

Lerrisburg, VT

STATE OF VERMONT
BOARD OF NURSING

IN RE:)
GLORIA LEE PHELAN) Docket No. NU84-0601
License No. 26-013286)

MODIFICATION OF STIPULATION AND CONSENT ORDER

Upon petition of the Respondent, Gloria Lee Phelan, for a modification of her Stipulation and Consent Order, the Board approves the following modification of Paragraph 20 of its original Order, which shall now replace the existing Order and remain attached thereto as part of the Respondent's licensing file:

(20) Prohibited Duties

Respondent shall not work in a supervising role.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated:

August September 8, 2003

By:

Edward G. Adrian
State Prosecuting Attorney

GLORIA LEE PHELAN
RESPONDENT

Dated:

08.29.03

By:

Gloria Lee Phelan
Gloria Lee Phelan

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated:

September 22, 2003

By:

Susan Farrell
Chairperson

Date of Entry:

9/23/03

nu.phelan.stip

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

**STATE OF VERMONT
BOARD OF NURSING**

IN RE:	)	
Gloria Lee Phelan	)	Docket No: NU84-0601
License Number 26-013286	)	

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, through Attorney General William H. Sorrell, and Respondent Gloria Lee Phelan who stipulate and agree as follows:

1. The Board of Nursing has jurisdiction to investigate complaints of unprofessional conduct and approve consent orders pursuant to 3 V.S.A. §129, and 26 V.S.A. §§1574, 1582.
2. Respondent is a registered nurse licensed by the State of Vermont holding license number 26-013286.
3. Respondent was summarily suspended on July 9, 2001. Respondent enters this Stipulation and Consent Order with the State and waives a hearing on the merits of the acts that gave rise to the summary suspension.
4. The Board has directed the State to work with the Respondent to effect a conditional license allowing Respondent to practice and protecting the public.
5. The parties have agreed this Stipulation and Consent Order would be an appropriate resolution.
6. 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.
7. Respondent has read and reviewed this entire document and agrees that it

contains the entire agreement between the parties.

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

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

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

11. Respondent agrees that the order set forth below may be entered by the Board.

ORDER

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

A. The Board hereby lifts the suspension of Respondent's license and **CONDITIONS** Respondent's license to practice nursing **for a minimum period of three (3) years.** The **CONDITIONS** on Respondent's license are as follows:

(1) Length of Time Conditions Imposed.

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

(2) Administration of Medications.

Respondent's license is conditioned to prohibit her from administering any medications for a period of three (3) months. This condition may

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

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

(3) Special Conditions/ Relapse Prevention and Treatment Plan

Respondent is required to complete at least 10 hours of outpatient addiction counseling with a Vermont licensed addictions counselor. The focus of this counseling will be to develop a relapse prevention plan and a treatment plan if deemed necessary. The completed plan(s) shall be presented to the Board and approved **prior to license re-instatement.**

(4) Completion of Counseling and Treatment Plan.

Respondent shall enter into and continue counseling with the treating professional approved by the Board until such time as the treating

professional shall certify in writing to the Nursing Board that such counseling is no longer necessary. Respondent shall comply with the treatment plan approved by the Board.

(5) Approval of Changes of Treating Professional.

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

(6) Substance Abuse Therapy and Notification to Treating Professional.

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

(7) Reports from Treating Professional.

Respondent shall authorize and cause her treating professional to submit to the Board evidence of satisfactory progress with the treatment plan during the effective period of this Consent Order. These reports shall be submitted in writing on forms issued by the Board. The first report is due commencing the month after the date of entry of this Consent Order and subsequent reports are due every month thereafter.

Respondent shall authorize her treating professional to provide all information requested by the Nursing Board, or its designee, either orally or in

writing, at any time during the period this Consent Order is in effect.

(8) Participation in NA/AA.

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

(9) Random Drug Testing.

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

(10) Abstain from Alcohol or Drug Use.

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

(11) Drug Use Exception.

Respondent may take 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 chemical dependency within one (1) week of entering into the practitioner/patient relationship. Respondent shall inform the Board in writing of all medications prescribed, including the name of the prescribing practitioner, within forty-eight (48) hours of receiving the prescription.

The Board or its designee may request at any time that the practitioner document the continued need for prescribed medications. Respondent shall keep a written record of medications taken, including over the counter drugs, and produce such record upon the request of the Board or its designee.

(12) Narcotic/Addictive Drugs

The Board has a serious concern someone with a history of substance abuse is prescribed controlled drugs. Therefore, a letter from Respondent's primary physician confirming that (s)he is aware that this patient suffers from an addictive disease and that (s)he has no knowledge of any abuse of medications (s)he has prescribed to her must be provided by Respondent. Additionally, if Respondent is being prescribed a controlled medication Respondent shall provide documentation from her primary physician verifying that other medications were not effective and the controlled substance is being used solely as a "rescue" medication.

The duration of use of prescribed controlled drugs is also of concern to the Board. Therefore, the Board reserves the right to rescind its conditional license approval should the duration of time when controlled drugs are prescribed raises

serious concerns with regard to Respondent's ability to function safely under her license.

(13) Interview with the Board or its designee.

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

(14) Re-issue of License.

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

(15) 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.

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

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

(17) Notification to Employers/Nursing School.

Respondent shall provide a copy of this Stipulation and Consent

Order to all employers in any current or future setting in which she practices as a nurse and inform them of her conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any subsequent employment, Respondent shall cause her immediate supervisor to write to the Board, on the employer's letterhead, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order. In the event Respondent is attending a nursing program, Respondent shall provide a copy of the Stipulation and Consent Order to the Program Director. Respondent shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Stipulation and Consent Order and ability of the program to comply with the conditions in the Consent Order during clinical experience.

(18) Reports from Employers/Nursing School

Within one (1) month of the date of entry of this Consent Order and every month thereafter, Respondent shall cause every employer she has worked for during the month to submit to the Board an evaluation of Respondent's performance and attendance during that month. This report shall be submitted in writing on forms issued by the Board. In the event the Respondent attends nursing school, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Respondent's performance and attendance. This report shall be submitted in writing on forms issued by the Board.

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

(19) Practice Under Supervision.

Respondent shall practice only in a setting where she has on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing.

(20) Prohibited Duties.

Respondent shall not work as a Charge Nurse.

(21) Types of Employment Prohibited.

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

(22) Prohibited Hours of Work.

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

(23) License Renewal.

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

(24) Release of Information Forms.

Upon the establishment of all practitioner/patient relationships with (1) treating professionals for substance abuse treatment, and with (2) treating professionals who prescribe any medication to Respondent, Respondent shall

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

(25) Costs.

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

(26) Violation of the Consent Order.

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

(27) Reevaluation of Conditions.

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

Board for reevaluation of the conditions of this Consent Order.

(28) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on her license and after formal review by the Board, Respondent's nursing license may be fully restored by appropriate Board action. Respondent, however, must present proof of successful substance abuse rehabilitation and demonstrate, to the satisfaction of the Nursing Board, that she poses no danger to the practice of nursing and that she can safely and competently perform the duties of a registered nurse. Such proof shall include appropriate support from her treating professional and employer or nursing school administrator. Furthermore, Respondent shall demonstrate, to the Board's satisfaction, that she fully complied with all the terms of this Consent Order.

B. Notwithstanding any provision above, Respondent must meet all Nursing Board requirements for 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)(8).

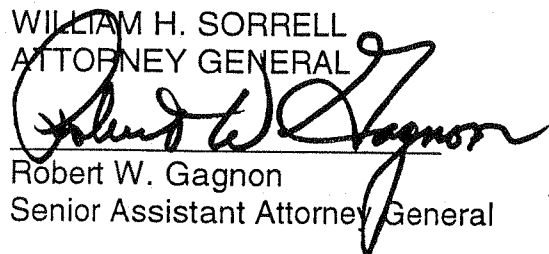
D. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

Dated: 10/29/01

by:


Robert W. Gagnon
Senior Assistant Attorney General

GLORIA LEE PHELAN
RESPONDENT

Dated: 10-29-01

by: Gloria-lee Phelan
Gloria Lee Phelan

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: Nov. 5, 2001

by: Susan Farrell
Chairperson

Date of entry: 11/7/01