

Therese Burgh

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

In re: Gloria Lee Phelan }
License No. 026-0013286 }
Docket No. NU 73-0404 }

ENTRY ORDER

1. This Board entered an order on 23 January 2007 (the "January Order") requiring Gloria Lee Phelan, a licensee under the jurisdiction of this agency, to achieve good standing status with the Vermont Department of Taxes. The January Order followed an evidentiary hearing occurring on 11 January 2007.
2. The Board's order was based on the allegation contained in a letter received from the Dep't of Taxes and which was admitted by the licensee, that:

the [Tax Dep't] had filed charges against the Respondent for failing to pay her Vermont individual income taxes for tax years 2001, 2002 and 2003.

Letter, dated 12 April 2006, from the VT Dep't of Taxes, *Charges* at ¶ 4.

3. At the hearing, the parties to this matter -- the Dep't of Taxes and licensee Gloria Lee Phelan -- represented and stipulated that Ms. Phelan is not in good standing with the Tax Dep't as defined in 32 V.S.A. § 3113.
4. The Board entered an order after hearing the parties' evidence and their joint proposal for an order as well as their joint request for a stay of any Board order.
5. The Board ruled, and the parties concurred at the hearing, that the Board had received all evidence needed for a final disposition. The Board therefore ordered Ms. Phelan, within six months to:

provide documentation to the Office of Professional Regulation;
attn: Prosecuting Attorney, prior to 11 June 2007, showing that she is in "good standing" as that term is defined by 32 V.S.A. § 3113.

If the [Ms. Phelan] provides competent evidence of good standing to the Office of Professional Regulation by that date, the Board expects that this case will be dismissed by the State.

If, however, [Ms. Phelan] fails to provide documentation and the State does not dismiss this action, the Board shall enter a final order pursuant to the mandate of 32 V.S.A. § 3113. It is the intention of the Board that the Respondent's license shall be suspended if she is not yet in "good standing" within six months of the date of this hearing.

6. On Wednesday 2 July 2007, the Board received a letter from the State of Vermont indicating that Ms. Phelan is not in good standing as defined in 32 V.S.A. § 3113.

7. As of the date of this Order, the Board has not received evidence of compliance with its previous order from the licensee.

8. Therefore, pursuant to the Board's findings of fact from the January 2007 hearing and pursuant to its January Order, the Board shall suspend the nursing license of Gloria Lee Phelan.

9. Ms. Phelan's license shall remain suspended until she comes into good standing. 32 V.S.A. § 3113(g).

10. For purposes of this order, the licensee shall be in good standing with respect to her Vermont taxes if:

(a) no taxes are due and payable and all returns have been filed;

(b) the liability for taxes due and payable is on appeal;

(c) the licensee is in compliance with a payment plan approved by the tax commissioner; or

(d) the Board finds that requiring immediate payment of taxes due and payable would impose an unreasonable hardship and elects to place the licensee on conditions expected to allow the licensee to achieve good standing with respect to any and all taxes as soon as reasonably possible.

11. In light of the licensee's failure to provide proof of good standing for payment of taxes, her license is therefore **SUSPENDED** at the request of the Commissioner of Taxes as of the date of entry of this order. The license shall remain suspended pending compliance with this Order.

- END -

Vermont Board of Nursing:

By: Susan O. Farrell
Susan O. Farrell, RN
Board Chairperson

Date: Aug. 13, 2007

OFFICE OF PROFESSIONAL REGULATION
DATE OF ENTRY: 8/14/07

Candace King

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

In re: Gloria Lee Phelan }
License No. 026-0013286 }
Docket No. NU 73-0404 }

FINDINGS OF FACT
CONCLUSIONS OF LAW & ORDER
STAYING PROCEEDINGS FOR SIX MONTHS

Introduction:

On Monday 11 December 2006 the Board heard this contested case brought by the State of Vermont against Respondent Gloria Lee Phelan. Board members Kenneth W. Bush, Susan O. Farrell (Chairperson), Donarae Metcalf, Sandra Norton, Laurey M. Tyo, DeAnn Welch and Alan Weiss participated in the hearing of this matter. Board members Linda Rice and Ellen Leff recused themselves. The Respondent appeared in person. Edward G. Adrian represented the State of Vermont. Board counsel Kevin F. Leahy presided.

The State brought a specification of charges (the "Charges") dated 20 June 2006 due to an allegation made by the Vermont Department of Taxation (Tax Dep't) claiming the Respondent is not in good standing with respect to her Vermont income taxes.

The State alleges in pertinent part:

the Board received a letter dated April 12, 2006 from Timothy Collins of the Vermont Department of Taxes . . . informing the Board that the [Tax Dep't] had filed charges against the Respondent for failing to pay her Vermont individual income taxes for tax years 2001, 2002 and 2003.

Charges at ¶ 4.

The Board received into evidence:

State's Ex. 1: Tax Dep't payment summary re: Gloria Phelan

State's Ex. 2: Tax Dep't attestation regarding Respondent's tax standing.

Findings of Fact &

Conclusions of Law:

1. At the beginning of the hearing, the State and the Respondent represented to the Board that they had reached a "meeting of the minds" and wanted to suggest a "reasonable resolution" to this matter. The State also presented a statement from Tax

Dep't counsel stating that the Respondent is not in "good standing" as that term is defined by 32 V.S.A. § 3113 (Ex 2) as well as an approximate summary of Respondent's outstanding tax obligations (Ex. 1).

2. Both parties represented that the Respondent has a liability to the Tax Dep't, although they were unsure what that was due to un-filed tax returns.
3. The parties agreed that the Board could enter an order in this case based the fact that Respondent is not currently in "good standing" with Vt. Tax Dep't.
4. The State also represented, and the Respondent concurred, that Ms. Phelan is making a good faith effort to come into good standing with the Tax Dep't.
5. The State and the Respondent asked the Board to stay any order for a period of six months based on the representation that Respondent is making good faith efforts at compliance. The parties believe this will give the Respondent an opportunity to come into good standing with the Tax Dep't pursuant to 32 V.S.A. § 3113.
6. The Board accepts the representations and request made by the parties to stay these proceedings for six months to allow the Respondent more time to come into good standing with her Vermont individual incomes taxes.
7. The parties agreed they had placed into evidence all necessary facts needed for the Board to make a final administrative determination. The parties also jointly waived any demand for further evidentiary hearings on this matter.
8. The Board therefore finds that it has received all the evidence it needs to order a final disposition in this case and there is no need for additional evidentiary proceedings in this matter.
9. It will therefore be Respondent's responsibility to provide documentation to the Office of Professional Regulation; attn: Prosecuting Attorney, prior to 11 June 2007, showing that she is in "good standing" as that term is defined by 32 V.S.A. § 3113.
10. If the Respondent provides competent evidence of good standing to the Office of Professional Regulation by that date, the Board expects that this case will be dismissed by the State.
11. If, however, Respondent fails to provide documentation and the State does not dismiss this action, the Board shall enter a final order pursuant to the mandate of 32 V.S.A. § 3113. It is the intention of the Board that the Respondent's license shall be suspended if she is not yet in "good standing" within six months of the date of this hearing.

ORDER

The Board of Nursing therefore STAYS these proceedings for six months consistent with the findings set forth in this Order.

The Board also advises that, if the Respondent fails to provide documentation showing "good standing" and if the State does not dismiss this action, the Board shall enter a final order pursuant to the mandate of 32 V.S.A. § 3113 subsequent to its June 2007 meeting date.

- END -

Vermont Board of Nursing:

By: Susan O. Farrell
Susan O. Farrell, RN
Board Chairperson

Date: Jan. 13, 2007

OFFICE OF PROFESSIONAL REGULATION
DATE OF ENTRY: 1/23/07

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

IN RE:)
GLORIA LEE PHELAN) DOCKET No. NU73-0404
License No. 026-0013286)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Gloria Lee Phelan, R.N.:

Board Authority

1. The Vermont State Board of Nursing (the "Board") has authority to issue warnings or reprimands, suspend, revoke, limit, condition current licenses, or prevent the renewal of lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. §129(a); 3 V.S.A. 129a; 3 V.S.A. §814(d); 26 V.S.A. §1582; the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

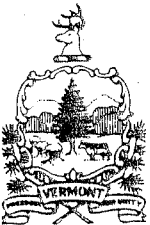
2. The Respondent, Gloria Lee Phelan, is a registered nurse holding license number 026-0013286, issued by the State of Vermont. This license was originally issued on or about August 31, 1979 and is currently set to expire on March 31, 2007.

3. By way of information, the Respondent's license was conditioned by the Board pursuant to a Stipulation and Consent Order entered on or about November 7, 2001. The conditions on the Respondent's license were subsequently extended for three (3) years pursuant to an Order entered by the Board on or about December 1, 2004. Attachment A. This extension was imposed due to a number of medication errors made by the Respondent.

4. On or about April 20, 2006 the Board received a letter dated April 12, 2006 from Timothy Collins of the Vermont Department of Taxes ("VDT") informing the Board that the VDT had filed charges against the Respondent for failing to pay her Vermont individual income taxes for tax years 2001, 2002, and 2003.

5. In a letter to the Respondent from Elizabeth Hansen of the Vermont Board of Nursing dated April 24, 2006, the Respondent was advised that if she did not make arrangements with the VDT to pay her taxes within two weeks from the time she received the letter, revocation proceedings against her R.N. license would be initiated. Upon information and belief, to date the Respondent has failed to make such arrangements or contact the Board.

STATE OF VERMONT



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

Charges

6. The above acts and circumstances, alone or in combination, constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:

- i. 32 V.S.A. §3113(f) (Upon written request by the commissioner and after notice and hearing to the licensee as required under any applicable provision of law, an agency shall revoke or suspend any license or other authority to conduct a trade or business (including a license to practice a profession) issued to any person if the agency finds that taxes administered by the commissioner have not been paid and that the taxpayer's liability for such taxes is not under appeal. For purposes of such findings, the written representation to that effect by the commissioner to the agency shall constitute prima facie evidence thereof); and
- ii. 3 V.S.A. § 129a(a)(3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession).

Request for Relief

WHEREFORE, the Respondent's license should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 20th day of June, 2006.

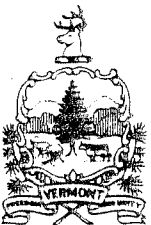
STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

nu.phelan.soc

STATE OF VERMONT



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

STATE OF VERMONT
BOARD OF NURSING

IN RE:

Gloria Lee Phelan
License No. 26-13286

)
) Case File No. NU73-0404
)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Introduction

The Vermont Board of Nursing ("the Board") held a hearing in this case on Monday, November 8, 2004, at 81 River Street in Montpelier, Vermont. Board members Elayne Clift, Laurey Tyo, Sandra Norton, Donarae Metcalf, Susan Farrell, Alan Weiss and De-Ann Welch participated in the decision. Edward Adrian, Prosecuting Attorney, appeared for the State. Gloria Lee Phelan ("the Respondent") was present, and was represented by Attorney Thomas Somers.

The parties submitted a Stipulation and Consent Order for the Board's approval, but left four conditions open for argument and discussion, asking the Board to decide what would be appropriate. The disputed conditions were:

- 1) the length of time the conditions were to be imposed (Paragraph (A));
- 2) whether the Respondent should be restricted from working more than forty hours per week (Paragraph (A)(2));
- 3) whether the Respondent should be restricted from administering narcotic medications during the entire conditioned period (Paragraph (A)(9)); and
- 4) whether the Respondent should be restricted from certain types of employment (Paragraph (A)(16)).

Findings of Fact

The facts as stated in the Stipulation and Consent Order are the facts upon which this order is based, in addition to the testimony and argument submitted at hearing.

Opinion and Conclusions

The State recommends the Board extend the conditions on Respondent's license an additional three years. The Respondent argues this is not appropriate since the latest unprofessional conduct stems from medication errors, and not diversion, the original reason for placing the Respondent under strict conditions beginning in 2001. By the same reasoning,

the Respondent argues against restrictions on overtime, administering narcotic medications, or on certain types of employment prohibitions.

After careful consideration, the Board found all of the state's recommendations to be appropriate. The Board concludes that it is in the best interest of both the Respondent and the public that she remain in a structured setting with on-site supervision for the time being. It is also important that the Respondent be closely supervised until such time as she has a proven track record of safe practice. The medication errors were multiple, significant, and involved a narcotic medication, Percocet

Order

Accordingly, the Board adopts the State's recommendations as the conditions to be included in the Stipulation and Consent Order approved by the Board. More specifically, that the Respondent's license remain conditioned for a period of an additional three years, that Respondent be prohibited from working more than forty hours per week, that Respondent be prohibited from administering narcotic medications, and that Respondent be prohibited from working as a supervising nurse or in any other non-structured setting without adequate supervision. The Board defers to the State's language as written in each of those paragraphs mentioned above as the governing language for the conditioned license.

Appeal Rights

This is a final administrative determination by the Vermont Board of Nursing. You may appeal by sending a notice of appeal in writing to the Director of the Office of Professional Regulation within 30 days of the date of entry of this order. If you wish to request a stay of the Board's decision, please refer to the attached stay instructions.

By: Susan Farrell
Susan Farrell, R.N.
Chair

Date: 11.22.04

OFFICE OF PROFESSIONAL REGULATION

Date of entry: 12/1/04

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

IN RE: GLORIA LEE PHELAN)
License No. 026-0013286) DOCKET No. NU73-0404

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian and the Respondent, Gloria Lee Phelan, R.N., who stipulate and agree as follows:

Board Authority

1. The Vermont Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28 and; the Rules of the Board and the Vermont Office of Professional Regulation.

Statement of Facts

2. Gloria Lee Phelan (the "Respondent") of Ferrisburg, Vermont is a registered nurse holding license number 026-0013286, issued by the State of Vermont. This license was originally issued on or about April 1, 2003 and is set to expire on March 31, 2005. By way of information, the Respondent's license was summarily suspended by the Board on or about July 13, 2001. On information and belief, this summary suspension resulted from the Respondent's addiction to controlled drugs and diversion of the same. On or about November 7, 2001, the Respondent entered into a Stipulation and Consent Order with the State. On or about September 23, 2003, the Stipulation was modified to allow the Respondent to work as a charge nurse. At all relevant times, the Stipulation was in effect. The Stipulation requires that the Respondent "demonstrate, to the satisfaction of the Nursing Board, that she can safely and competently administer medications". The Stipulation also states that if the "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."
3. The Respondent's license was summarily suspended by the Board on June 14, 2004 based upon the facts below.
4. At all relevant times, the Respondent was practicing as a registered nurse and worked at Fletcher Allen Health Care (the "Hospital") located in Burlington, Vermont. At all relevant times, the Respondent was employed on "Baird 3". The Respondent was terminated from the Hospital on or about April 16, 2004 for not following the proper rules concerning the documentation of medication.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

5. On or about April 13, 2004, the Respondent met with Nurses Sue Martel and Jason Pelletier and hospital employees Keith Engles and Ann Barton Sullivan to discuss approximately 20 Percocet that were unaccounted for in the months of March and April 2004 and other Percocet that was given but not documented. The Respondent advised that she was aware that her documentation was slipping and knew of two rehab patients that she had failed document Percocet after it was administered.

6. The followi

a. On or about, 1:04 pm, March 10, 2004, Percocet was removed from the Pyxis machine by the Respondent for Patient 1, but was not documented in the nursing notes. The Respondent admitted this discrepancy to Investigator Brenda Tetrault.

b. On or about, 11:19 am and 3:06 pm, March 16, 2004, Percocet was removed from the Pyxis machine by the Respondent for Patient 2, but was not documented as given. The Respondent admitted this discrepancy to Investigator Brenda Tetrault.

c. On or about, 11:57 am, April 4, 2004, and 9:23 am and 9:24 am, April 6, 2004, Percocet was removed from the Pyxis machine by the Respondent for Patient 3, but was not documented as given. The Respondent admitted the April 4, 2004 discrepancy to Investigator Brenda Tetrault.

d. On or about, 9:00 am, March 27, 2004, and 11:15 am March 29, 2004, Percocet was removed from the Pyxis machine by the Respondent for Patient 4, but was not documented as given. The Respondent admitted this discrepancy to Investigator Brenda Tetrault.

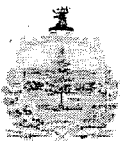
e. On or about, 1:26 pm, April 4, 2004, Percocet was removed from the Pyxis machine on override by the Respondent for Patient 5, but was not documented as given. Percocet was not ordered for Patient 5. The Respondent admitted this discrepancy to Investigator Brenda Tetrault and stated that she administered the Percocet to Patient 5 because Patient 5 had already received the Percocet in the emergency room.

f. On or about, 2:51 pm, April 5, 2004, Percocet was removed from the Pyxis machine by the Respondent for Patient 6, but was not documented as given. Patient 6 was not the Respondent's patient. The Respondent admitted this discrepancy to Investigator Brenda Tetrault.

g. On or about, 11:22 am, April 5, 2004, Percocet was removed from the Pyxis machine on override by the Respondent for Patient 7, but was not documented as given. Percocet was not ordered for Patient 7. The Respondent admitted this discrepancy to Investigator Brenda Tetrault and stated that this was not her patient.

h. On or about, 7:39 am, April 13, 2004, Percocet was removed from the Pyxis

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machine by the Respondent for Patient 8, but was not documented as given. However, at 7:46 morphine was taken out for the Pyxis and was charted as given in addition Oxycodone was charted as given at 10:31 am. All medications except the Percocet were charted. The Respondent admitted this discrepancy to Investigator Brenda Tetrault.

7. The Respondent received three drug testings on April 9, 2004, April 20, 2004 and May 7, 2004. The results of all three drug tests were negative.
8. Based on the Stipulation and the Conditions thereto, at all relevant times, the Respondent was required to safely and competently administer medications the Respondent failed to meet this standard.

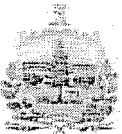
Charges

9. The above acts and circumstances, alone or in combination, violate: 3 V.S.A. § 129a(a) (3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession); 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); 3 V.S.A. §§ 129a(b)(1)(failure to practice competently by any reason of any cause on a single occasion or on multiple occasions . . . performance of unsafe or unacceptable patient care); 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause);; 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public); and Vermont Board of Nursing Administrative Rule (the "Rules") Chapter 4, Rule IV, II, B, 1; (performance of unsafe or unacceptable patient care).

Understandings

10. 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.
11. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced her rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
13. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
14. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.

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Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

15. 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.
16. Respondent voluntarily waives her right to charges and a contested hearing before the Board of Nursing.
17. 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 **EXTENDS THE RESPONDENT'S CONDITIONAL LICENSE PERIOD** commencing with the date of entry of this Consent Order. The State recommends that this conditioned period be extended for another three years. The Respondent is free to argue for a shorter period of time. **The Board will determine the appropriate length of conditioned period after hearing the arguments of the parties at the Sanctions Hearing.** The conditions are 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 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 three (3) years of supervised nursing practice in which she works 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. The State recommends that the Respondent be prohibited from working more than forty (40) hours per week. The Respondent is free to argue otherwise. **The Board will determine the appropriate remedy after hearing the arguments of the parties at the Sanctions Hearing.** Respondent's license is additionally conditioned as follows.

(3) Medication Documentation Course.

Respondent must complete (i.e.: receive a passing grade, if applicable) a course focusing on the documentation of medications with prior approval by the Board or its designee, and then submit written documentation (certificate of completion, etc.) to verify same to the satisfaction of the Board or its designee. This course must be completed within sixty (60) days of the date of entry of this Consent Order.

(4) Completion of Drug Abuse Counseling and Treatment Plan.

Respondent shall enter into and continue drug abuse counseling with a 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

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Montpelier, VT 05602

enter into and comply with the drug abuse treatment plan approved by the Board and the treating professional.

(5) 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 the commencement of the conditions and subsequent reports are due every month thereafter.

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

(7) 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 during the conditioned period 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 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.

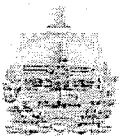
In the event Respondent is attending a nursing program which has a clinical portion which involves actual patient care, she shall provide a copy of the Stipulation and Consent Order to the Program Director. Respondent shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Stipulation and Consent Order and ability of the program to comply with its conditions during clinical experience.

(8) Reports from Employers.

Within one (1) month of the date of entry of this Stipulation and Consent Order 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. This report shall be submitted in writing on forms issued by the Board.

In the event the Respondent is attending a nursing program, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of

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Montpelier, VT 05602

her performance and attendance. This report shall be submitted in writing on forms issued by the Board and accompanied by a cover letter on the school's letterhead.

(9) Administration of Medications.

THE PARTIES HAVE NOT HAD A MEETING OF THE MINDS IN RESPECT TO THIS PROVISION.

It is the position of the State that the Respondent be conditioned as follows: Respondent's license is conditioned to prohibit her from administering any medications for a minimum period of three (3) months from the date of commencement of nursing employment. 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 she returns to work as a nurse. 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. The Board may gradually restore those privileges through whatever intermediary steps it determines are appropriate. **The Respondent shall not administer any narcotic medications during the entire conditioned period.**

The Respondent is free to argue for a less restrictive restriction at the Sanctions Hearing.

(10) Practice Under Supervision.

Respondent shall practice only in a nursing setting where Respondent has direct supervision for the entire shift by a Registered Nurse that is licensed and in good standing with the Board.

(11) Participation in Recovery Group.

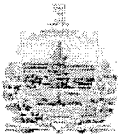
Respondent shall participate as recommended by her treating professional, in Narcotics Anonymous meetings and/or other recovery group(s).

(12) Random Drug Testing.

Respondent shall submit to random drug screenings at the request of the Board or its designee. Respondent shall designate a person, who has been approved by the Board or its designee, to administer random drug screens. 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.

(13) Abstain from Drug Use.

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Montpelier, VT 05602

Respondent shall abstain completely from the consumption or possession of drugs with the exception of prescribed medications as outlined in paragraph A.(14) for the period of time described in paragraph A.(2).

(14) Drug Use Exception.

Respondent shall not take controlled substances unless necessary. Respondent may take scheduled/controlled medications lawfully prescribed for a bona fide illness or condition by a physician, dentist, or nurse practitioner whose identity shall be made known to the Board in writing by Respondent within forty-eight (48) hours of the establishment of the practitioner/patient relationship. Respondent shall ensure that the physician, dentist or nurse practitioner informs the Board, in writing and on appropriate letterhead, of knowledge of Respondent's substance abuse issue(s) within one (1) week of entering into the practitioner/patient relationship. Respondent shall inform the Board in writing of all scheduled/controlled 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 necessity for the prescribed scheduled/controlled medications if the term exceeds 14 days. This includes medications to be administered as necessary. It is not anticipated that Respondent would be prescribed scheduled/controlled medication, during the term of this Consent Order, for a period greater than 14 days, but if so, then the conditions herein may be revoked by the Board.

Respondent shall keep a written record of all medications taken, including over the counter drugs, and produce such record upon the request of the Board or its designee.

(15) Interview with the Board or its Designee.

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

(16) Types of Employment Prohibited.

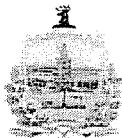
Respondent shall not work as a supervising nurse, with the exception of supervising LNAs and other unlicensed assistive persons. Respondent shall not work for a nurse registry, float-pool, home health care agency, temporary nursing employment agency or as a personal care provider during the effective period of this Consent Order. The State recommends that the Respondent shall not work for a traveling nurse agency or as a charge nurse. The Respondent is free to argue otherwise. **The Board will determine the appropriate condition at the Sanctions Hearing**

(17) 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. The Board will approve out-of-state practice so long as the Respondent can still comply with the provisions of this Consent Order.

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

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Prosecuting Attorney
Office of
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Montpelier, VT 05602

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 employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in employment, personal address, or telephone number.

(19) Notification to Other States.

In the event that the Respondent is licensed as a nurse in any other state(s), she must inform the nurse licensing board of the state(s) in which the Respondent is licensed of the conditional status of her Vermont nursing license within thirty (30) days of the date of entry of this Order. If the Respondent fails to provide such notification, it will be considered a violation of this Order.

(20) License Renewal.

If the Respondent's license expires while this Order is still in effect, this Order does not automatically extend the license. In that situation, in order to continue to practice nursing, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that she has otherwise complied with the requirements for license renewal.

(21) Release of Information Forms.

In fulfilling the conditions of this Order which require the Respondent to authorize various persons to report information or to discuss the Respondent with the Board, the Respondent must execute a consent to disclose form which meets the requirements of 42 C.F.R. §2.31. The authorization must allow the information to also be provided to the Office of Professional Regulation investigators. Any revocation by the Respondent of such consent to disclosure during the term of this Order shall be considered a violation of this Order.

(22) Costs.

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

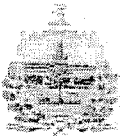
(23) Violation of this Order.

If the Respondent violates the terms of this Order in any respect, the Board, after giving the Respondent notice and an opportunity to be heard, may rescind or modify this Order and impose additional appropriate disciplinary actions. If a complaint of unprofessional conduct is made against the Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

(24) Completion of Conditional License Period.

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on her license. The Respondent must present proof that she has fully complied with the terms of this Order. The Respondent must also present proof of successful drug abuse rehabilitation and she must demonstrate, to the satisfaction of the Nursing Board, that she poses no danger to the public or the practice of nursing and that she can safely and competently perform the duties of an R.N.

STATE OF VERMONT



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B. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.

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

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

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 1/6/04

By: [Signature]
Edward G. Adrian
State Prosecuting Attorney

GLORIA LEE PHELAN
RESPONDENT

Dated: 11/8/04

By: [Signature]
Gloria Lee Phelan

APPROVED AS TO FORM:

RESPONDENT'S ATTORNEY

Dated: 11/8/04

By: [Signature]
Thomas Somers, Esq.

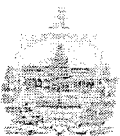
APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 11/08/04

By: [Signature]
Chairperson

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Date of Entry: 12/1/04

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STATE OF VERMONT
BOARD OF NURSING

IN RE:)
Gloria Lee Phelan) Case File No. NU73-0404
License No. 26-13286)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Introduction

The Vermont Board of Nursing ("the Board") held a hearing in this case on Monday, November 8, 2004, at 81 River Street in Montpelier, Vermont. Board members Elayne Clift, Laurey Tyo, Sandra Norton, Donarae Metcalf, Susan Farrell, Alan Weiss and De-Ann Welch participated in the decision. Edward Adrian, Prosecuting Attorney, appeared for the State. Gloria Lee Phelan ("the Respondent") was present, and was represented by Attorney Thomas Somers.

The parties submitted a Stipulation and Consent Order for the Board's approval, but left four conditions open for argument and discussion, asking the Board to decide what would be appropriate. The disputed conditions were:

- 1) the length of time the conditions were to be imposed (Paragraph (A));
- 2) whether the Respondent should be restricted from working more than forty hours per week (Paragraph (A)(2));
- 3) whether the Respondent should be restricted from administering narcotic medications during the entire conditioned period (Paragraph (A)(9)); and
- 4) whether the Respondent should be restricted from certain types of employment (Paragraph (A)(16)).

Findings of Fact

The facts as stated in the Stipulation and Consent Order are the facts upon which this order is based, in addition to the testimony and argument submitted at hearing.

Opinion and Conclusions

The State recommends the Board extend the conditions on Respondent's license an additional three years. The Respondent argues this is not appropriate since the latest unprofessional conduct stems from medication errors, and not diversion, the original reason for placing the Respondent under strict conditions beginning in 2001. By the same reasoning,

the Respondent argues against restrictions on overtime, administering narcotic medications, or on certain types of employment prohibitions.

After careful consideration, the Board found all of the state's recommendations to be appropriate. The Board concludes that it is in the best interest of both the Respondent and the public that she remain in a structured setting with on-site supervision for the time being. It is also important that the Respondent be closely supervised until such time as she has a proven track record of safe practice. The medication errors were multiple, significant, and involved a narcotic medication, Percocet.

Order

Accordingly, the Board adopts the State's recommendations as the conditions to be included in the Stipulation and Consent Order approved by the Board. More specifically, that the Respondent's license remain conditioned for a period of an additional three years, that Respondent be prohibited from working more than forty hours per week, that Respondent be prohibited from administering narcotic medications, and that Respondent be prohibited from working as a supervising nurse or in any other non-structured setting without adequate supervision. The Board defers to the State's language as written in each of those paragraphs mentioned above as the governing language for the conditioned license.

Appeal Rights

This is a final administrative determination by the Vermont Board of Nursing. You may appeal by sending a notice of appeal in writing to the Director of the Office of Professional Regulation within 30 days of the date of entry of this order. If you wish to request a stay of the Board's decision, please refer to the attached stay instructions.

By: Susan Farrell
Susan Farrell, R.N.
Chair

Date: 11.22.04

OFFICE OF PROFESSIONAL REGULATION

Date of entry: 12/1/04

Tennsburg

STATE OF VERMONT
BOARD OF NURSING

In re: Gloria Lee Phelan
License No. 26-13286

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}

Docket No. NU73-0404

SUMMARY SUSPENSION ORDER

On June 14, 2004, this case came before the Board of Nursing for a hearing on the State's request for summary suspension.

Based upon the evidence presented at the hearing, the Board finds that there is sufficient evidence to establish to the necessary degree that the public health, safety, or welfare imperatively require emergency action against the Respondent's license.

Pursuant to 3 V.S.A. § 814(c), Respondent Gloria Lee Phelan'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: *Jessie Farrell*
Chair

Dated: June 14, 2004

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 6/16/04

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

IN RE: GLORIA LEE PHELAN) DOCKET No. NU73-0404
License No. 026-0013286)

REQUEST FOR SUMMARY SUSPENSION

Board Authority

1. The Vermont Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by Nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28 and; the rules of the Board and the Vermont Office of Professional Regulation.
2. The Board of Nursing is authorized by 3 V.S.A. § 814 to summarily suspend the license of a nurse when it finds that the public health, safety or welfare imperatively requires emergency action.

Statement of Facts

3. Gloria Lee Phelan (the "Respondent") of Ferrisburg, Vermont is a registered nurse holding license number 026-0013286 issued by the State of Vermont. This license was originally issued on or about April 1, 2003 and is set to expire on March 31, 2005. By way of information, the Respondent's license was summarily suspended by the Board on or about July 13, 2001. On information and belief this summary suspension resulted from the Respondent's addiction to controlled drugs and diversion of the same. On or about November 7, 2001 the Respondent entered into a Stipulation and Consent Order with the State. Attachment A. On or about September 23, 2003 the Stipulation was modified to allow the Respondent to work as a charge nurse. At all relevant times the Stipulation was in effect. The Stipulation requires that the Respondent "demonstrate, to the satisfaction of the Nursing Board, that she can safely and competently administer medications". Attachment A at 3. The Stipulation also states that if the "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." Attachment A at 10.
4. At all relevant times the Respondent was practicing as a registered nurse and worked at Fletcher Allen Health Care (the "Hospital") located in Burlington, Vermont. At all relevant times the Respondent was employed on "Baird 3". The Respondent was terminated from the Hospital on or about April 16, 2004 for not following the proper procedures for narcotic distribution.
5. On or about April, 2004 some of the Respondent's previous co-workers reported that she was acting similar to the way she acted when addicted to narcotics. Based on this

STATE OF VERMONT



Prosecuting Attorney
Office of
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Montpelier, VT 05602

- information the Hospital did an audit of the Respondent's medication records.
6. On or about April 13, 2004 the Respondent met with Nurses Sue Martel and Jason Pelletier and hospital employees Keith Engles and Ann Barton Sullivan to discuss approximately 20 Percocet that were unaccounted for in the months of March and April 2004 and other Percocet that was given but not documented. The Respondent advised that she was aware that her documentation was slipping and knew of two rehab patients that she had failed document Percocet after it was administered.
 7. The following discrepancies occurred in respect to the Respondent's record keeping:
 - a. On or about, 1:04 pm, March 10, 2004 Percocet was removed from the Pyxis machine by the Respondent for Patient 1, but was not documented in the nursing notes. The Respondent admitted this discrepancy to Investigator Brenda Tetrault.
 - b. On or about, 11:19 am and 3:06 pm, March 16, 2004, Percocet was removed from the Pyxis machine by the Respondent for Patient 2, but was not documented as given. The Respondent admitted this discrepancy to Investigator Brenda Tetrault.
 - c. On or about, 11:57 am, April 4, 2004, and 9:23 am and 9:24 am, April 6, 2004 Percocet was removed from the Pyxis machine by the Respondent for Patient 3, but was not documented as given. The Respondent admitted the April 4, 2004 discrepancy to Investigator Brenda Tetrault.
 - d. On or about, 9:00 am, March 27, 2004, and 11:15 am March 29, 2004 Percocet was removed from the Pyxis machine by the Respondent for Patient 4, but was not documented as given. The Respondent admitted this discrepancy to Investigator Brenda Tetrault.
 - e. On or about, 1:26 pm, April 4, 2004, Percocet was removed from the Pyxis machine on override by the Respondent for Patient 5, but was not documented as given. Percocet was not ordered for Patient 5. The Respondent admitted this discrepancy to Investigator Brenda Tetrault and stated that she administered the Percocet to Patient 5 because Patient 5 had already received the Percocet in the emergency room.
 - f. On or about, 2:51 pm, April 5, 2004, Percocet was removed from the Pyxis machine by the Respondent for Patient 6, but was not documented as given. Patient 6 was not the Respondent's patient. The Respondent admitted this discrepancy to Investigator Brenda Tetrault.
 - g. On or about, 11:22 am, April 5, 2004, Percocet was removed from the Pyxis machine on override by the Respondent for Patient 7, but was not documented as given. Percocet was not ordered for Patient 7. The Respondent admitted this discrepancy to Investigator Brenda Tetrault and stated that this was not her patient.
 - h. On or about, 7:39 am, April 13, 2004, Percocet was removed from the Pyxis machine by the Respondent for Patient 8, but was not documented as given. However, at 7:46 morphine was taken out for the Pyxis and was charted as given in

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addition Oxycodone was charted as given at 10:31 am. All medications except the Percocet were charted. The Respondent admitted this discrepancy to Investigator Brenda Tetrault.

8. The Respondent received three drug testings on April 9, 2004, April 20, 2004 and May 7, 2004. The results of all three drug tests were negative.
9. Based on the Stipulation and the Conditions there to, at all relevant times the Respondent was required to safely and competently administer medications. By failing on numerous occasions to chart the Percocet, the Respondent failed to meet this standard.

Request for Relief

10. The facts as set out above establish that in order to protect the public health, safety or welfare of the people of the State of Vermont emergency action is imperative.
11. The above acts and circumstances, alone or in combination, violate: 3 V.S.A. § 129a(a) (3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession); 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); 3 V.S.A. §§ 129a(b)(1)(failure to practice competently by any reason of any cause on a single occasion or on multiple occasions . . . performance of unsafe or unacceptable patient care); 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause);; 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public); and Vermont Board of Nursing Administrative Rule (the "Rules") Chapter 4, Rule IV, II, B, 1; (performance of unsafe or unacceptable patient care).

WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. § 814, the Respondent's nursing license number 026-0013286 be summarily suspended.

DATED at Montpelier, Vermont this 3rd day of June, 2004.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

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