

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

In re: Gregory Sieverding }
License No. 026-23669 } Docket No. NU 21-1299

**FINDINGS OF FACT
CONCLUSIONS OF LAW & ORDER**

Introduction:

On Monday 10 July 2006, this matter came before the Vermont Board of Nursing on a petition submitted by Gregory Sieverding ("Petitioner"). Petitioner appeals the preliminary denial of his request for reinstatement of his Vermont RN license without conditions. Petitioner's license is conditioned pursuant to a *Stipulation and Consent Order* dated 13 November 2000 (the "2000 Order").

Board members Susan O. Farrell, Chairperson, Ellen Leff, Sandra Norton, Laurey M. Tyo, DeAnn Welch and Alan Weiss participated in the hearing of this matter. The Petitioner appeared on his own behalf. Board counsel Kevin F. Leahy presided.

Findings of Fact &
Conclusions of Law:

The Petitioner initially sought to have his license reinstated without conditions in the spring of 2006. A review committee of the Board preliminarily denied the request as stated in a letter to the Petitioner dated 5 May 2006. A Petitioner bears the burden of proof. 3 V.S.A. § 129(e). It is therefore incumbent upon the Petitioner to demonstrate to the Board that the May 2006 preliminary denial was wrongly issued.

The review committee's primary reason for denying the request was its conclusion that Mr. Sieverding's conditional license period was originally set for thirty-six months. Since Mr. Sieverding had not completed the full thirty-six month period of conditioned practice he was denied his request for an unconditioned license. As of the date of his hearing, he had completed approximately twenty-four months of conditioned practiced.

Mr. Sieverding's license has been conditioned for significantly longer than thirty-six months. However, he has not practiced full time since the entry of the 2000 Order. The lack of uninterrupted professional practice is due to Mr. Sieverding's military service obligations.

The evidence received by the Board showed that Mr. Sieverding's work reviews for the periods when he was practicing his profession were favorable and indicated that he engages in safe practice. At the hearing, Mr. Sieverding testified to the many hours of

continuing education, in different areas of practice, that he had taken upon himself to pursue. He has also taken courses in professional ethics and professional development.

Mr. Sieverding's employer reports and the continuing education efforts on his part are compelling evidence that he is ready to continue practicing his profession without conditions of supervision. However, the Board cannot overlook the fact that there have been gaps in Mr. Sieverding's ability to practice his profession, which have prevented him from fully proving to this board an ability to safely practice without supervision. The reasons for the gaps in professional practice were certainly not foreseeable to Mr. Sieverding and to the State when they entered into the 2000 Order. Under these circumstances, it is appropriate to reconcile the purposes for which the 2000 conditions were put into place with the facts as they have developed over the past six years.

Weighing Mr. Sieverding's work experience to date, his employer reports, the length of time since the original order went into effect and the unfulfilled professional work requirements called for in the 2000 Order, the Board concludes that a modification is necessary. Accordingly, the 2000 Order shall be modified to require that Mr. Sieverding provide satisfactory employer reports for four additional months. With the addition of four consecutive months of employer reports, combined with the evidence reviewed by the Board to date, the Board believes it can make the informed judgment necessary to lift the Petitioner's conditions.

The Petitioner's license shall therefore remain conditioned for four months beginning July 2006. After the completion of four consecutive months of safe practice (i.e. as early as 1 Nov. 2006) and with continued compliance of all other provisions in the 2000 Order, Petitioner shall be eligible to have conditions lifted in accordance with paragraph 12 (Completion of Conditional License Period) of the 2000 Order.

ORDER

The Board ORDERS that the November 2000 Stipulation and Consent Order be MODIFIED. As modified, the order shall now conclude, in accordance with its original terms, after a period of four (4) months of conditioned practice beginning on 1 July 2006.

Vermont Board of Nursing:

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

Date: Oct. 14, 2006

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 10/19/06

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Nursing.

A party aggrieved by a final decision of a Board may appeal the decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, 26 Terrace Street, Montpelier, Vermont 05609-1101 within 30 days of the entry of the order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.

To request a stay of the Board's decision, please refer to the attached stay instructions.

STATE OF VERMONT
BOARD OF NURSING

NW P/R
[Signature]
Fair Haven

IN RE:)
Gregory Sieverding)
License No: 26-23669)

Docket No. NU21-1299

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through its Attorney General, William H. Sorrell, and Respondent Gregory Sieverding, who stipulate and agree as follows:

1. The Vermont Board of Nursing 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. §§1572, 1574, and 1582, and the Board of Nursing's and the Office Professional Regulation's Rules.
2. Respondent Gregory Sieverding, of Fair Haven, Vermont, is a nurse holding license number 26-23669 issued by the State of Vermont.
3. At all times relevant to Paragraphs 5.a to 6.c herein, Respondent was employed by or associated with EMSA Correctional Care, Inc. at the Marble Valley Regional Correctional Center ("facility") in Rutland, Vermont.
4. Respondent admits the following:
 - a. On or about August 13, 1992, he pled guilty to and was convicted of assault in New York State (Plattsburgh Town Court, Docket No.: 92080157).
 - b. On or about October 7, 1997, he prepared, signed and/or filed a Vermont Application for Registration and License by Endorsement, with the Vermont Secretary of State, Office of Professional Regulation. On the Application,

Respondent indicated "No" when asked, "3. Have you been convicted of a crime other than a minor traffic violation?"

c. The October 7, 1997 Application further requested, "If the answer to #3 is yes, attach the court documents", though no court documents were attached, nor was an explanation given.

5. Respondent admits the following:

a. On one or more occasions, including during about July 11, 1999 to about July 18, 1999, Respondent performed acts beyond the limits of the statutory definitions of nursing, in that he prescribed medication(s) to a patient (or patients) without timely orders from someone with prescriptive authority and inaccurately charted that some orders had been received by phone from a doctor.

6. Respondent admits the following:

a. Between about October 31, 1999 to November 6, 1999, he misappropriated medication, to wit Motrin 800mg., from the facility for his own (or other unauthorized) use and failed to document the removal of the medication.

b. On one or more occasions leading up to about November 15, 1999, he kept a secured, facility health center key (or copy) on his private key ring, while the only (two) official facility keys were either accounted for within the control room or signed out to medical staff for in-house use.

c. On or about November 15, 1999, Respondent was suspended from work for several days after admitting numerous acts of "unprofessional conduct" to his

employer, including but not necessarily limited to the conduct outlined in paragraph nos. 6.a and 6.b above.

7. Respondent admits the conclusions of unprofessional conduct as set forth below in the Board's Order.
8. 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.
9. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
10. Respondent waives notification and requests the Board to hear this matter at the next available meeting. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
11. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
12. 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.
13. Respondent voluntarily waives his right to charges and a contested hearing before the Board of Nursing.
14. Respondent agrees that the Board may set forth the order below.

ORDER

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

A. By engaging in the conduct described in stipulation paragraph nos. 4.a to 4.c above, Respondent committed unprofessional conduct and violated: 26 V.S.A. §1582(a)(1) (Has made or caused to be made a false, ... statement or representation in procuring or attempting to procure registration or renew a license to practice nursing).

B. By engaging in the conduct described in stipulation paragraph no. 5.a above, Respondent violated: Nursing Board Rules: Chapter 4, Rule IV (B)(2)(a) (performance of unsafe or unacceptable nursing care) and Chapter 4, Rule IV (B)(2)(b) (failure to conform to the essential standards of acceptable and prevailing nursing practice); Chapter 4, Rule IV (B)(4)(a) (performing acts beyond the limits of the statutory definitions of the practice of nursing...), which are violations of, and constitute unprofessional conduct within the meaning of, 26 V.S.A. §1582(a)(3) (unable to practice nursing competently by reason of any cause) and 26 V.S.A. §1582(a)(7) (conduct of a character likely to deceive, defraud or harm the public).

C. By engaging in the conduct described in stipulation paragraph nos. 6.a to 6.c above, Respondent violated Nursing Board Rules: Chapter 4, Rule IV (B)(2)(b) (failure to conform to the essential standards of acceptable and prevailing nursing practice), Chapter 4, Rule IV (B)(4)(d) (diverting supplies, equipment, or drugs for personal or other unauthorized use), which are violations of, and constitute unprofessional conduct within the meaning of, 26 V.S.A. §1582(a)(3) (unable to practice nursing competently by reason of any cause) and 26 V.S.A. §1582(a)(7) (conduct of a character likely to deceive, defraud or harm the public).

D. The Nursing Board **SUSPENDS** Respondent's license, commencing on the date this Order is entered by the Vermont Board of Nursing, for **FORTY-FIVE DAYS**.

Prior to the end of suspension, Respondent must successfully complete a course concerning *understanding legal implications and scope of practice for the Registered Nurse* ~~medication and record-keeping~~ (with prior approval by the Board or its designee) and then

present written acknowledgment of successful completion to the Board or its designee.

Thereafter, (that is commencing forty-five days after this Order is entered and after completion of the course, as above, the Nursing Board **CONDITIONS** Respondent's license to practice as a nurse. The **CONDITIONS** on Respondent's license are as follows:

(1) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has: completed thirty six (36) months of supervised nursing practice in which he 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) Interview with the Board or its designee.

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

(3) Re-issue of License.

Within five (5) days of the Consent Order, Respondent shall submit his license to the Board of Nursing for a re-issued license.

(4) 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 notify the Board prior to

Respondent leaving or working outside the State of Vermont. If Respondent fails to notify the Board before leaving or working outside 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.

(5) 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 his 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.

(6) Notification to Employers/Nursing School.

Respondent shall provide a copy of this Stipulation and Consent Order to all nursing employers during his conditional license status. Within ten (10) days prior to the commencement of his Conditional license, or of any such subsequent nursing employment, Respondent shall cause his 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.

(7) Reports from Employers/Nursing School.

Within one (1) month of the commencement of Respondent's Conditional license, and every month thereafter, Respondent shall cause every employer for which he has been employed as a nurse during that 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 and accompanied by a cover letter on the employer's letterhead. 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 and accompanied by a cover letter on the school's letterhead. In the event Respondent is not employed in nursing or attending school during any month or portion thereof, Respondent shall submit to the Board, in writing, a self-report describing other employment or activities.

Respondent shall authorize his nursing employer and/or 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.

(8) Practice Under Supervision.

Respondent shall practice only in a setting where he has supervision by a registered nurse in good standing with the Vermont Board of Nursing (or if Respondent practices in another State, with that State's Board of Nursing).

(9) 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.

(10) Costs.

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

(11) 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.

(12) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on his license and after formal review by the Board, Respondent's nursing license may be fully restored by appropriate Board action. Respondent, however, must demonstrate compliance with all the terms of this Consent Order.

C. Notwithstanding any provision above, Respondent must meet all Nursing Board requirements for license renewal and license reinstatement.

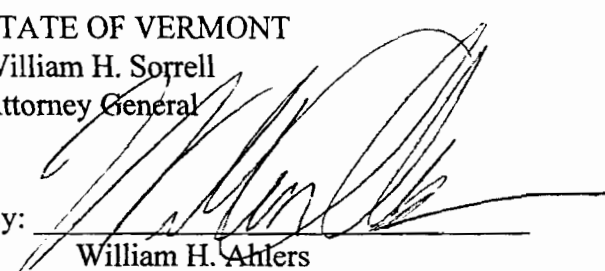
D. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

E. 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

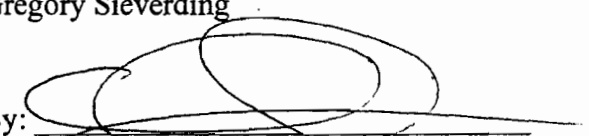
William H. Sorrell
Attorney General

Dated: 10/19/00

By: 
William H. Ahlers
Assistant Attorney General

RESPONDENT
Gregory Sieverding

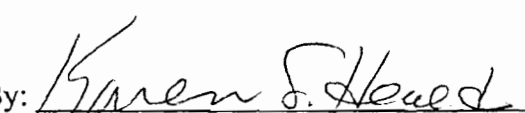
Dated: 16 Oct 00

By: 
Gregory Sieverding

KAREN S. HEALD, ESQ.
Cleary Shahi Associates, P.C.
Attorney for Respondent

Approved As to Form:

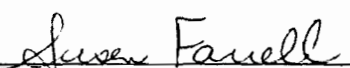
Dated: 10-16-00

By: 
Karen S. Heald, Esq.

ACCEPTED AND SO ORDERED:

BOARD OF NURSING

Dated: Nov. 13, 2000


Chairperson

Date of entry: 11-14-00