

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

IN RE:	)	
Megan L. Slack	)	Docket No. 2020-13
License No. 025.0134377	)	

STIPULATION AND CONSENT ORDER

NOW COMES the State of Vermont, by and through Prosecuting Attorney Jennifer B. Colin, and Respondent Megan L. Slack, by and through her counsel Gary Apfel, Esq., who hereby Stipulate and Agree as follows:

Board Authority

1. The Vermont State Board of Nursing (the "Board") has authority to issue warnings or reprimands; suspend, revoke, limit, or 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; 3 V.S.A. §129a; 3 V.S.A. §814(d); 26 V.S.A. Chapter 28; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation ("OPR").

Stipulated Facts

2. Megan L. Slack (the "Respondent") of White River Junction, Vermont is licensed by the State of Vermont as a Licensed Practical Nurse ("LPN") under license number 025.0134377. This license was originally issued on July 23, 2018 and expires on January 31, 2022.
3. Respondent was previously licensed by the State of Vermont as a Licensed Nursing Assistant ("LNA") under license number 075.0015790. Respondent's LNA license was originally issued on February 9, 2006 and lapsed on November 30, 2006.
4. While licensed as an LNA, Respondent was employed by the Visiting Nurses Association of Vermont and New Hampshire ("VNA"). The VNA terminated Respondent's employment in October 2006.
5. The VNA terminated Respondent's employment because while working for the VNA in September 2006, Respondent falsified patient day sheets, purposely providing false information to the VNA that she had visited various patients and provided services at times/dates when she had not, in fact, done so. Respondent admitted this conduct to her supervisor at the VNA as well as to the OPR Investigator who interviewed her in 2006.

6. As the result of a complaint arising from the above-described conduct, a Specification of Charges was filed against Respondent. In 2008, the OPR Enforcement case was resolved through a Stipulation and Consent Order that was signed by Respondent and her counsel and entered as an Order of the Board of Nursing on April 15, 2008 (“2008 Order”).
7. In the 2008 Order, Respondent agreed and the Board found that Respondent engaged in the following unprofessional conduct: willfully making or filing false reports in the practice of the profession (3 V.S.A. §129a(a)(7); being unfit or incompetent to function as an LNA by reason of any cause (26 V.S.A. §1595(5)) [repealed] for engaging in conduct likely to deceive, defraud, or harm the public; failing to practice competently by failure to conform to the essential standards of acceptable and prevailing practice (3 V.S.A. §129a(b)(2)); and failing to comply with provisions of federal or state statutes or rules governing the practice of the profession (3 V.S.A. §129a(a)(3).
8. The 2008 Order, to which Respondent stipulated, suspended Respondent’s LNA license for a period of one (1) year and provided that Respondent would be subject to numerous conditions for a minimum of two (2) years, should she reinstate her LNA license thereafter, including: taking a course on documentation; providing notification to employers/nursing school during the conditioned period; obtaining monthly employer reports; practicing under supervision; and refraining from working in a travel assignment or for a nurse registry or home health agency or as a PCA during the effective period of the Order.
9. Respondent did not seek to reinstate her LNA license and did not comply with the terms of the 2008 Order.
10. Respondent worked as a personal care attendant (“PCA”) for TLC Nursing, a company that provides homecare nursing and attendants, for approximately four years between 2013 and 2018.
11. In 2017 and 2018, Respondent attended a nursing program at Vermont Technical College so that she could become an LPN.
12. In July 2018, Respondent submitted an application to OPR, under the pains and penalties of perjury, to become an LPN in Vermont (“2018 Application”).
13. In the 2018 Application, Respondent answered “No” to the following question:

Has Vermont or any other state, federal authority, or other jurisdiction taken any DISCIPLINARY ACTION against (e.g., warned, reprimanded, fined, restricted, conditioned, suspended, revoked) a license, certificate, or registration that you hold or have held in any profession or jurisdiction?

14. In the 2018 Application, Respondent answered “No” to the following question:

Have you ever SURRENDERED a license, certificate, or registration to a licensing authority while under investigation, or prosecution, or in lieu of discipline?
15. In July 2018, Respondent was granted an LPN license after having failed to disclose the 2008 discipline against her LNA license for fraudulent conduct.
16. In September 2018, Respondent was granted an LPN license in New Hampshire.
17. In January 2020, Respondent submitted a Renewal Application for her Vermont LPN license (“2020 Renewal”).
18. As part of her 2020 Renewal Application, Respondent answered “Yes” to the following question and provided information concerning a pending investigation in New Hampshire which has not yet been adjudicated:

Are you currently UNDER INVESTIGATION or PENDING CHARGES for a professional, occupational, or professional services license, certificate, or registration in any licensing jurisdiction?
19. In the review process for Respondent’s 2020 Renewal Application, OPR discovered that Respondent had been previously licensed as an LNA, had been suspended as an LNA, and had not disclosed the previous suspension/discipline on her 2018 LPN Application.
20. On January 28, 2020, Respondent provided a written explanation of her failure in 2018 to disclose the previous discipline, stating that she “answered incorrectly” because she did not realize the question applied to her LNA license. Respondent also stated that she did “surrender” her LNA license.
21. After submitting her written explanation to OPR, Respondent admitted to OPR Investigator John Lewis on January 30, 2020 that when she answered the questions for her LPN license in 2018, she understood her LNA license had been disciplined but that she said “no” on the questions knowing they did apply to her LNA license and admitting that she used bad judgment.
22. Until her LPN license was suspended in 2020 by the Vermont Board of Nursing, Respondent worked as an LPN at The Village in White River Junction, Vermont, an assisted living facility. Respondent was the Assistant Director of Nursing and worked there almost a year.

Violation One: 3 V.S.A. §129a(a)(1) Fraudulent or deceptive procurement or use of a license.

- 23. Paragraphs 2 through 22 above are incorporated herein.
- 24. Vermont law provides that fraudulent or deceptive procurement or use of a license constitutes unprofessional conduct.
- 25. Paragraphs 2 through 22 above demonstrate that Respondent fraudulently or deceptively procured her LPN license from the State of Vermont in 2018.
- 26. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent was practicing as a licensed practical nurse in Vermont under a Vermont license that was fraudulently procured in violation of 3 V.S.A. §129a(a)(1).

Violation Two: 26 V.S.A. §1582(a)(3) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

- 27. Paragraphs 2 through 22 above are incorporated herein.
- 28. As an LPN, Respondent is required to refrain from engaging in conduct of a character likely to deceive, defraud, or harm the public.
- 29. Paragraphs 2 through 22 demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public by failing to disclose to OPR in her 2018 LPN Application discipline on her previous LNA license for fraudulent, deceptive and harmful conduct and filing false reports in the practice of the profession.
- 30. Paragraphs 2 through 22 demonstrate that Respondent engaged in conduct of a character likely to deceive, defraud, or harm the public when she misrepresented to OPR in her 2020 Renewal Application that she surrendered her LNA license and claiming that she inadvertently provided an incorrect answer in her 2018 Application.
- 31. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct of a character likely to deceive, defraud, or harm the public in violation of 26 V.S.A. §1582(a)(3).

Violation Three: 3 V.S.A. §129a(a)(15) Failing to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.

- 32. Paragraphs 2 through 22 above are incorporated herein.

33. As an LPN, Respondent is required to exercise her own independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.
34. Paragraphs 2 through 22 above demonstrate that Respondent failed to exercise independent professional judgment by fraudulently procuring a Vermont LPN license and misrepresenting to the licensing authority in 2020 the circumstances regarding the fraudulent procurement.
35. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent committed unprofessional conduct by failing to exercise independent professional judgment in the performance of licensed activities when that judgment was necessary to avoid action repugnant to the obligations of the profession in violation of 3 V.S.A. §129a(a)(15).

Understandings

36. Respondent admits that the facts above are true and that the conditions below are necessary to protect the public.
37. Respondent understands that the 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.
38. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced Respondent's rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
39. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
40. Respondent is not under the influence of any drugs or alcohol at the time of signature of this Stipulation and Consent Order.
41. 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.
42. Respondent voluntarily waives the right to a contested hearing before the Board and waives any right to appeal from this Stipulation and Consent Order.
43. 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 **INDEFINITELY SUSPENDS** Respondent's LPN license **FOR A MINIMUM OF ONE (1) YEAR**. Respondent must petition for and be granted reinstatement by the Board in order to engage in future practice but may not do so for a period of one (1) year from the date of entry of this Consent Order.

1. At least forty-five (45) days prior to filing a petition for reinstatement, Respondent must successfully complete three courses offered by the National Council of State Boards of Nursing (NCSBN), or equivalent courses that have been pre-approved by the Nursing Case Manager:

- Disciplinary Actions: What Every Nurse Should Know;
- Righting a Wrong: Ethics & Professionalism in Nursing; and
- Professional Accountability & Legal Liability for Nurses.

Respondent shall submit the certificates of completion, completed assignment book(s) and quiz results, if applicable, to the Office of Professional Regulation. Failure to complete the courses within the prescribed timeframe shall constitute grounds for denial of the reinstatement petition.

2. Respondent's petition for reinstatement must include a detailed personal statement written by Respondent that provides a full accounting of why she believes she engaged in dishonest, deceptive and/or fraudulent conduct described above in 2006, 2018 and 2020, what steps she has taken to rehabilitate herself, why honesty and integrity are essential in the practice of nursing, and what steps and plan she has in place to ensure she will not engage in such conduct in the future. Respondent shall also submit documentation and letters of support with the petition.

- B. If reinstated, Respondent's license **SHALL BE CONDITIONED** pursuant to whatever terms the Board finds reasonable at the time of Respondent's reinstatement request, taking into account the personal statement, supporting documentation, the facts above, and any other factors else the Board deems relevant. Such conditions may include supervised practice, employer reports, limited practice setting and a restriction against holding supervisory positions.
- C. Notwithstanding any provision above, the Respondent must continue to meet all Board requirements for maintaining a license, 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.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 7/10/2020

By: /s/ Jennifer B. Colin
Jennifer B. Colin
Prosecuting Attorney
(802)828-1219
Jennifer.Colin@vermont.gov

RESPONDENT

Dated: 7/10/20

By: Megan L. Slack
Megan L. Slack

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: July 10, 2020

By: Gary Apfel
Gary Apfel, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: _____

By: _____
Chairperson

Date of Entry: 8/11/2020