

Rutland

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

IN RE:)
HARRIET LOUISE NESBIT) Docket No: NU 41-0300
License No. 026-0015983)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Angela B. Stanski, and Respondent Harriet Louise Nesbit, R.N., who stipulate and agree as follows:

Board Authority

1) The Vermont Board of Nursing ("the Board") has jurisdiction to investigate complaints of unprofessional conduct and discipline nurses pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §1582; the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.

Facts

2) The Respondent is licensed by the State of Vermont as a Registered Nurse under License Number 026-0015983.

3) The Respondent's license was originally issued on March 20, 1985 and the Respondent's license is currently set to expire on March 31, 2005.

4) Respondent's license is conditioned pursuant to a Stipulation and Consent Order entered on January 11, 2001. The Stipulation and Consent Order requires, among other things, that the Respondent take only medications lawfully prescribed for a bona fide illness or condition by a physician, dentist, or nurse practitioner. (See Attachment A).

5) On April 12, 2004, the Respondent informed the Board via telephone that her random drug screen triggered the prior week would probably be positive due to the Respondent taking Darvocet-N for back pain. She stated that the Darvocet-N was her mother's and that it was offered to the Respondent by her mother for the pain. She also stated that she had taken no more than four of the Darvocet-N.

6) On April 13, 2004, the Board received the results of the drug screen which tested positive for Darvocet.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Charges

7) The acts, omissions and/or circumstances described above, constitute grounds for discipline because Respondent violated:

- (i) 3 V.S.A. §129a(a)(4) (Failing to comply with an order of the board or violating any term or condition of a license restricted by the board).

Understandings

8) 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.

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

10) Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.

11) Respondent voluntarily waives her right to a contested hearing before the Board of Nursing.

12) Respondent agrees that the Order set forth below may be entered by the Board.

ORDER

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

A. Respondent's actions described above demonstrate grounds for discipline because Respondent violated:

- (i) 3 V.S.A. §129a(a)(4) (Failing to comply with an order of the board or violating any term or condition of a license restricted by the board).

B. The Board of Nursing hereby **SUSPENDS THE RESPONDENT'S LICENSE INDEFINITELY**. Before applying for reinstatement, Respondent must obtain (1) **an independent evaluation report by a licensed professional specializing in substance abuse pre-approved by the Board**; and (2) the results of the treatment the substance 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 and limited pursuant to the Laws of the State of Vermont and the Rules of this Board.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

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 the 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: 8/13/04

By: Angela B. Stanski
Angela B. Stanski
State Prosecuting Attorney

HARRIET LOUISE NESBIT
RESPONDENT

Dated: August 10, 2004

By: Harriet Louise Nesbit
Harriet Louise Nesbit

APPROVED AND SO ORDERED: VERMONT BOARD OF NURSING

Dated: Sept. 13, 2004

By: Susan Farrell
Chairperson

Date of Entry: 9/16/04

nu.nesbit.stip

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

STATE OF VERMONT
BOARD OF NURSING

In re:

HARRIET L. NESBIT
License No. 26-15983

)
)
)
Docket No. NU41-0300

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, through its Attorney General William

H. Sorrell, and Respondent Harriet L. Nesbit, who stipulate and agree as follows:

1. The Board of Nursing has jurisdiction to investigate and adjudicate complaints of unprofessional conduct committed by nursing assistants pursuant to 3 V.S.A. §129 and 26 V.S.A. §§1595, 1598.
2. Respondent Harriet L. Nesbit, of Rutland, Vermont is a registered nurse holding license number 26-15983 issued by the State of Vermont.
3. Respondent does not admit that she diverted regulated drugs from the Genesis Mountain View Center Nursing Home of Rutland, Vermont for her personal or other use. However, based upon the evidence currently known that could be presented at a hearing, Respondent acknowledges that the Nursing Board would be justified in finding that a diversion occurred
4. This is unprofessional conduct under 26 V.S.A. §1582(a)(7) (engaging in conduct likely to deceive, defraud or harm the public) and Board Rule IV.B.5.d. (diverting drugs for personal or other unauthorized use).
5. Respondent understands that the Board must review and accept the terms of this agreement. If the Board rejects any portion, the entire agreement shall be null and void.

Attachment A

6. Respondent understands that this agreement, if accepted by the Board, is a public document that may be reported to other licensing authorities as provided in 3 V.S.A. §129(a)(7)
7. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
8. Respondent is not under the influence of any drugs or alcohol at the time she signs this agreement.
9. Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing it.
10. 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 hereby **continues the suspension** of Harriet L. Nesbit's license to practice nursing, for a period of one month from the date of entry of this order.
- B. The Board is concerned that diversion may indicate a dependence or abuse problem. Respondent agrees to have an evaluation of this done by a certified alcohol and drug counselor (one approved by the Board or its designee) and the results provided to the Board. The Board agrees that it will consider an evaluation voluntarily undertaken by Respondent to and determine if it fulfills this requirement.
Respondent agrees to individual counseling to assure that personal matters do not interfere with her ability to practice nursing competently and safely. Respondent shall engage a counselor, approved by the Board or its designee. Respondent and the counselor shall draft and submit a treatment plan to be submitted for approved by the Board. The Board shall review the plan within thirty (30) days of its submission. Upon approval of that plan by the Board, Respondent's license shall have the suspension lifted and be **conditioned** for a period of **three (3) years** as follows:

(1) Length of Time Conditions Imposed.

The conditions shall remain in place until respondent has completed three (3) years of supervised nursing practice in which she works at least forty (40) hours every two (2) weeks in nursing. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis.

(2) Administration of Medications.

Respondent's license is conditioned to prohibit her from administering any medications for a period of three (3) months. This condition may be removed only by Respondent petitioning the Board for its removal no sooner than three (3) months (during which time she works at least 40 hours every two weeks in nursing) from the date of entry of this Consent Order or the date she returns to work as a nurse, whichever is later. In petitioning the Board Respondent agrees that she must demonstrate, to the satisfaction of the Nursing Board, that she can safely and competently administer medications. Such proof shall include appropriate support from her treating professional and employer or nursing school administrator.

The removal of the prohibition against administering medications shall not result in automatic reinstatement of all medication privileges. Rather, the Board may gradually restore those privileges through the following intermediary steps: (1) permission to administer nonnarcotic medications under supervision while the prohibition on administering narcotic medications remains in place; and (2) full permission to administer nonnarcotic medications along with permission to administer narcotic medications only under supervision.

(3) Approval of Changes of Treating Professional.

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

(4) Completion of Counseling and Treatment Plan.

Respondent shall enter into and continue counseling with the 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 comply with the treatment plan approved by the Board.

(5) Therapy and Notification to Treating Professional.

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

(6) 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 entry of this Consent Order and subsequent reports are due every month thereafter.

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

(7) Participation in NA/AA.

Respondent shall participate, at least three times weekly, or as recommended by her treating professional, in Alcoholics Anonymous or Narcotics Anonymous meetings.

(8) Random Drug Testing.

Respondent shall submit to random drug and alcohol screening at the request of the Board. Respondent shall designate a person, who has been approved by the Board or its designee, to administer random drug or alcohol screens as required by the Board or its designee. All testing shall be done on a random, unannounced basis, and analyzed by a lab qualified to analyze samples for forensic purposes. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative except for drugs prescribed for her under the care of a physician, dentist, or nurse practitioner. (See paragraph D. (10) Drug Use Exception).

(9) Abstain from Alcohol or Drug Use.

Respondent shall abstain completely from the consumption of alcohol or the use or possession of any drugs with the exception of prescribed medications as outlined in paragraph D. (10).

(10) Drug Use Exception.

Respondent may take medications lawfully prescribed for a bona fide illness or condition by a physician, dentist, or nurse practitioner. Respondent shall inform the Board in writing of all medications prescribed, including the name of the prescribing practitioner, within forty-eight (48) hours of receiving the prescription. The Board or its designee may request at any time that the practitioner document the continued need for prescribed medications. Respondent shall keep a written record

of medications taken, including over the counter drugs, and produce such record upon the request of the Board or its designee.

(11) Interview with the Board or its designee.

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

(12) Re-issue of License.

Upon the lifting of the suspension and imposition of these conditions, Respondent shall be re-issued a license labeled "conditioned".

(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 toward the fulfillment of the terms and conditions of this Consent Order.

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

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

(15) Notification to Employers/Nursing School.

Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which she practices as a nurse and inform them of her conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any subsequent employment, Respondent

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

(16) Reports from Employers/Nursing School

Within one (1) month of the date of entry of this Consent Order and every month thereafter, Respondent shall cause every employer she has worked for during the month to submit to the Board an evaluation of Respondent's performance and attendance during that month. This report shall be submitted in writing on forms issued by the Board. In the event the Respondent attends nursing school, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Respondent's performance and attendance. This report shall be submitted in writing on forms issued by the Board. In the event Respondent is not employed in nursing or attending school during any month or portion thereof, Respondent shall submit to the Board, in writing, a self-report describing other employment or activities.

Respondent shall authorize her employer and her nursing school administrator to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period the Consent Order is in effect.

(17) Practice Under Supervision.

Respondent shall practice only in a setting where she is supervised for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing.

(18) Prohibited Duties.

Respondent shall not work as a Charge Nurse.

(19) Types of Employment Prohibited.

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

(20) Prohibited Hours of Work.

Respondent shall work only the day or evening shift during the effective period of this Consent Order. Respondent shall not work the night shift during the effective period of this Consent Order.

(21) License Renewal.

In the event Respondent's license is scheduled to expire during the period this Consent Order is in effect, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualifications to practice nursing in the State of Vermont.

(22) Release of Information Forms.

Upon the establishment of all practitioner/patient relationships with (1) treating professionals for substance abuse treatment, and with (2) treating professionals who prescribe any medication to Respondent, Respondent shall execute all release of information forms which are necessary to authorize those practitioners to release information described in this Consent Order to the Board of Nursing, its investigators, and the Attorney General's Office. All information

disclosed to the Board shall be made available to its investigators and the Attorney General's Office. Respondent shall specifically execute a consent to disclosure form which meets the requirements of 42 C.F.R. §2.31 to permit disclosure of all information regarding respondent's substance abuse treatment to the Nursing Board, its investigators, and the Attorney General's Office. Any revocation by respondent of such a consent to disclosure during the term of this Consent Order shall be considered a violation of this Consent Order.

(23) Costs.

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

(24) Violation of the Consent Order.

If Respondent violates the terms of this Consent Order in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke the terms of the conditional license and take further disciplinary action. If a complaint or charges are filed against Respondent during the term of this Consent Order, the conditional license period shall be extended until the matter is final.

(25) Reevaluation of Conditions.

In the event Respondent does not work in nursing within three (3) years of the date of entry of this Consent Order, Respondent may appear before the Board for reevaluation of the conditions of this Consent Order.

(26) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on her license and after formal review by the Board, Respondent's nursing license may be fully restored by appropriate Board action. Respondent, however, must present proof of successful substance abuse rehabilitation and demonstrate, to the satisfaction of the Nursing Board, that she poses no danger to the practice of nursing and that she can safely

and competently perform the duties of a registered nurse. Such proof shall include appropriate support from her treating professional and employer or nursing school administrator. Furthermore, Respondent shall demonstrate, to the Board's satisfaction, that she fully complied with all the terms of this Consent Order.

C. Notwithstanding any provision above, Respondent must meet all Nursing Board requirements for 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)(7).

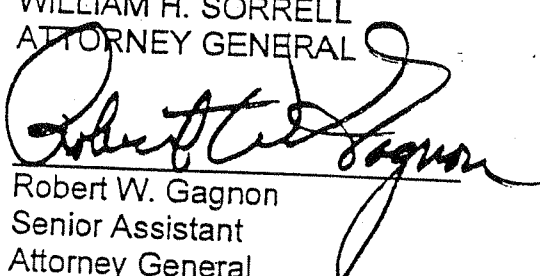
E. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

Dated:

12/17/00

By:

STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

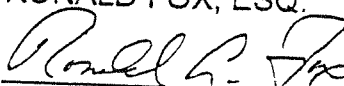

Robert W. Gagnon
Senior Assistant
Attorney General

Dated:

12/18/00

by

APPROVED AS TO FORM
RONALD FOX, ESQ.


Ronald Fox, Attorney for Ms. Nesbit

HARRRIET L. NESBIT
RESPONDENT

Dated: 12-15-00

By: Harriet L. Nesbit
Harriet L. Nesbit

Dated 1-8-01

APPROVED AND SO ORDERED:

By: Diane Dzugiewicz
Chair/Acting Chair
Vermont Board of Nursing

Date of Entry: 1-11-01

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

IN RE:)
HARRIET LOUISE NESBIT) Docket No: NU 41-0300
License No. 026-0015983)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Harriet Louise Nesbit, R.N.:

Board Authority

1) The Vermont Board of Nursing ("the Board") has jurisdiction to investigate complaints of unprofessional conduct and discipline nurses pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §1582; the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.

Facts

- 2) The Respondent is licensed by the State of Vermont as a Registered Nurse under License Number 026-0015983.
- 3) The Respondent's license was originally issued on March 20, 1985 and the Respondent's license is currently set to expire on March 31, 2005.
- 4) Respondent's license is conditioned pursuant to a Stipulation and Consent Order entered on January 11, 2001. The Stipulation and Consent Order requires, among other things, that the Respondent take only medications lawfully prescribed for a bona fide illness or condition by a physician, dentist, or nurse practitioner. (See Attachment A).
- 5) On April 12, 2004, the Respondent informed the Board via telephone that her random drug screen triggered the prior week would probably be positive due to the Respondent taking Darvocet-N for back pain. She stated that the Darvocet-N was her mother's and that it was offered to the Respondent by her mother for the pain. She also stated that she had taken no more than four of the Darvocet-N.
- 6) On April 13, 2004, the Board received the results of the drug screen which tested positive for Darvocet.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Charges

7) The above acts, omissions and/or circumstances described above, constitute grounds for discipline because Respondent violated:

- (i) 3 V.S.A. §129a(a)(4) (Failing to comply with an order of the board or violating any term or condition of a license restricted by the board).

Relief Requested

WHEREFORE, the license of Harriet Nesbit should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 21st day of June 2004.

STATE OF VERMONT
SECRETARY OF STATE

By: Angela B. Stanski
Angela B. Stanski
State Prosecuting Attorney

nu.nesbit.soc

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

STATE OF VERMONT
BOARD OF NURSING

In re:

HARRIET L. NESBIT)
License No. 26-15983)

Docket No. NU41-0300

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, through its Attorney General William H. Sorrell, and Respondent Harriet L. Nesbit, who stipulate and agree as follows:

1. The Board of Nursing has jurisdiction to investigate and adjudicate complaints of unprofessional conduct committed by nursing assistants pursuant to 3 V.S.A. §129 and 26 V.S.A. §§1595, 1598.
2. Respondent Harriet L. Nesbit, of Rutland, Vermont is a registered nurse holding license number 26-15983 issued by the State of Vermont.
3. Respondent does not admit that she diverted regulated drugs from the Genesis Mountain View Center Nursing Home of Rutland, Vermont for her personal or other use. However, based upon the evidence currently known that could be presented at a hearing, Respondent acknowledges that the Nursing Board would be justified in finding that a diversion occurred
4. This is unprofessional conduct under 26 V.S.A. §1582(a)(7) (engaging in conduct likely to deceive, defraud or harm the public) and Board Rule IV.B.5.d. (diverting drugs for personal or other unauthorized use).
5. Respondent understands that the Board must review and accept the terms of this agreement. If the Board rejects any portion, the entire agreement shall be null and void.

Attachment A

6. Respondent understands that this agreement, if accepted by the Board, is a public document that may be reported to other licensing authorities as provided in 3 V.S.A. §129(a)(7)
7. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
8. Respondent is not under the influence of any drugs or alcohol at the time she signs this agreement.
9. Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing it.
10. 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 hereby **continues the suspension** of Harriet L. Nesbit's license to practice nursing, for a period of one month from the date of entry of this order.
- B. The Board is concerned that diversion may indicate a dependence or abuse problem. Respondent agrees to have an evaluation of this done by a certified alcohol and drug counselor (one approved by the Board or its designee) and the results provided to the Board. The Board agrees that it will consider an evaluation voluntarily undertaken by Respondent to and determine if it fulfills this requirement.

Respondent agrees to individual counseling to assure that personal matters do not interfere with her ability to practice nursing competently and safely. Respondent shall engage a counselor, approved by the Board or its designee. Respondent and the counselor shall draft and submit a treatment plan to be submitted for approved by the Board. The Board shall review the plan within thirty (30) days of its submission. Upon approval of that plan by the Board, Respondent's license shall have the suspension lifted and be **conditioned** for a period of **three (3) years** as follows:

(1) Length of Time Conditions Imposed.

The conditions shall remain in place until respondent has completed three (3) years of supervised nursing practice in which she works at least forty (40) hours every two (2) weeks in nursing. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis.

(2) Administration of Medications.

Respondent's license is conditioned to prohibit her from administering any medications for a period of three (3) months. This condition may be removed only by Respondent petitioning the Board for its removal no sooner than three (3) months (during which time she works at least 40 hours every two weeks in nursing) from the date of entry of this Consent Order or the date she returns to work as a nurse, whichever is later. In petitioning the Board Respondent agrees that she must demonstrate, to the satisfaction of the Nursing Board, that she can safely and competently administer medications. Such proof shall include appropriate support from her treating professional and employer or nursing school administrator.

The removal of the prohibition against administering medications shall not result in automatic reinstatement of all medication privileges. Rather, the Board may gradually restore those privileges through the following intermediary steps: (1) permission to administer nonnarcotic medications under supervision while the prohibition on administering narcotic medications remains in place; and (2) full permission to administer nonnarcotic medications along with permission to administer narcotic medications only under supervision.

(3) Approval of Changes of Treating Professional.

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

(4) Completion of Counseling and Treatment Plan.

Respondent shall enter into and continue counseling with the 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 comply with the treatment plan approved by the Board.

(5) Therapy and Notification to Treating Professional.

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

(6) 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 entry of this Consent Order and subsequent reports are due every month thereafter.

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

(7) Participation in NA/AA.

Respondent shall participate, at least three times weekly, or as recommended by her treating professional, in Alcoholics Anonymous or Narcotics Anonymous meetings.

(8) Random Drug Testing.

Respondent shall submit to random drug and alcohol screening at the request of the Board. Respondent shall designate a person, who has been approved by the Board or its designee, to administer random drug or alcohol screens as required by the Board or its designee. All testing shall be done on a random, unannounced basis, and analyzed by a lab qualified to analyze samples for forensic purposes. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative except for drugs prescribed for her under the care of a physician, dentist, or nurse practitioner. (See paragraph D. (10) Drug Use Exception).

(9) Abstain from Alcohol or Drug Use.

Respondent shall abstain completely from the consumption of alcohol or the use or possession of any drugs with the exception of prescribed medications as outlined in paragraph D. (10).

(10) Drug Use Exception.

Respondent may take medications lawfully prescribed for a bona fide illness or condition by a physician, dentist, or nurse practitioner. Respondent shall inform the Board in writing of all medications prescribed, including the name of the prescribing practitioner, within forty-eight (48) hours of receiving the prescription. The Board or its designee may request at any time that the practitioner document the continued need for prescribed medications. Respondent shall keep a written record

of medications taken, including over the counter drugs, and produce such record upon the request of the Board or its designee.

(11) Interview with the Board or its designee.

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

(12) Re-issue of License.

Upon the lifting of the suspension and imposition of these conditions, Respondent shall be re-issued a license labeled "conditioned".

(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 toward the fulfillment of the terms and conditions of this Consent Order.

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

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

(15) Notification to Employers/Nursing School.

Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which she practices as a nurse and inform them of her conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any subsequent employment, Respondent

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

(16) Reports from Employers/Nursing School

Within one (1) month of the date of entry of this Consent Order and every month thereafter, Respondent shall cause every employer she has worked for during the month to submit to the Board an evaluation of Respondent's performance and attendance during that month. This report shall be submitted in writing on forms issued by the Board. In the event the Respondent attends nursing school, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Respondent's performance and attendance. This report shall be submitted in writing on forms issued by the Board. In the event Respondent is not employed in nursing or attending school during any month or portion thereof, Respondent shall submit to the Board, in writing, a self-report describing other employment or activities.

Respondent shall authorize her employer and her nursing school administrator to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period the Consent Order is in effect.

(17) Practice Under Supervision.

Respondent shall practice only in a setting where she is supervised for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing.

(18) Prohibited Duties.

Respondent shall not work as a Charge Nurse.

(19) Types of Employment Prohibited.

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

(20) Prohibited Hours of Work.

Respondent shall work only the day or evening shift during the effective period of this Consent Order. Respondent shall not work the night shift during the effective period of this Consent Order.

(21) License Renewal.

In the event Respondent's license is scheduled to expire during the period this Consent Order is in effect, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualifications to practice nursing in the State of Vermont.

(22) Release of Information Forms.

Upon the establishment of all practitioner/patient relationships with (1) treating professionals for substance abuse treatment, and with (2) treating professionals who prescribe any medication to Respondent, Respondent shall execute all release of information forms which are necessary to authorize those practitioners to release information described in this Consent Order to the Board of Nursing, its investigators, and the Attorney General's Office. All information

disclosed to the Board shall be made available to its investigators and the Attorney General's Office. Respondent shall specifically execute a consent to disclosure form which meets the requirements of 42 C.F.R. §2.31 to permit disclosure of all information regarding respondent's substance abuse treatment to the Nursing Board, its investigators, and the Attorney General's Office. Any revocation by respondent of such a consent to disclosure during the term of this Consent Order shall be considered a violation of this Consent Order.

(23) Costs.

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

(24) Violation of the Consent Order.

If Respondent violates the terms of this Consent Order in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke the terms of the conditional license and take further disciplinary action. If a complaint or charges are filed against Respondent during the term of this Consent Order, the conditional license period shall be extended until the matter is final.

(25) Reevaluation of Conditions.

In the event Respondent does not work in nursing within three (3) years of the date of entry of this Consent Order, Respondent may appear before the Board for reevaluation of the conditions of this Consent Order.

(26) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on her license and after formal review by the Board, Respondent's nursing license may be fully restored by appropriate Board action. Respondent, however, must present proof of successful substance abuse rehabilitation and demonstrate, to the satisfaction of the Nursing Board, that she poses no danger to the practice of nursing and that she can safely

and competently perform the duties of a registered nurse. Such proof shall include appropriate support from her treating professional and employer or nursing school administrator. Furthermore, Respondent shall demonstrate, to the Board's satisfaction, that she fully complied with all the terms of this Consent Order.

C. Notwithstanding any provision above, Respondent must meet all Nursing Board requirements for 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)(7).

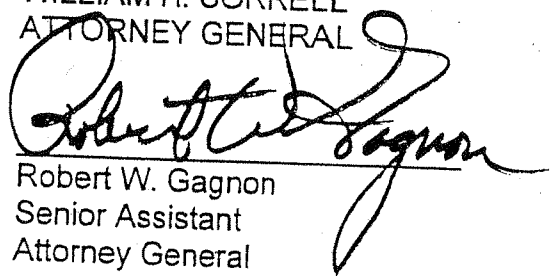
E. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

Dated:

12/15/00

By:

STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

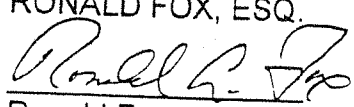

Robert W. Gagnon
Senior Assistant
Attorney General

Dated:

12/18/00

by

APPROVED AS TO FORM
RONALD FOX, ESQ.


Ronald Fox, Attorney for Ms. Nesbit

HARRRIET L. NESBIT
RESPONDENT

Dated: 12-15-00

By: Harriet L. Nesbit
Harriet L. Nesbit

Dated 1-8-01

APPROVED AND SO ORDERED:

By: Diane Dzugiewicz
Chair/Acting Chair
Vermont Board of Nursing

Date of Entry: 1-11-01

In re:

Docket No. NU41-0300

STIPULATION

1. The Board of Nursing has jurisdiction to investigate and adjudicate complaints of unprofessional conduct committed by nursing assistants pursuant to 3 V.S.A. §129 and 26 V.S.A. §§1595, 1598.
2. Respondent Harriet L. Nesbit, of Rutland, Vermont is a registered nurse holding license number 26-15983 issued by the State of Vermont.
3. Respondent does not admit that she diverted regulated drugs from the Genesis Mountain View Center Nursing Home of Rutland, Vermont for her personal or other use. However, based upon the evidence currently known that could be presented at a hearing, Respondent acknowledges that the Nursing Board would be justified in finding that a diversion occurred
4. This is unprofessional conduct under 26 V.S.A. §1582(a)(7) (engaging in conduct likely to deceive, defraud or harm the public) and Board Rule IV.B.5.d. (diverting drugs for personal or other unauthorized use).
5. Respondent understands that the Board must review and accept the terms of this agreement. If the Board rejects any portion, the entire agreement shall be null and void.

6. Respondent understands that this agreement, if accepted by the Board, is a public document that may be reported to other licensing authorities as provided in 3 V.S.A. §129(a)(7)
7. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
8. Respondent is not under the influence of any drugs or alcohol at the time she signs this agreement.
9. Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing it.
10. 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 hereby **continues the suspension** of Harriet L. Nesbit's license to practice nursing, for a period of one month from the date of entry of this order.
- B. The Board is concerned that diversion may indicate a dependence or abuse problem. Respondent agrees to have an evaluation of this done by a certified alcohol and drug counselor (one approved by the Board or its designee) and the results provided to the Board. The Board agrees that it will consider an evaluation voluntarily undertaken by Respondent to and determine if it fulfills this requirement.

Respondent agrees to individual counseling to assure that personal matters do not interfere with her ability to practice nursing competently and safely. Respondent shall engage a counselor, approved by the Board or its designee. Respondent and the counselor shall draft and submit a treatment plan to be submitted for approved by the Board. The Board shall review the plan within thirty (30) days of its submission. Upon approval of that plan by the Board, Respondent's license shall have the suspension lifted and be **conditioned** for a period of **three (3) years** as follows:

(1) Length of Time Conditions Imposed.

The conditions shall remain in place until respondent has completed three (3) years of supervised nursing practice in which she works at least forty (40) hours every two (2) weeks in nursing. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis.

(2) Administration of Medications.

Respondent's license is conditioned to prohibit her from administering any medications for a period of three (3) months. This condition may be removed only by Respondent petitioning the Board for its removal no sooner than three (3) months (during which time she works at least 40 hours every two weeks in nursing) from the date of entry of this Consent Order or the date she returns to work as a nurse, whichever is later. In petitioning the Board Respondent agrees that she must demonstrate, to the satisfaction of the Nursing Board, that she can safely and competently administer medications. Such proof shall include appropriate support from her treating professional and employer or nursing school administrator.

The removal of the prohibition against administering medications shall not result in automatic reinstatement of all medication privileges. Rather, the Board may gradually restore those privileges through the following intermediary steps: (1) permission to administer nonnarcotic medications under supervision while the prohibition on administering narcotic medications remains in place; and (2) full permission to administer nonnarcotic medications along with permission to administer narcotic medications only under supervision.

(3) Approval of Changes of Treating Professional.

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

(4) Completion of Counseling and Treatment Plan.

Respondent shall enter into and continue counseling with the 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 comply with the treatment plan approved by the Board.

(5) Therapy and Notification to Treating Professional.

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

(6) 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 entry of this Consent Order and subsequent reports are due every month thereafter.

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

(7) Participation in NA/AA.

Respondent shall participate, at least three times weekly, or as recommended by her treating professional, in Alcoholics Anonymous or Narcotics Anonymous meetings.

(8) Random Drug Testing.

Respondent shall submit to random drug and alcohol screening at the request of the Board. Respondent shall designate a person, who has been approved by the Board or its designee, to administer random drug or alcohol screens as required by the Board or its designee. All testing shall be done on a random, unannounced basis, and analyzed by a lab qualified to analyze samples for forensic purposes. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative except for drugs prescribed for her under the care of a physician, dentist, or nurse practitioner. (See paragraph D. (10) Drug Use Exception).

(9) Abstain from Alcohol or Drug Use.

Respondent shall abstain completely from the consumption of alcohol or the use or possession of any drugs with the exception of prescribed medications as outlined in paragraph D. (10).

(10) Drug Use Exception.

Respondent may take medications lawfully prescribed for a bona fide illness or condition by a physician, dentist, or nurse practitioner. Respondent shall inform the Board in writing of all medications prescribed, including the name of the prescribing practitioner, within forty-eight (48) hours of receiving the prescription. The Board or its designee may request at any time that the practitioner document the continued need for prescribed medications. Respondent shall keep a written record

of medications taken, including over the counter drugs, and produce such record upon the request of the Board or its designee.

(11) Interview with the Board or its designee.

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

(12) Re-issue of License.

Upon the lifting of the suspension and imposition of these conditions, Respondent shall be re-issued a license labeled "conditioned".

(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 toward the fulfillment of the terms and conditions of this Consent Order.

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

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

(15) Notification to Employers/Nursing School.

Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which she practices as a nurse and inform them of her conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any subsequent employment, Respondent

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

(16) Reports from Employers/Nursing School

Within one (1) month of the date of entry of this Consent Order and every month thereafter, Respondent shall cause every employer she has worked for during the month to submit to the Board an evaluation of Respondent's performance and attendance during that month. This report shall be submitted in writing on forms issued by the Board. In the event the Respondent attends nursing school, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Respondent's performance and attendance. This report shall be submitted in writing on forms issued by the Board. In the event Respondent is not employed in nursing or attending school during any month or portion thereof, Respondent shall submit to the Board, in writing, a self-report describing other employment or activities.

Respondent shall authorize her employer and her nursing school administrator to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period the Consent Order is in effect.

(17) Practice Under Supervision.

Respondent shall practice only in a setting where she is supervised for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing.

(18) Prohibited Duties.

Respondent shall not work as a Charge Nurse.

(19) Types of Employment Prohibited.

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

(20) Prohibited Hours of Work.

Respondent shall work only the day or evening shift during the effective period of this Consent Order. Respondent shall not work the night shift during the effective period of this Consent Order.

(21) License Renewal.

In the event Respondent's license is scheduled to expire during the period this Consent Order is in effect, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualifications to practice nursing in the State of Vermont.

(22) Release of Information Forms.

Upon the establishment of all practitioner/patient relationships with (1) treating professionals for substance abuse treatment, and with (2) treating professionals who prescribe any medication to Respondent, Respondent shall execute all release of information forms which are necessary to authorize those practitioners to release information described in this Consent Order to the Board of Nursing, its investigators, and the Attorney General's Office. All information

disclosed to the Board shall be made available to its investigators and the Attorney General's Office. Respondent shall specifically execute a consent to disclosure form which meets the requirements of 42 C.F.R. §2.31 to permit disclosure of all information regarding respondent's substance abuse treatment to the Nursing Board, its investigators, and the Attorney General's Office. Any revocation by respondent of such a consent to disclosure during the term of this Consent Order shall be considered a violation of this Consent Order.

(23) Costs.

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

(24) Violation of the Consent Order.

If Respondent violates the terms of this Consent Order in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke the terms of the conditional license and take further disciplinary action. If a complaint or charges are filed against Respondent during the term of this Consent Order, the conditional license period shall be extended until the matter is final.

(25) Reevaluation of Conditions.

In the event Respondent does not work in nursing within three (3) years of the date of entry of this Consent Order, Respondent may appear before the Board for reevaluation of the conditions of this Consent Order.

(26) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on her license and after formal review by the Board, Respondent's nursing license may be fully restored by appropriate Board action. Respondent, however, must present proof of successful substance abuse rehabilitation and demonstrate, to the satisfaction of the Nursing Board, that she poses no danger to the practice of nursing and that she can safely

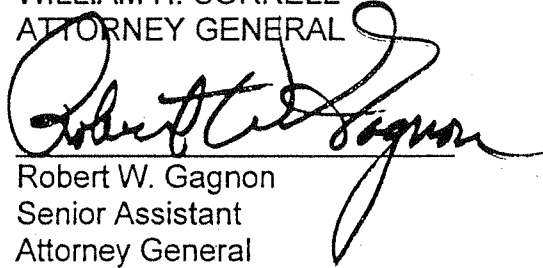
and competently perform the duties of a registered nurse. Such proof shall include appropriate support from her treating professional and employer or nursing school administrator. Furthermore, Respondent shall demonstrate, to the Board's satisfaction, that she fully complied with all the terms of this Consent Order.

C. Notwithstanding any provision above, Respondent must meet all Nursing Board requirements for license renewal and license reinstatement.

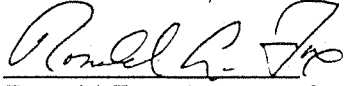
D. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a)(7).

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.

Dated: 12/15/00

STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL
By: 
Robert W. Gagnon
Senior Assistant
Attorney General

Dated: 12/18/00

APPROVED AS TO FORM
RONALD FOX, ESQ.
by 
Ronald Fox, Attorney for Ms. Nesbit

HARRRIET L. NESBIT
RESPONDENT

Dated: 12-15-00

By: Harriet L. Nesbit
Harriet L. Nesbit

APPROVED AND SO ORDERED:

Dated 1-8-01

By: Diane Dzugiewicz
Chair/Acting Chair
Vermont Board of Nursing

Date of Entry: 1-11-01

STATE OF VERMONT
BOARD OF NURSING

In re:)
HARRIET L. NESBIT) Docket No. NU41-0300
License No. 26-15983)

SPECIFICATION OF CHARGES

1. The Board of Nursing has jurisdiction to investigate complaints of unprofessional conduct and approve consent orders pursuant to 3 V.S.A. §129, and 26 V.S.A. §§1574, 1582.

1. Respondent, Harriet L. Nesbit is licensed by the State of Vermont as a registered nurse holding license No. 26-15983.

2. Respondent works as a registered nurse at Mountain View Center
Nursing Home of Rutland, Vermont

4. Respondent has diverted controlled drugs from the Mountain View Center Nursing Home of Rutland, Vermont, on or about January 17, 2000, specifically the drugs Darvocet, Lorzapam, Ambein-5mg. Ambein-10mg. Serax Tylenol #3, and Lorzapam .25mg

5. Respondent is addicted to habit-forming drugs and has been abusing prescription drugs.

6. Respondent's actions described in paragraphs 4 and 5 are grounds for discipline pursuant to 26 V.S.A. §1582(a)(3)(unable to practice nursing competently by reason of any cause), Chap. 4. Rule IV(B)(3) and (4)(d).

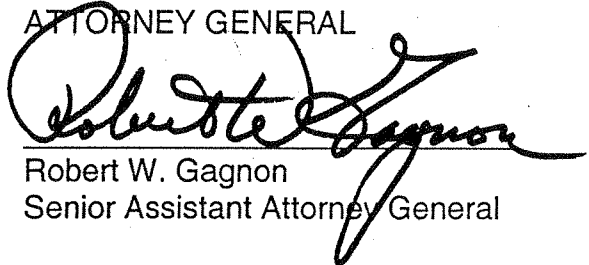
WHEREFORE the nursing license of Harriet L. Nesbit should be revoked,
suspended, reprimanded, conditioned, or otherwise disciplined.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

Dated: 6-1-00

by:

A handwritten signature in black ink, appearing to read "Robert W. Gagnon", written over a horizontal line.

Robert W. Gagnon
Senior Assistant Attorney General

STATE OF VERMONT
BOARD OF NURSING

In re: Harriet Nesbit
License No. 26-15983

}
}
}
Docket No. NU41-0300

SUMMARY SUSPENSION ORDER

On March 8, 2000, this case came before the Board of Nursing for a hearing on the State's request for summary suspension.

Based upon the evidence presented by the parties, the Board finds that the allegations in the request for summary suspension have been established to the necessary degree. Therefore, the Board finds that the public health, safety, or welfare imperatively require emergency action against the Respondent's license.

Pursuant to 3 V.S.A. § 814(c), Harriet Nesbit's nursing license is SUMMARILY SUSPENDED until a hearing on charges has been held and determined, or other resolution of this case.

BOARD OF NURSING

By: Susan Farrell
Susan Farrell
Chair

Dated: 5/8/00

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 5-10-00

STATE OF VERMONT
BOARD OF NURSING

In re:)
HARRIET L. NESBIT) Docket No. NU41-0300
License No. 26-15983)

REQUEST FOR SUMMARY SUSPENSION

NOW COMES the State of Vermont and requests the summary suspension of the nursing assistant license of Harriet L. Nesbit on the following grounds:

1. Respondent, Harriet L. Nesbit is licensed by the State of Vermont as a registered nurse holding license No. 26-15983.
2. Pursuant to 3 V.S.A. §814 the Board of Nursing is authorized to summarily suspend the license of a licensee when it finds that the public health, safety, or welfare imperatively requires emergency action.
3. Respondent works as a registered nurse at Mountain View Center Nursing Home of Rutland, Vermont
4. Respondent has diverted controlled drugs from the Mountain View Center Nursing Home of Rutland, Vermont, on or about January 17, 2000, specifically the drugs Darvocet, Lorzapam, Ambein-5mg. Ambein-10mg. Serax Tylenol #3, and Lorzapam .25mg
5. Respondent is addicted to habit-forming drugs and has been abusing prescription drugs.
6. The conduct described above is unprofessional conduct pursuant to 26 V.S.A. §1595(6) and (7).
7. The health, safety, and welfare of the public imperatively require emergency action against the license of respondent.

WHEREFORE, the nursing assistant license of Harriet L. Nesbit
should be summarily suspended.

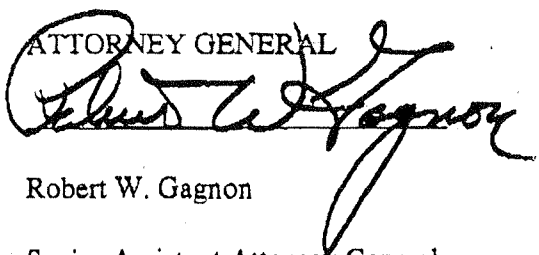
Dated at Montpelier, Vermont this 20th day of April 2000.

STATE OF VERMONT

WILLIAM H. SORRELL

ATTORNEY GENERAL

by:


Robert W. Gagnon

Senior Assistant Attorney General