20. Violation of this Order. If Respondent violates this Order the Board, after giving 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 Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

21. Completion of Conditional License Period. Respondent must petition the Board, or its designee, to remove any and all conditions on Respondent's license. Respondent must present proof that Respondent has fully complied with the terms of this Order. Respondent must also present proof of successful substance abuse rehabilitation, that Respondent poses no danger to the public or the practice of nursing, and that Respondent can safely and competently perform the duties of a licensed nurse.

B. Notwithstanding any provision above, the Respondent must continue to meet all 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: 1/11/19 By: Elizabeth H Jones for
Jennifer B. Colin
Prosecuting Attorney

RESPONDENT

Dated: 1/11/19 By: Nathan Olmstead
Nathan L. Olmstead

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 1/14/2019 By: _____
Chairperson

Date of Entry: 1·15·19

STATE OF VERMONT

Prosecuting Attorney
Office of
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Montpelier, VT
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14. 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. The Board will approve out-of-state nursing practice so long as Respondent can still comply with the provisions of this Consent Order. If Respondent receives discipline on a nursing license held in another state during the conditioned period, Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.

15. 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 Respondent's 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 (including resignation or termination), personal address, or telephone number.

16. Notification to Other States. In the event that Respondent is licensed in nursing in any other state(s), Respondent must inform the nursing licensing board of the state(s) in which Respondent is licensed of the conditional status of Respondent's Vermont nursing license within thirty (30) days of the date of entry of this Order.

17. License Renewal. This Order does not automatically extend the license and Respondent must comply with the Board of Nursing requirements for license renewal and/or reinstatement.

18. Release of Information Forms. This Order requires Respondent to authorize drug and/or alcohol treatment providers to report information in verbal and/or written format and/or to discuss Respondent and any and all treatment rendered to Respondent for drugs and/or alcohol with the Board or its designee. Any and all of this information may 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.

Respondent is entitled to revoke this consent at any time. However, any revocation shall be considered a violation of this Order. This consent expires when the conditions are removed from Respondent's nursing license.

This Stipulation and Consent Order shall itself constitute a valid written consent pursuant to the requirements of 42 C.F.R. § 2.31.Respondent understands that Respondent's treatment provider may require Respondent's to sign a separate and distinct consent meeting the requirements of 42 C.F.R. § 2.31.

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

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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 Respondent is attending a nursing program or re-entry 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 every nursing employer 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. In the event Respondent is attending a nursing program or re-entry program, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Respondent's performance and attendance. 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.

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. 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.

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

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Respondent shall authorize Respondent's psychotherapy treating professional to submit to the Board monthly reports on forms issued by the Board. The initial treatment plan and all revisions to the treatment plan must be included in the monthly reports to the Board. Respondent shall authorize Respondent's treating professional to provide all information requested by the Nursing Board, either orally or in writing, at any time during the period this Consent Order is in effect.

6. Random Drug and Alcohol Testing. Respondent shall submit to random drug and alcohol testing through the Board pre-approved entity. 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 constitute a violation of this Order. Failure to check-in to determine whether Respondent is selected for testing on any given day, regardless of whether Respondent is actually selected that day, may be considered a violation of this Order.

7. Abstain from Drug and Alcohol Use. Respondent shall abstain completely from the consumption or possession of alcohol and drugs.

8. Drug Use Exception. Respondent may take scheduled/controlled medications lawfully prescribed for a bona fide illness or condition by a health care practitioner disclosed to the Board in writing by Respondent within forty-eight (48) hours of the prescription. Respondent health care practitioner shall 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. Additionally, the practitioner shall inform the Board 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 that the practitioner document the necessity for the prescribed scheduled/controlled medications or other medications known to have abuse potential. 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.

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39. Respondent voluntarily waives the right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.

40. 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 **REPRIMANDS** Respondent's license.

B. The Board of Nursing hereby **CONDITIONS** Respondent's license **FOR A MINIMUM OF TWO (2) YEARS.** The conditions will be as follows:

1. Re-issuance 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 two (2) year** of supervised nursing in which he 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. Monitoring. The Office of Professional Regulation, through the Enforcement Case Manager, shall be responsible for monitoring Respondent's compliance with these Conditions. All reports or correspondence regarding compliance with these conditions shall be submitted to the Case Manager in accordance with the Conditions listed below.

4. Participation in Recovery Group. Respondent shall participate weekly or more frequently in substance abuse recovery group(s) preapproved by the Board or designee and shall submit **quarterly** reports documenting such attendance on forms issued by the Board.

5. Individual psychotherapy. Respondent shall engage in individual psychotherapy with a professional preapproved by the Board or designee who is qualified and experienced to provide counseling related to anxiety and depression. Respondent shall comply with the psychotherapy treatment plan until the treating professional certifies in writing to the Board that such counseling is no longer necessary. Compliance with the treatment plan includes, but is not limited to, engaging in face-to-face meetings with the treating professional at the frequency recommended in the treatment plan.

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Violation Four: 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.

29. Paragraphs 2 through 16 above are incorporated herein.

30. As an RN, Respondent is required to exercise his own independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.

31. Paragraphs 2 through 16 demonstrate that Respondent failed to exercise independent professional judgment by stealing a vulnerable patient's prescription narcotics and using deceit to hide his theft.

32. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct by diverting narcotics from a patient and deceiving his employer to hide his diversion in violation of 3 V.S.A. §129a(a)(15).

Understandings

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

34. 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.

35. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced Respondent's rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.

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

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

38. 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.

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18. As an RN, Respondent is prohibited from diverting drugs for unauthorized use.

19. Paragraphs 2 through 16 above demonstrate that Respondent diverted a patient's drugs for unauthorized use in violation of 26 V.S.A. §1582(a)(2).

20. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent diverted drugs for unauthorized use in violation of 26 V.S.A. §1582(a)(2).

Violation Two: 26 V.S.A. §1582(a)(12) Misappropriating patient property.

21. Paragraphs 2 through 16 above are incorporated herein.

22. As an RN, Respondent is required to refrain from misappropriating patient property.

23. Paragraphs 2 through 16 demonstrate that Respondent misappropriated patient property by stealing a patient's prescription medications.

24. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct of a character likely to deceive, defraud, or harm the public in violation of 26 V.S.A. §1582(a)(12).

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

25. Paragraphs 2 through 16 above are incorporated herein.

26. As an RN, Respondent is required to refrain from engaging in conduct of a character likely to deceive, defraud, or harm the public.

27. Paragraphs 2 through 16 demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public by intentionally stealing a patient's prescription narcotics and lying to the Facility in the course of the investigation of the theft.

28. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct of a character likely to deceive, defraud, or harm the public in violation of 26 V.S.A. §1582(a)(3).

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6. Later in the day on April 22, 2017, the Patient was transferred to the Windham Center, a psychiatric care facility.

7. When the Patient's belongings were returned to her and inventoried, the Patient reported that two of her prescription medications, Klonopin and oxycodone, were missing.

8. Respondent was the Nursing Supervisor in the Emergency Department of the Facility on April 22, 2017.

9. Respondent was notified that the Patient's prescription medications were missing and assisted in looking for the two prescription bottles.

10. The next day, Respondent notified the Emergency Department Director of the Facility of the Patient's missing drugs and indicated his belief that an individual who visited the Patient took them.

11. The Patient's missing drugs were not located by the Facility.

12. On April 25, 2017, the Director of the Emergency Department of the Facility and the nurse supervisor on that date reviewed the Emergency Department security video recorded on April 22, 2017.

13. The security video from the Emergency Department recorded on April 22, 2017 showed that Respondent removed a purse from a cabinet in the nurse's station of the Emergency Department, looked through the purse, removed two prescription bottles from the purse, placed the bottles on the counter, returned the purse to the cabinet, picked up the two prescription bottles, put them in his pants' pocket, and then turned and walked out of the nurse's station.

14. After reviewing the security video, the Emergency Department Director and the Emergency Department RN liason met with Respondent for Respondent's explanation of his conduct, as shown in the video.

15. The Facility then terminated Respondent's employment and made a report to the Brattleboro Police Department.

16. In connection with OPR's investigation of this case, OPR Investigator obtained the Patient's Vermont Prescription Monitoring Service profile, which showed that on April 18, 2017, the Patient filled a prescription for clonazepam 1 mg tablet (quantity 90) and oxycodone HCL 10 mg tablet (quantity 84).

Violation One: 26 V.S.A. §1582(a)(2) Diverting or attempting to divert drugs or equipment or supplies for unauthorized use.

17. Paragraphs 2 through 16 above are incorporated herein.

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

IN RE:	)	
Nathan L. Olmstead	)	**Docket No. 2018-82**
License No. 026.0077342	)	

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through Prosecuting Attorney Jennifer B. Colin, and Respondent Nathan Olmstead, who hereby 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. Chapter 28; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation ("OPR").

Stipulation of Facts

2. Nathan Olmstead ("Respondent") of Dummerston, Vermont is licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0077342. This license was originally issued on June 6, 2011 and expires on March 31, 2019.

3. During the relevant time period, Respondent was employed as an RN in the Emergency Department at Brattleboro Memorial Hospital in Brattleboro, Vermont ("the Facility").

4. On April 22, 2017, a patient was admitted to the Emergency Department of the Facility ("Patient").

5. Due to the Patient's admitting diagnosis and hospital protocol, the Patient's belongings, namely her clothing, her purse, and several prescription medication bottles, were removed from her room and were placed in a cabinet in the Emergency Department nurse's station.

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