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

IN RE:	)	
TAMMY LYNN (AINES) PROVOST	)	**Docket No. NU 96-0604**
License No: 025-0008474	)	

STIPULATION AND CONSENT ORDER FOR REINSTATEMENT

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Tammy Lynn (Aines) Provost, L.P.N., who stipulate and agree as follows:

Board Authority

1. The Vermont Board of Nursing ("the Board") has jurisdiction to investigate complaints of unprofessional conduct and discipline nurses pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §1582; the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.

2. Whether or not the conduct at issue was committed within or outside the state, failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 3 V.S.A. §129a(a)(3).

Facts

3. The Respondent, Tammy Lynn (Aines) Provost, is licensed by the State of Vermont as a Practical Nurse under license number 025-0008474. Respondent's license was originally issued on March 5, 2004 and Respondent's license is currently set to expire on January 31, 2006.

4. On or about June 15, 2004, the Vermont Board of Nursing received notice from the New York State Department of Health that the Respondent had abused a patient.

5. On or about June 2, 2005, the Vermont Board of Nursing indefinitely suspended Respondent's Vermont license pending her compliance with the Board's request for additional information necessary to determine whether she could resume practice under a conditioned license. See Attachment A.

6. In July of 2005, Respondent requested information on reinstatement from the Board of

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Prosecuting Attorney
Office of
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05609-1107

Nursing office. Since that time, Respondent has provided the Board with the additional information it had requested from her.

7. On or about September 13, 2005, the New York Board of Nursing entered an order suspending Respondent's license for two years, but stayed the last eighteen months of the suspension and placed Respondent under probation for two years. See Attachment B.

Charges

8. The acts, omissions and/or circumstances described above, constitute grounds for discipline because Respondent violated:

> i. 3 V.S.A. §129a(a)(3) (Whether or not the conduct at issue was committed within or outside the state, failing to comply with provisions of federal or state statutes or rules governing the practice of the profession).

Understandings

9. 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.

10. 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.

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

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

13. 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.

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

15. Respondent agrees that the State has sufficient evidence for the Board to find that Respondent has engaged in unprofessional conduct and that the Order set forth below may be entered by the Board.

ORDER

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

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A. The Board hereby lifts the suspension of Respondent's nursing license and **CONDITIONS** it for a **MINIMUM PERIOD OF TWO (2) YEARS** commencing with the date of entry of this Consent Order. The conditions are as follows:

(1) Re-issue of License.

Upon the imposition 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 two (2) years of supervised nursing practice in which she works at least forty (40) hours every two (2) weeks as a nurse. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis. Respondent's license is additionally conditioned as follows:

(3) 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.

(4) Reports from Employers.

Within one (1) month of the date of entry of this Order and **monthly** thereafter, Respondent shall cause every nursing employer Respondent has worked for during the relevant time period to submit to the Board an evaluation of Respondent's performance and attendance during that time period. 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 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.

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(5) 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.

(6) Types of Employment Prohibited.

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

(7) 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.

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

Within five (5) days of the date of entry of this 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.

(9) 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.

(10) Costs.

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

(11) 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.

(12) Completion of Conditional License Period.

After the conditional license period, the Respondent may petition the Board to

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remove any and all conditions on her license. The Respondent must present proof that she has fully complied with the terms of this Order.

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:

Dated: 10/28/05

STATE OF VERMONT
SECRETARY OF STATE

By: _____
Edward G. Adrian
State Prosecuting Attorney

TAMMY LYNN (AINES) PROVOST
RESPONDENT

Dated: 10-27-05

By: Tammy Lynn Aines
Tammy Lynn (Aines) Provost

APPROVED AND SO ORDERED:

Dated: 11.14.05

VERMONT BOARD OF NURSING

By: Susan Farrell
Chairperson

Date of Entry: 11/18/05

nu.provost.stip2

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Office of
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Montpelier, VT
05609-1107

OFFICE OF PROFESSIONAL REGULATION
VERMONT STATE BOARD OF NURSING

IN RE:	Tammy Lynn Provost	)	
	Case File No. NU96-0604	)	DEFAULT ORDER
	License No. 25-8474	)	

Introduction and Background

Board members Susan Farrell, De-Ann Welch, Ellen Leff, Linda Rice, Ken Bush, Laurey Tyo and Donarae Metcalf participated in the decision. State Prosecuting Attorney Edward Adrian appeared for the State. Tammy Lynn Provost ("the Respondent") was not present.

The Board of Nursing held a default hearing in the above matter on March 14, 2005 at the Central Vermont Medical Center in Berlin, Vermont. The Respondent attended. At that time, the Board issued a default order which contained an interim provision allowing the Respondent to submit additional information before the Board would determine sanction. The Respondent was ordered to provide a report from her therapist on her suitability for employment as a licensed practical nurse. She was also to provide a report from her employer and cooperate with the prosecuting attorney and the investigative team.

The Respondent was to appear at the Board's April 11, 2005 hearing. She did not appear and the Board ordered a continuance of the hearing until the May 9, 2005 meeting.

The Respondent did not appear at the May meeting, but did fax to the prosecuting attorney two letters of reference from her place of employment. She has not provided anything else to the prosecuting attorney or the Board.

With this in mind, the Board proceeded with the default hearing sanction.

Findings of Fact

1. The Board incorporates the default order entered March 29, 2005 into this order. It also incorporates the charges dated December 8, 2004, as facts upon which this order is based.

2. The Respondent was given additional time to respond to the Charges and the Board's requests for information.

3. The Respondent was directed to send additional information and to appear at

Attachment A

future Board meetings, but she did not provide that information or attend the meetings.

Conclusions of Law

The Respondent has received adequate notice of the charges against her as indicated by the Board's file. Because the Respondent has failed to answer the charges against her, the State's factual allegations are treated as if proved. Accordingly, the Board finds, in the default hearing held pursuant to 3 V.S.A. §809(d), that the Respondent has engaged in the unprofessional conduct alleged in the State's Specification of Charges.

The Respondent was given the opportunity to provide the information which may have allowed the Board to issue a sanction of conditions or something less than a suspension. However, the Board does not have the information it needs to issue any sanction other than a suspension at this time. Should the Respondent provide the requested information in the future, the Board may consider reinstatement of the Respondent's license.

Order

In accordance with the above findings of fact and conclusions of law, the license of the Respondent is hereby INDEFINITELY SUSPENDED. The Respondent should continue to work with the State and the Nursing Board Office to provide the information necessary to determine whether she could resume practice under a conditioned license.

Appeal Rights

This is a final administrative determination by the Vermont State 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, RN
Chair

Date: May 31, 2005

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 6/2/05

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

IN RE:
TAMMY LYNN PROVOST
License No: 025-0008474

Docket No. NU 96-0604

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Tammy Lynn Provost, L.P.N.:

Board Authority

1. The Vermont Board of Nursing ("the Board") has jurisdiction to investigate complaints of unprofessional conduct and discipline nurses pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §1582; the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.

2. Whether or not the conduct at issue was committed within or outside the state, failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 3 V.S.A. §129a(a)(3).

Facts

3. The Respondent, Tammy Lynn Provost, is licensed by the State of Vermont as a Practical Nurse under license number 025-0008474.

4. Respondent's license was originally issued on March 5, 2004 and Respondent' license is currently set to expire on January 31, 2006.

5. On June 15, 2004, the Vermont Board of Nursing received notice from the New York State Department of Health that the Respondent had been placed on the New York State Nurse Aide Registry for patient abuse. The incident involved the Respondent having yelled at resident E.R. repeatedly to shut up, placed her hand over E.R.'s mouth, and forced ice cream into E.R.'s mouth. These actions also violated E.R.'s care plan which requires, among other things, that the nurse maintain a calm, quiet environment and if the resident is agitated, the nurse is to leave and approach the resident later.

Charges

STATE OF VERMONT

Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

6. The acts, omissions and/or circumstances described above, constitute grounds for discipline because Respondent violated:

i. 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).

Relief Requested

WHEREFORE, the license of Tammy Lynn Provost should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 8th day of December 2004.

STATE OF VERMONT
SECRETARY OF STATE

By: _____
Edward G. Adrian
State Prosecuting Attorney

nu.provost.soc

STATE OF VERMONT

Prosecuting Attorney
Office of
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Montpelier, VT 05602

NEW YORK STATE EDUCATION DEPARTMENT
OFFICE OF PROFESSIONAL DISCIPLINE
STATE BOARD FOR NURSING
----------X

IN THE MATTER

of the

Disciplinary Proceeding

against

TAMMY L. PROVOST

who is currently licensed to practice
as a licensed practical nurse
in the State of New York.
----------X

APPLICATION FOR
CONSENT ORDER

CAL. NO. 22283

TAMMY L. PROVOST, says:

on or about December 2, 2003, I was licensed to practice as a licensed practical nurse in the State of New York, having been issued license No. 274783 by the New York State Education Department

I am currently registered with the New York State Education Department to practice as a licensed practical nurse in the State of New York from an address at: 49 Pine Street, Apt. 1, Saranac Lake, New York 12983. I currently reside at 2 Whaley Trailer Park, Waterbury, Vermont 05676-1307

I have been charged with one (1 specification of professional misconduct, a copy of which is annexed hereto, made a part hereof, and marked as Exhibit "A".

Attachment B

admi qui to the aforesaid specification of professional sconduct charging with unprofessional conduct verbal nhys cal abuse pa

hereby agree the penalty tha my i to pract ce as ed pr cal the Sta of New York be suspended years tha execut of he ast months of d suspens be tayed and tha be placed probai on for ye unde he erms proba on se forth in the exhibi annexed he made part hereof and marked Exhibi R probat upon my to practi censed pract nurse in New ork

furth gr nf h D ector Office of Profess ona n ip in my return to practice as icensed practi al the of New York by cert fied mail return rec ip requ addressed d Director 75 Park Avenue So th Second oor Ne Y rk New York 00 -690 l seve days before my return he practice of pharmacy in the ta New York

hereby make thi app the Board of Regen requ tha be gr ed

unders and tha th tha the Board of Regen deni the app hing ained he shal be binding upon onstrued be dmis of any of mi ondu eged harged gains Such appl shal be used

against me in any way and shall be kept in strict confidence during the pendency of the disciplinary proceeding, and such denial by the Board of Regents shall be without prejudice to the continuance of the disciplinary proceeding and the final determination by the Board of Regents pursuant to the provisions of the Education Law

agree that in the event the Board of Regents grants my application, as set forth herein, an Order may be issued in accordance with the same. I understand that if and when the Board of Regents grants this application, the entire application shall become a matter of public record.

No promises of any kind were made to me. I am making this application of my own free will and accord and not under duress, compulsion, or restraint of any kind or manner.

_____
Respondent

TAMMY L. PROVOST

CALENDAR NO. 22283

1. That Respondent, during the period of probation, shall be in compliance with the standards of conduct prescribed by the law governing Respondent's profession;

2. That Respondent shall submit written notification to the New York State Education Department, addressed to the Director, Office of Professional Discipline, New York State Education Department, 475 Park Avenue South -- Second Floor, New York, New York 10016-6901, of any employment and/or practice, Respondent's residence, telephone number, or mailing address, and of any change in Respondent's employment, practice, residence, telephone number, or mailing address within or without the State of New York;

3. That Respondent shall have quarterly performance reports submitted to the New York State Education Department, addressed to the Director, Office of Professional Discipline, as aforesaid, from Respondent's employer, evaluating Respondent's performance as a licensed practical nurse in Respondent's place of employment, said reports to be prepared by Respondent's supervisor or employer;

5. That Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by Respondent to the NYSED, addressed to the Director, Office of Professional Discipline, as aforesaid, no later than the first three months of the period of probation;

6 That Respondent shall submit written proof to the NYSED, addressed to the Director, Office of Professional Discipline, as aforesaid, that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the

EXHIBIT "A"

TAMMY **L. PROVOST**

SPECIFICATION OF PROFESSIONAL MISCONDUCT

Respondent is charged with unprofessional conduct within the meaning and purview of Section 6509(9) of the Education Law of the State of New York, in specific violation of 8 NYCRR Section 29.2(a)(2), in that

On or about February 9, 2004, while employed and on duty at Uihlein Mercy Center in Lake Placid, New York, Respondent willfully, harassed a patient verbally and physically as follows:

Respondent repeatedly yelled at a patient (E.R to "shut up" and placed her hand over the patient's mouth

State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board of Regents, said proof of the above to be submitted no later than the first two months of the period of probation;

7. That Respondent shall make quarterly visits to an employee of the Office of Professional Discipline, New York State Education Department, unless otherwise agreed to by said employee, for the purpose of said employee monitoring Respondent's terms of probation to assure compliance therewith, and Respondent shall cooperate with said employee, including the submission of information requested by said employee, regarding the aforesaid monitoring;

8. That upon receipt of evidence of noncompliance with or any other violation of any of the aforementioned terms of probation, the New York State Education Department may initiate a violation of probation proceeding and/or such other proceedings pursuant to the Education Law and/or Rules of the Board of Regents.

NEW YORK STATE DEPARTMENT OF HEALTH
OFFICE OF PROFESSIONAL DISCIPLINE
STATE BOARD FOR NURSING

----------X

IN THE MATTER

of the

Disciplinary Proceeding

Against

TAMMY L. PROVOST

who is currently licensed to practice as a licensed practical nurse in the State of New York.

----------X

APPLICATION FOR CONSENT ORDER

CAL NO. 22283

The undersigned agree to the above statement and to the proposed penalty based on the terms and conditions thereof.

Dated: ,2005

Respondent

Dated: ,2005

Attorney for Respondent

Dated: ,2005

Member of the State Board for Nursing

Dated: , 2005

Director
Office of Professional Discipline

The undersigned, a member of the Board of Regents who has been designated by the Chairman of the Regents Committee on Professional Practice to review this Application for a Consent Order, has reviewed said Application and recommends to the Board of Regents that the Application be granted.

Dated: , 2005

Member, Board of Regents

WR