Facts re: Patient R.F.

20. On or about January 7, 2010, Patient R.F. was ordered to be administered Meperidine (Demerol) 25-75 mg IV every three (3) hours as needed for pain.

21. On or about January 8, 2010 at 07:48, Respondent removed from the PYXIS two (2) Demerol 100mg 2ml ampules for R.F., for a total of Demerol 200mg (which is in excess of R.F.'s order). On this date at 08:20, Respondent documented in the EMAR that she administered Demerol 75mg to R.F. at 08:19. PYXIS records indicate that Respondent did waste the remaining Demerol 125mg with another nurse.

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22. On or about January 8, 2010 at 10:48, Respondent removed from the PYXIS one (1) Demerol 100mg 2ml ampule for R.F. On this date at 12:54 (approximately two (2) hours later), Respondent documented in the EMAR that she administered Demerol 75mg to R.F. at 10:48. Respondent did not document wasting the remaining 25mg of this narcotic.

23. On or about January 8, 2010 at 12:51, Respondent removed from the PYXIS one (1) Demerol 100mg 2ml ampule for R.F. On or about January 12, 2010 at 10:07 (four days later), Respondent documented in the EMAR that she administered Demerol 75mg to R.F. on January 8, 2010 at 14:30. Respondent did not document wasting the remaining 25mg of this narcotic.

24. On or about January 8, 2010 at 14:36, Respondent removed from the PYXIS one (1) Demerol 100mg 2ml ampule for R.F. There is no corresponding documented administration or wasting of this removal.

25. In summary, on or about January 8, 2010, Respondent removed a total of Demerol 500mg from the PYXIS for R.F. Respondent documented administering a total of Demerol 225mg to R.F., and Demerol 125mg was documented as wasted. Therefore, no documentation exists for the remaining Demerol 150mg.

26. On or about January 7, 2010, R.F. was ordered to be administered one (1) to two (2) tablets Oxycodone/Apap (Percocet) 5/325 mg every four (4) hours as needed for pain.

27. On or about January 8, 2010 at 10:26, Respondent removed from the PYXIS two (2) Percocet tablets for R.F. It was not until 12:54 on this date that Respondent documented in the EMAR that she administered two (2) Percocet tablets to R.F. at 12:51.

Statement of Facts re: Patient B.Z.

28. On or about January 26, 2010, Patient B.Z. was ordered to be administered Morphine Sulfate 2-4mg IV every two (2) hours as needed for pain.

29. On or about January 26, 2010 at 10:43, Respondent removed from the PYXIS one (1) Morphine 10mg 1ml tubex for B.Z. On this date at 12:28 by using the override function, Respondent documented in the EMAR that she administered Morphine 4mg to B.Z. at 11:00. Respondent did not document wasting the remaining 6mg of this narcotic.

Statement of Facts re: Patient M.B.

30. On or about February 1, 2010, Patient M.B. was ordered to be administered Morphine 4-6mg IV every two to four hours as needed for severe pain.

STATE OF VERMONT

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31. On or about February 2, 2010 at 11:15, Respondent removed from the PYXIS one (1) Morphine 10mg 1ml tubex for M.B. On this date at 14:25 (approximately three (3) hours later), Respondent documented in the EMAR that she administered Morphine 6mg to M.B. at 11:30. Respondent did not document wasting the remaining 4mg of this narcotic.

32. On or about February 2, 2010 at 13:24, Respondent removed from the PYXIS one (1) Morphine 10mg 1ml tubex for M.B. On or about February 3, 2010 at 13:07 (one day later), Respondent documented in EMAR that she administered Morphine 6mg to M.B. on February 2, 2010 at 13:14 (less than two hours after the last administration, which is earlier than ordered). Respondent did not document wasting the remaining 4mg of this narcotic.

33. On or about February 3, 2010 at 08:52, Respondent removed from the PYXIS one (1) Morphine 10mg 1ml tubex for M.B. On this date at 13:14 (approximately four (4) hours later), Respondent documented in the EMAR that she administered Morphine 6mg to M.B. at 09:00. Respondent did not document wasting the remaining 4mg of this narcotic.

34. On or about February 4, 2010 at 09:43, Respondent removed from the PYXIS one (1) Morphine 10mg 1ml tubex for M.B. On this date at 09:51, Respondent documented in the EMAR that she administered Morphine 6mg to M.B. at 09:51. Respondent did not document wasting the remaining 4mg of this narcotic.

35. On or about February 4, 2010 at 15:12, Respondent removed from the PYXIS one (1) Morphine 10mg 1ml tubex for M.B. Respondent did not document administering or wasting any of this removed narcotic.

36. On or about February 5, 2010 at 13:20, Respondent documented in the EMAR that she administered Morphine 6mg to M.B. at 13:20. However, Respondent made no narcotic removals from the PYXIS of any kind on this date. Moreover, Respondent did not document wasting the remaining 4mg of this narcotic.

Statement of Facts re: Patient J.R.

37. On or about February 8, 2010, Patient J.R. was ordered to be administered Demerol 25mg IV every two to four hours as needed for pain.

38. On or about February 8, 2010 at 10:05, Respondent removed from the PYXIS one (1) Demerol 25mg 1ml tubex for J.R. It was not until 13:38 on this date that Respondent documented in the EMAR that she administered Demerol 25mg to J.R. at 10:00.

39. On or about February 9, 2010, J.R. was ordered to be administered Hydromorphone (Dilaudid) 2-4mg IV every two hours as needed for pain.

STATE OF VERMONT

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9 Baldwin Street
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05609-1107

40. On or about February 9, 2010 at 14:51, Respondent removed from the PYXIS one (1) Dilaudid 10mg 1ml ampule for J.R. On or about February 10, 2010 at 14:47 (one day later), Respondent documented in the EMAR that she administered Dilaudid 6mg to J.R. on or about February 9, 2010 at 14:45, in excess of J.R.'s order. Respondent did not document wasting the remaining 4mg of this narcotic.

41. On or about February 10, 2010 at 13:57, Respondent removed from the PYXIS one (1) Dilaudid 10mg 1ml ampule for J.R. On this date at 15:16, Respondent documented in the EMAR that she administered Dilaudid 4mg to J.R. at 13:30 (approximately ½ hour prior to this narcotic's removal), when J.R. had a pain scale of four (4). Respondent did not document wasting the remaining 6mg of this narcotic. On this same date at 15:16, Respondent had documented in the EMAR that she had reassessed J.R. at 14:00 and J.R.'s pain scale had been labeled as one (1).

42. On or about February 11, 2010 at 08:54, Respondent removed from the PYXIS one (1) Dilaudid 10mg 1ml ampule for J.R. On this date at 13:27 (approximately four and a half (4 ½ hours later), Respondent documented in the EMAR that she administered Dilaudid 4mg to J.R. at 09:00 on this date, when J.R. had a pain scale of three (3). Respondent did not document wasting the remaining 6mg of this narcotic. On this same date at 13:27, Respondent documented in the EMAR that she had reassessed J.R. at 09:30 and J.R.'s pain scale was two (2).

43. On or about February 11, 2010 at 12:24, Respondent removed from the PYXIS one (1) Dilaudid 10mg 1ml ampule for J.R. On this date at 13:29 (similar documentation time as above), Respondent documented in the EMAR that she administered Dilaudid 4mg to J.R. at 12:00 (prior to removal time), when J.R. had a pain scale of four (4). Respondent did not document wasting the remaining 6mg of this narcotic.

44. On or about February 11, 2010 at 12:49, J.R. was discharged from the Facility with a pain scale of zero (0). In J.R.'s discharge summary – written by a nurse other than Respondent – it was noted that J.R. had not had any pain in the last 24 hours at the Facility, in contradiction to Respondent's documented reassessments.

45. On or about February 11, 2010 at 13:29, Respondent documented that she reassessed J.R. at that time, and J.R. had a pain scale of zero (0). However, J.R. had already been discharged from the Facility.

Statement of Facts re: Patient L.G.

46. On or about February 10, 2010, Patient L.G. was ordered to be administered Morphine 10-15mg IV every hour as needed for pain.

47. On or about February 11, 2010 at 12:31, Respondent removed from the PYXIS two (2) Morphine 10mg 1ml vials for L.G., for a total of Morphine 20mg. On this date at 12:36, Respondent documented in the EMAR that she administered Morphine 15mg

STATE OF VERMONT

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Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

to L.G. at 12:35. Respondent did not document wasting the remaining 5mg of this narcotic.

48. On or about February 11, 2010 at 15:08, Respondent removed from the PYXIS two (2) Morphine 10mg 1ml vials for L.G., for a total of Morphine 20mg. On or about February 13, 2010 at 09:32 (two days later), Respondent documented in the EMAR that she administered Morphine 15mg to L.G. on February 11, 2010 at 15:00. Respondent did not document wasting the remaining 5mg of this narcotic.

Statement of Facts re: Patient P.T.

49. On or about March 2, 2010, Patient P.T. was ordered to be administered Morphine 3-5mg IV every hour as needed for pain; and one (1) Percocet tablet every four (4) hours as needed for pain.

50. On or about March 3, 2010 at 12:47, P.T. was discharged from the Facility. In P.T.'s Discharge Summary – documented by a nurse other than Respondent – it was noted that P.T. had a discharge pain level of two (2).

51. On or about March 3, 2010 at 10:00, Respondent removed from the PYXIS one (1) Morphine 10mg 1ml tubex for P.T. Over two hours later on this date at 12:50, Respondent documented in the EMAR that she administered Morphine 5mg to P.T. at 12:49, which is after P.T. had been discharged. Respondent documented that P.T. had a pain scale of four (4) at this time (which is a different pain scale than that documented by another nurse at P.T.'s discharge, and this pain scale was documented after P.T. had been discharged). Respondent did not document wasting the remaining Morphine 5mg.

52. On or about March 3, 2010 at 12:55, Respondent removed from the PYXIS one (1) Percocet tablet for P.T., after P.T. had been discharged. On this date at 12:50, Respondent documented in the EMAR that she administered one (1) tablet Percocet to P.T. at 12:45 – two (2) minutes prior to discharge – and documented that P.T. had a pain scale of three (3) (which is a different pain scale than that documented by another nurse at P.T.'s discharge).

53. On or about March 3, 2010 at 12:52, Respondent documented in the EMAR that she reassessed P.T. at this time, which is after P.T. had already been discharged.

Statement of Facts re: Patient M.C.

54. On or about February 28, 2010, Patient M.C. was ordered to be administered Morphine 2-5mg IV every two (2) hours as needed for extreme pain.

55. On or about March 3, 2010 at 15:00, Respondent removed from the PYXIS one (1) Morphine 10mg 1ml tubex for M.C. Respondent did not document administering or wasting any of this narcotic.

STATE OF VERMONT

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9 Baldwin Street
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05609-1107

56. On or about March 5, 2010 at 12:23, Respondent removed from the PYXIS one (1) Morphine 10mg 1ml tubex for M.C. On this date at 12:18, Respondent documented in the EMAR that she administered Morphine 4mg to M.C. on this date at 12:18. Respondent did not document wasting the remaining 6mg of this narcotic.

57. On or about February 28, 2010, Patient M.C. was ordered to be administered one (1) to two (2) tablets Percocet 5/325 mg every four (4) hours as needed.

58. On or about March 4, 2010 at 09:39, Respondent removed from the PYXIS two (2) tablets Percocet for M.C. On or about March 5, 2010 at 08:10 (one day later), Respondent documented in the EMAR that she administered two (2) tablets Percocet to M.C. on March 4, 2010 at 09:15 (prior to the time of removal).

59. On or about March 5, 2010 at 07:42, Respondent removed from the PYXIS two (2) tablets Percocet for M.C. There is no corresponding documentation of administration or wasting of this narcotic.

60. On or about March 5, 2010 at 08:25, Respondent removed from the PYXIS two (2) tablets Percocet for M.C. On this date at 14:25 (approximately six (6) hours later), Respondent documented that she administered two (2) tablets Percocet to M.C. at 12:00 on this date (approximately three and a half (3 ½ hours after the narcotic's removal).

Statement of Facts re: Patient B.B.

61. On or about March 2, 2010, Patient B.B. was ordered to be administered Fentanyl 25-50 mcg IV every 30 minutes as needed for pain.

62. Respondent was the only nurse to document administering Fentanyl to B.B. in the days following operation. Out of the twelve (12) doses of Fentanyl removed from the PYXIS for B.B., ten (10) of those were by Respondent.

63. On or about March 3, 2010 at 11:23, Respondent removed from the PYXIS one (1) Fentanyl 100mcg 2ml ampule for B.B. On or about March 4, 2010 at 08:21 (one day later), Respondent documented in the EMAR that she administered Fentanyl 50 mcg to B.B. on March 3, 2010 at 10:41 (prior to the time of removal). Respondent did not document wasting the remaining Fentanyl 50mcg.

64. On or about March 3, 2010 at 13:46, Respondent removed from the PYXIS one (1) Fentanyl 100mcg 2ml ampule for B.B. On or about March 4, 2010 at 08:29 (one day later), Respondent documented in the EMAR that she administered Fentanyl 50 mcg to B.B. on March 3, 2010 at 11:50 (prior to the time of removal). Respondent did not document wasting the remaining Fentanyl 50mcg.

STATE OF VERMONT

Prosecuting Attorney
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9 Baldwin Street
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05609-1107

65. On or about March 3, 2010 at 15:26, Respondent removed from the PYXIS one (1) Fentanyl 100mcg 2ml ampule for B.B. On or about March 4, 2010 at 08:30 (one day later; similar documentation time as above), Respondent documented in the EMAR that she administered Fentanyl 50 mcg to B.B. on March 3, 2010 at 15:25. Respondent did not document wasting the remaining Fentanyl 50mcg.

66. On or about March 4, 2010 at 08:27, Respondent removed from the PYXIS one (1) Fentanyl 100mcg 2ml ampule for B.B. On this date at 12:59 (over four (4) hours later), Respondent documented in the EMAR that administered Fentanyl 25 mcg to B.B. on this date at 08:00. Respondent did not document wasting the remaining Fentanyl 75 mcg.

67. On or about March 4, 2010 at 08:28, Respondent documented in the EMAR that she had reassessed B.B. the day earlier, on or about March 3, 2010 at 11:00.

68. On or about March 4, 2010 at 08:30, Respondent documented in the EMAR that she had reassessed B.B. the day earlier, on or about March 3, 2010 at 12:30.

69. On or about March 4, 2010 at 08:31, Respondent documented in the EMAR that she had reassessed B.B. the day earlier, on or about March 3, 2010 at 15:45.

70. On or about March 4, 2010 at 11:41, Respondent removed from the PYXIS one (1) Fentanyl 100mcg 2ml ampule for B.B. On this date at 13:00, Respondent documented in the EMAR that she administered Fentanyl 50 mcg to B.B. at 11:40 on this date. Respondent did not document wasting the remaining Fentanyl 50 mcg.

71. On or about March 4, 2010 at 13:00, Respondent documented in the EMAR that she had reassessed B.B. on this date at 08:30.

72. On or about March 4, 2010 at 13:00, Respondent removed from the PYXIS one (1) Fentanyl 100mcg 2ml ampule for B.B. On this date at 14:46, Respondent documented in the EMAR that she administered Fentanyl 50 mcg to B.B. at 13:00 on this date. Respondent did not document wasting the remaining Fentanyl 50 mcg.

73. On or about March 5, 2010 at 09:23, Respondent removed from the PYXIS one (1) Fentanyl 100mcg 2ml ampule for B.B. On this date at 12:35 (over three (3) hours later), Respondent documented in the EMAR that she administered Fentanyl 25mcg to B.B. at 09:15 on this date. Respondent did not document wasting the remaining Fentanyl 75 mcg.

74. On or about March 5, 2010 at 10:37, Respondent removed from the PYXIS one (1) Fentanyl 100mcg 2ml ampule for B.B. On this date at 13:53 (over three (3) hours later), Respondent documented in the EMAR that she administered Fentanyl 25mcg to B.B. at 10:40 on this date. Respondent did not document wasting the remaining Fentanyl 75 mcg.

STATE OF VERMONT

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75. On or about March 5, 2010 at 13:41, Respondent removed from the PYXIS one (1) Fentanyl 100mcg 2ml ampule for B.B. On this date at 14:30, Respondent documented in the EMAR that she administered Fentanyl 25mcg to B.B. at 13:30 on this date. Respondent did not document wasting the remaining Fentanyl 75 mcg.

76. On or about March 5, 2010 at 14:41, Respondent removed from the PYXIS one (1) Fentanyl 100mcg 2ml ampule for B.B. Four days later, on or about March 9, 2010 at 07:19 – which is three (3) days after B.B. had been discharged – Respondent documented in the EMAR that she administered Fentanyl 25mcg to B.B. on March 5, 2010 at 14:35. Respondent did not document wasting the remaining Fentanyl 75 mcg.

Statement of Facts re: Respondent's Interview

77. On or about May 4, 2010 in an interview with State Investigator Jamie Palmisano, Respondent admitted that she made mistakes during the performance of her nursing duties, including narcotic administration errors. However, Respondent denied diversion.

78. On or about May 14, 2010 in a written statement to Investigator Palmisano, Respondent admitted that she did not follow protocol appropriately. Respondent alleged that she would medicate a patient and then document later due to difficulties with electronic documentation. Respondent claimed that other departments she had worked in would allow her to waste pain medications without a witness. However, Respondent admitted this practice was not allowed in the unit where she worked, and that she has since stopped this practice.

Charges

79. The State alleges that 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. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause);

b. ARBN Chapter 4, Subchapter 4, Rule II(B)(1) and (2) ("Inability to practice nursing competently" includes: (1) performance of unsafe or unacceptable patient care; and (2) failure to conform to the essential standards of acceptable and prevailing nursing practice);

c. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud, or harm the public) which includes falsifying or altering clinical records or making inaccurate or misleading entries pursuant to ARBN Chapter 4, Subchapter 4, Rule II(D)(3); and diverting supplies, equipment, or drugs for

STATE OF VERMONT

Prosecuting Attorney
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9 Baldwin Street
Montpelier, VT
05609-1107

personal or other unauthorized use pursuant to ARBN Chapter 4, Subchapter 4, Rule II(D)(4);

d. 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records);

e. 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

f. 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

80. 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.

81. 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.

82. 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.

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

84. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.

85. 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.

86. 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.

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87. 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 **INDEFINITELY SUSPENDS** the Respondent's license to practice nursing for a **MINIMUM OF SIX (6) MONTHS from the date of entry below. THIS SUSPENSION SHALL BE STAYED FOR FORTY-FIVE (45) DAYS TO ALLOW THE RESPONDENT TO COMPLETE THE FOLLOWING:** Within forty-five (45) days of requesting reinstatement, Respondent must: 1) obtain an independent evaluation report by a licensed professional specializing in drug and alcohol abuse pre-approved by the Board and who has verified receipt of this Order, the results of which must indicate that the Respondent does not present a risk to the safety, health or welfare of her potential patients; 2) submit to the Board the results of a minimum of three (3) random urine analyses, collected in an observed setting; administered by a person or entity that has been pre-approved by the Board; and analyzed by a lab qualified to analyze samples for forensic purposes and pre-approved by the Board, the results of which shall be negative; failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine analysis shall cause that screen to be presumed positive; 3) enter into a treating professional agreement with a treating professional pre-approved by the Board; and 4) enter into a substance abuse treatment plan approved by the Board with the pre-approved treating professional.

IF WITHIN FORTY-FIVE (45) DAYS OF THE DATE OF ENTRY BELOW THE RESPONDENT HAS THREE NEGATIVE URINE SCREENS AND OBTAINS THE INDEPENDENT EVALUATION ABOVE AND THAT EVALUATION INDICATES THAT PROFESSIONAL TREATMENT IS NOT NECESSARY, THEN SHE WILL NOT BE REQUIRED TO ENTER INTO A TREATING PROFESSIONAL AGREEMENT OR TREATMENT PLAN OR ENGAGE IN GROUP COUNSELING AS CONTEMPLATED BY PARAGRAPHS THREE (3) AND FOUR (4) DIRECTLY ABOVE OR PARAGRAPHS THREE (3), FOUR (4) AND FIVE (5) DIRECTLY BELOW AND THE STAY REFERENCED ABOVE WILL BECOME PERMANENT.

IF ANY OF THE THREE URINE SCREENS SHOW POSITIVE RESULTS FOR ANY CONTROLLED OR REGULATED DRUGS OR ALCOHOL OR METABOLITES OF ALCOHOL, THE STAY SHALL BE LIFTED ADMINISTRATIVELY, BY A DELEGATEE OF THE BOARD AND THE RESPONDENT'S LICENSE SHALL BE SUSPENDED FORTHWITH.

After the period of suspension or the successful screens and evaluation above, Respondent's license will be **CONDITIONED FOR A MINIMUM OF THREE (3) YEARS** commencing with the date of reinstatement. The conditions will be as follows:

STATE OF VERMONT

Prosecuting Attorney
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Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

(1) Re-issue of License.

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

(2) Length of Time of 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 a **minimum of three (3) years** of supervised nursing in which she works at least 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.

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

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

(4) 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 **monthly** 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.

(5) Participation in Recovery Group(s).

Respondent shall participate as recommended by her treating professional in substance abuse recovery group(s), and shall submit **quarterly** reports documenting such attendance on forms issued by the Board.

(6) 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 or entity that has been pre-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.

Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine screen shall cause that screen to be presumed positive. Any positive screen shall act as a violation of this Order.

(7) Abstain from Drug and Alcohol Use.

STATE OF VERMONT

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Montpelier, VT
05609-1107

Respondent shall abstain completely from the consumption or possession of alcohol and drugs with the exception of medications as outlined in paragraph A.(8) for the period of time described in A.(2).

(8) Drug Use Exception.

Respondent shall not take controlled substances unless medically 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 prescription. Respondent shall cause the physician, dentist or nurse practitioner to inform the Board, in writing and on appropriate letterhead, of knowledge of Respondent's substance abuse issue(s) within seven (7) days of entering into the practitioner/patient relationship. Moreover, the Respondent shall cause this prescribing practitioner to inform the Board, in writing and on appropriate letterhead, of all scheduled/controlled medications prescribed – and the anticipation of how long such prescriptions will need to be taken – within seven (7) days of the prescription.

The Board or its designee may request at any time that the practitioner document the necessity for the prescribed scheduled/controlled medications or other medications known to have abuse potential. 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 fourteen (14) days, but if so, then the conditions herein may be revoked by the Board.

Respondent shall provide the Board with a current medication list of any medications taken on a scheduled or as-needed basis on forms issued by the Board within seven (7) days of the date of reinstatement and shall update this list within forty-eight (48) hours of any change in these medications.

(9) Notification to Employers/Nursing School.

Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which Respondent practices as a nurse and inform them of Respondent's conditional license status.

Within ten (10) days of the date of entry of this Consent Order or of any subsequent nursing employment, Respondent shall cause Respondent's immediate supervisor to submit to the Board an employer agreement form approved by the Board, 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 which has a clinical portion that involves actual patient care, Respondent shall provide a copy of the Stipulation and Consent Order to the Program Director. Respondent shall cause the Program Director to submit to the Board a nursing program agreement form approved by the Board, acknowledging receipt of the Stipulation and Consent Order and the ability of the program to comply with the conditions in the Consent Order during clinical experience.

(10) Reports from Employers/Program Director.

Within one (1) month of the date of reinstatement or within one (1) month of the commencement of nursing employment and **monthly** thereafter, Respondent shall cause

STATE OF VERMONT

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05609-1107

every 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. Moreover, on a **quarterly** basis, these reports shall include the results of the employer's medication audits of Respondent's medication administration and practices. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance.

In the event the Respondent is attending a nursing program, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of her performance and attendance. This report shall be submitted in writing on forms issued by the Board. All nursing program reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance.

(11) Practice Under Supervision.

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

(12) Administration of Medications.

Respondent is prohibited from administering any controlled substances. This condition may be removed only by the Respondent filing a petition with the Board after she has worked as a nurse for three (3) months for at least forty (40) hours every two weeks (or the part time equivalent) after the date of reinstatement.

In any such petition, the Respondent must demonstrate, to the satisfaction of the Nursing Board or its designee, that she can safely and competently administer such medications. In any such petition, the Respondent must include appropriate support from her treating professional and employer or nursing school administrator and a description of the documentation and inventory control procedures in place.

The removal of this prohibition shall not automatically result in the reinstatement of all medication privileges. The Board may gradually restore those privileges through whatever intermediary steps it determines are appropriate.

(13) 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 private duty nurse or personal care provider requiring a nursing or nursing assistant license during the effective period of this Consent Order.

(14) Interview with the Board or its Designee.

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

(15) Out-of-State Practice.

Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board prior to Respondent practicing nursing outside the State of Vermont. If Respondent fails to receive such approval

STATE OF VERMONT

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05609-1107

before practicing nursing outside the State of Vermont, none of the time spent practicing nursing 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 nursing practice so long as the Respondent can still comply with the provisions of this Consent Order.

If the Respondent receives discipline on a nursing license held in another state during the conditioned period, the Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.

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

Within ten (10) 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 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 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.

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.

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(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 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 licensed 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

Dated: 12/20/10

By: _____
Edward G. Adrian
State Prosecuting Attorney

DARCIE JEAN NASH
RESPONDENT

Dated: 12-23-10

By: Darcie Nash
Darcie Jean Nash

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APPROVED AS TO FORM:

Dated: 12/23/10

ATTORNEY FOR RESPONDENT

By: _____
James M. LaMonda, Esq.

APPROVED AND SO ORDERED:

Dated: 1/10/11

VERMONT BOARD OF NURSING

By: _____
Chairperson

Date of Entry: 1/11/11

nu.nash2.stip

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