

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

IN RE: KATHRYN V. PETERSON License Nos. 026.0135444, 025.0105165	))))	Docket No. 2019-15
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REINSTATEMENT STIPULATION AND CONSENT ORDER

NOW COME the State of Vermont, by and through Prosecuting Attorney Elizabeth A. St. James, and the respondent Kathryn V. Peterson, 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 the renewal of licenses if, after disciplinary hearings, it finds that a respondent has engaged in 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 Administrative Rules of Practice of the Office of Professional Regulation.

Statement of Facts

2. Kathryn V. Peterson ("Respondent") of Brattleboro, Vermont is licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0135444. The RN license was first issued on May 31, 2018 and expired on March 31, 2019.
3. Respondent is Licensed by the State of Vermont as a Licensed Practical Nurse ("LPN") under license number 025.0105165. The LPN license was first issued on July 3, 2014 and expired on January 31, 2020.
4. At all relevant times, Respondent was employed as an RN at Brattleboro Memorial Hospital ("Facility") in Brattleboro, Vermont.
5. Respondent was employed at the Facility from June 18, 2018 to September 21, 2018 when Respondent resigned her position.
6. From July 2018 to September 2018, Respondent diverted narcotics for personal use approximately one to two times per week, primarily for pain management.

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7. From July 2018 to September 2018, Respondent diverted hydromorphone from Facility patients for personal use approximately 20 to 30 times.
8. Respondent withdrew prepared .5mg/.5ml prepared syringes of liquid intravenous hydromorphone from the Facility Pyxis machine and administered a portion of the narcotic to a patient. Respondent diverted the remainder of the hydromorphone for her personal use after replacing the syringe cap.
9. Respondent administered diverted hydromorphone to herself through the use of an intravenous line she had set up at her home.
10. From July 2018 to September 2018, Respondent diverted oxycodone from Facility patients for personal use approximately five to ten times.
11. Respondent withdrew 5mg oxycodone tablets pursuant to physician orders, but diverted the oxycodone tablets for her personal use. Respondent administered acetaminophen to patients in place of the prescribed oxycodone.
12. From July 2018 to September 2018, Respondent diverted morphine from Facility patients for personal use at least twice.
13. Respondent withdrew 1mg/.5ml or 2mg/1ml doses of liquid intravenous morphine from the Facility Pyxis machine and administer a partial dose or no dose to a patient. Respondent diverted the remainder of the morphine for her personal use. Respondent recorded the entire dose of morphine as administered.

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

14. The State re-alleges and incorporates Paragraphs 2 through 13 above.
15. As a nurse, Respondent is prohibited from diverting or attempting to divert drugs, equipment, or supplies for unauthorized use.
16. Respondent diverted or attempted to divert drugs for unauthorized use as demonstrated in Paragraphs 2 through 13 above.
17. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 26 V.S.A. §1582(a)(2).

Violation Two: 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.

18. The State re-alleges and incorporates Paragraphs 2 through 13 above.

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19. As a nurse, Respondent has an obligation to provide safe and acceptable patient care.
20. Paragraphs 2 through 13 above demonstrate that Respondent provided unsafe and unacceptable patient care by failing to administer narcotics consistent with physician orders and jeopardizing prescribed patient pain management efforts.
21. 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 Three: 26 V.S.A. §1582(a)(3) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

22. The State re-alleges and incorporates Paragraphs 2 through 13 above.
23. As a nurse, Respondent is required to refrain from engaging in conduct of a character likely to deceive, defraud, or harm the public.
24. Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public as demonstrated in Paragraphs 2 through 13 above.
25. 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 Four: 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.

26. The State re-alleges and incorporates Paragraphs 2 through 13 above.
27. As an RN, Respondent shall not willfully make or file false reports or records in the practice of the profession, willfully impede or obstruct the proper making or filing of reports or records, or willfully fail to file the proper reports or records.
28. Paragraphs 2 through 13 above demonstrate that Respondent willfully made or filed false reports or records in the practice of the profession.
29. 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 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.

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30. The State re-alleges and incorporates Paragraphs 2 through 13 above.
31. As a nurse, Respondent is required to exercise her 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.
32. Respondent's conduct in Paragraphs 2 through 13 above demonstrate Respondent's failure to exercise her own professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.
33. 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

34. Respondent admits the facts as outlined above are true and the Board may find that the Respondent engaged in unprofessional conduct and that the order below is necessary to protect the public.
35. 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.
36. 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.
37. Respondent has read and reviewed this entire Stipulation and Consent Order and agrees that it contains the entire agreement between the parties.
38. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
39. 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.
40. Respondent voluntarily waives her right to a contested hearing before the Board and waives any right to appeal from this Stipulation and Consent Order.
41. Respondent agrees that the Order set forth below may be entered by the Board.

ORDER

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Based on the Stipulation above, it is **ORDERED AND ADJUDGED** as follows:

- A. Respondent is immediately eligible to renew and revive her Licensed Practical Nurse and/or Registered Nurse license. Upon issuance, Respondent's license(s) shall be **CONDITIONED FOR A MINIMUM OF THREE (3) years**, commencing on the date of reinstatement. The **CONDITIONS** shall be as follows:
 1. Renewal. Respondent is immediately eligible to renew and revive her Licensed Practical Nurse and/or Registered Nurse license. Respondent must comply with all requirements of license renewal. All conditions shall apply to any re-entry permit.
 2. Re-issuance of License. Upon the commencement of these conditions and the renewal of Respondent's license(s), Respondent shall be issued a license labeled "conditioned."
 3. 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 licensed practical nursing practice in which Respondent works at least eighty (80) hours month as a nurse. Part time hours of fewer than eighty (80) hours every month shall be credited on a prorated basis. Respondent shall be prohibited from working more than forty (40) hours per week.
 4. 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.
 5. Completion of Substance Abuse Counseling, Treatment Plan, Treatment Reports and recovery groups. Respondent shall engage in individual substance abuse counseling with a pre-approved counselor (the "Treating Professional") and comply with the substance abuse treatment plan until the Treating Professional certifies in writing that such counseling is no longer necessary and Respondent successfully petitions the Board for a modification of these conditions. Within ten (10) days of the date of entry of this Order, Respondent shall provide a copy of this Stipulation and Consent Order to the Treating Professional and inform him or her of Respondent's conditional license status and the accompanying conditions. Respondent shall cause the Treating Professional to submit to the Case Manager, on forms provided by the Case Manager, acknowledgement of receipt of the Stipulation and Consent Order along with Respondent's current treatment plan.

Respondent shall authorize the Treating Professional to submit **monthly** reports on forms issued by the Case Manager. Respondent shall authorize the Treating Professional to provide all information requested, either orally or in writing, at any time during the period this Consent Order is in effect.

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If Respondent is prescribed medication as part of her substance abuse counseling and treatment, Respondent's monthly treating professional reports must also indicate Respondent's current dosage and whether Respondent is appropriately taking the medication as prescribed. Respondent must continue to take such medications as prescribed, until the Treating Professional certifies in writing that such medication is no longer necessary.

Should Respondent's medications be monitored by someone other than her Treating Professional, Respondent shall cause the prescribing provider to certify in writing, at intervals determined by the Case Manager, whether Respondent is appropriately taking the medication as prescribed. Respondent must continue to take such medications as prescribed until the prescribing provider certifies in writing that such medication is no longer necessary.

6. Self-help recovery groups. Respondent shall participate as recommended by Respondent's treating professional in substance abuse recover group(s). If such participation is recommended, Respondent shall submit quarterly reports documenting attendance on forms issued by the Case Manager.
7. Random Drug and Alcohol Testing. Respondent shall submit to random drug and alcohol testing through the designated entity. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes. All 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 test shall cause that test result to be presumed positive. Any positive test result 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.

8. Abstain from Drug and Alcohol Use. Respondent shall abstain completely from the consumption or possession of alcohol and drugs.
9. 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's health care practitioner shall inform the Board, in writing and on appropriate letterhead, of knowledge of Respondent's conditional license status 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

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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.

10. Notification to Employers/Educational Programs. 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 Case Manager an employer agreement form, 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 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 Case Manager a nursing program agreement form provided by the Case Manager, 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.

11. Practice Under Supervision. Respondent shall practice as a nurse only in a setting where Respondent is supervised for the entire shift by a licensed registered nurse that is in good standing with the Board. The level of supervision required is On-Site Supervision. On-Site supervision means the supervising nurse is present in the same facility as Respondent.
12. 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 Case Manager 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, if and when Respondent engages in medication administration. In the event Respondent is attending a nursing program, Respondent shall cause the Program Director to submit to the Case Manager, 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 Case Manager. All employer reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance.

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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, temporary nursing employment agency, or as a private duty nurse or personal care provider requiring a nursing license during the effective period of this Consent Order.

14. Administration of Medications. Respondent is prohibited from handling, managing, or administering any controlled substances. This condition may be removed only by Respondent filing a petition with the Board after Respondent has worked as a registered nurse for six (6) months for at least forty (40) hours every two weeks (or the part time equivalent) after the date of resuming nursing practice. The State shall consent or object to any such petition, and a hearing may be held

In any such petition, Respondent must demonstrate, to the satisfaction of the Nursing Board, that Respondent can safely and competently administer such medications. Respondent must include support from Respondent's 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.

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

16. 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 or its designee. 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.

17. 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.

18. 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.

19. License Renewal. This Order does not automatically extend the license and Respondent must comply with the requirements for license renewal.

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20. 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.

21. Costs. Respondent shall bear all costs of complying with this Consent Order.
22. 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.
23. Completion of Conditional License Period. Respondent shall submit a petition to the Docket Clerk to remove any and all conditions on Respondent's license. The State will assent to or oppose Respondent's petition. The Board will conduct a hearing if necessary. Respondent bears the burden and must present proof that Respondent has fully complied with the terms of this Order and these conditions are no longer necessary to protect the public.
- 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.
- E. This Stipulation and Consent Order shall be applicable as a matter of law to all other

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licenses issued by the Board of Nursing, as provided in 3 V.S.A. §129(l).

AGREED TO:

Dated: 10/11/2021

STATE OF VERMONT
SECRETARY OF STATE

DocuSigned by:
Elizabeth St. James
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By: Elizabeth A. St. James
State Prosecuting Attorney

KATHRYN PETERSON
RESPONDENT

Dated: 10/7/2021

DocuSigned by:
Kathryn Peterson
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By: Kathryn Peterson

APPROVED AND SO ORDERED:

Dated: 11/8/2021

VERMONT BOARD OF NURSING

DocuSigned by:
Jennifer Laurent
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By: Jennifer Laurent
Chairperson

Date of Entry: 11/9/2021

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