

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

IN RE:)
KATHLEEN PERSELL) **Docket No. 2019-147**
License No. 026.0085826)

STIPULATION AND CONSENT ORDER

NOW COME the State of Vermont, by and through Prosecuting Attorney Aaron Kisicki, and the respondent Kathleen Persell, who stipulate and agree as follows:.

Authority

1. The Vermont Board of Nursing (“Board”) is authorized to issue warnings or reprimands, suspend, revoke, limit, condition, deny, or prevent renewal of licenses if, after disciplinary hearings, it finds that the respondent has engaged in unprofessional conduct. The Board is authorized to discipline any licensee or refuse to license any person who has had a license application denied or a license revoked, suspended, limited, conditioned, or otherwise disciplined by a licensing agency in another jurisdiction for conduct that would constitute unprofessional conduct in this state, or has surrendered a license while under investigation for unprofessional conduct. 3 V.S.A. §§ 129, 129a, and 814(d); 26 V.S.A. Chapter 28; the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Kathleen Persell (“Respondent”) of Lees Summit, Missouri is licensed by the State of Vermont as a Registered Nurse (“RN”) under license number 026.0085826. The license was first issued on April 10, 2012 and expired on March 31, 2019.
3. Respondent is or has been licensed as an RN in other jurisdictions.
4. On or about September 25, 2018, Respondent entered into a settlement agreement with the Missouri Board of Nursing (“Settlement Agreement”).
5. The Settlement Agreement included the following stipulated facts:
 - a. Respondent documented visits to home care clients who denied receiving visits.
 - b. Respondent documented visits to a home care client who was deceased.

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- c. Respondent failed to visit her clients once a week as required.
 - d. Respondent's conduct constituted misconduct, misrepresentation, fraud, unprofessional conduct, and unethical conduct in the performance of the functions and duties of a nurse.
- 6. Respondent's RN license was placed on probation with certain conditions attached for a period of two years under the terms of the Settlement Agreement.
 - 7. Respondent's RN license was later revoked and/or voluntarily surrendered in other jurisdictions – including Alabama, Connecticut, Illinois Ohio, and Wyoming – as a result of the Missouri discipline.

Violation One: 3 V.S.A §129a(b)(1) 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.

- 8. The State re-alleges and incorporates Paragraphs 2 through 7 above.
- 9. Paragraphs 2 through 7 above demonstrate that Respondent provided unsafe and unacceptable patient care by failing to attend to patients as frequently as required.
- 10. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(1).

Violation Two: 26 V.S.A. §1582(a)(12) Abusing or neglecting a patient or misappropriating patient property.

- 11. The State re-alleges and incorporates Paragraphs 2 through 7 above.
- 12. Paragraphs 2 through 7 demonstrate that Respondent neglected a patient.
- 13. 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 26 V.S.A. §1582(a)(12).

Violation Three: 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.

- 14. The State re-alleges and incorporates Paragraphs 2 through 7 above.

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15. Paragraphs 2 through 7 above demonstrate that Respondent willfully made or filed false reports in the practice of her profession.
16. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(7).

Violation Four: 26 V.S.A. §1582(a)(3) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

17. The State re-alleges and incorporates Paragraphs 2 through 7 above.
18. Paragraphs 2 through 7 demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public.
19. 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 26 V.S.A. §1582(a)(3).

Violation Five: 3 V.S.A. §129a(a)(15) Failing to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.

20. The State re-alleges and incorporates Paragraphs 2 through 7 above.
21. Paragraphs 2 through 7 demonstrate Respondent failed to exercise professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.
22. 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 3 V.S.A. §129a(a)(15).

Understandings

23. Respondent admits the facts as outlined above are true and that the Board may find that the Respondent engaged in unprofessional conduct.
24. Respondent understands that the Board must review and accept the terms of the Consent Order. The entire Stipulation and Consent Order shall be null and void if the Board rejects any portion therein.
25. Respondent specifically waives any claims that any disclosures made to the Board during its review of this Stipulation and Consent Order have prejudiced her rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.

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26. Respondent has read and reviewed this entire Stipulation and Consent Order and agrees that it contains the entire agreement between the parties.
27. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
28. 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.
29. Respondent voluntarily waives her right to a contested hearing before the Board and waives any right to appeal from this Stipulation and Consent Order.
30. 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 **ACCEPTS** Respondent's **VOLUNTARY SURRENDER** of her Registered Nurse license. Respondent shall not be eligible for license reinstatement.
- B. Any future licensure in any other profession shall be subject to the licensing requirements of that particular profession. If a future application for licensure in the State of Vermont is approved, the license shall be conditioned pursuant to any terms the relevant professional board or a duly-authorized Administrative Law Officer finds to be reasonable at the time of Respondent's application of licensure.
- 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.

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05620-3402

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 10/4/19

By: [Signature]
Aaron Kisicki
Prosecuting Attorney

KATHLEEN PERSELL
RESPONDENT

Dated: 10/3/2019

[Signature]
Kathleen Persell

APPROVED AND SO ORDERED:

Dated: November 4, 2019 By: [Signature]
Board Chair

Date of Entry: 11.5.19

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Prosecuting Attorney
Office of
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89 Main Street
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05620-3402

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