

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

IN RE:)
DENISE SPINELLI, R.N.) **Docket No: NU70-0401**
License No. 026-0022031)

STIPULATION AND CONSENT ORDER

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

Board Authority

1. The Vermont Board of Nursing (the "Board") has the jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by Nurses pursuant to 3 V.S.A. §§ 129 and 129a; 26 V.S.A. Chapter 28 and; the Rules of the Board and the Vermont Office of Professional Regulation.
2. Failing to comply with an order of the board or violating any term or condition of a license restricted by the board is unprofessional conduct and is a basis upon which the Board may impose disciplinary action. 3 V.S.A. §129a(a)(4).

Facts

3. The Respondent is licensed in the State of Vermont as a Registered Nurse under License Number 026-0022031.
4. Respondent's license is conditioned pursuant to a Stipulation and Consent Order entered on June 11, 2001. The Stipulation and Consent Order requires, among other things, that the Respondent notify all employers for which she practices as a R.N. of her conditional license status and that the Respondent obtain monthly reports from

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

all employers worked for from June 11, 2001 until approximately June 11, 2004. The Stipulation and Consent Order also requires that the Respondent have on-site supervision while working as a nurse (See Attachment A).

5. The Respondent has been employed by Norwich University in Northfield, VT as a clinical instructor from August, 2001 through May, 2003.

6. The Respondent failed to provide Norwich University with a copy of her Stipulation and Consent Order.

7. The Respondent failed to cause Norwich University to submit monthly employment reports to the Board of Nursing.

8. The Respondent failed to practice under on-site supervision while employed at Norwich University.

Understandings

9. The parties agree that the language "nursing assistant" in the June 11, 2001 Stipulation and Consent Order was meant to be and should be changed to "nursing".

10. The parties agree that the language in paragraph I (16) on page 7 of the June 11, 2001 Stipulation and Consent Order only requires that the Respondent cause every nursing employer as the term nursing is defined under 26 V.S.A. §§ 1571 and 1572 to submit monthly reports.

11. 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.

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

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13. 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.

14. Respondent voluntarily waives her right to charges and 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:

A. Respondent's actions described above demonstrate grounds for discipline because Respondent violated:

i. 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).

B. The Board of Nursing hereby **EXTENDS** the Consent Order entered on June 11, 2001 for one (1) additional year, continuing minimally until June 11, 2005.

Additionally, the language in the Consent Order "nursing assistant" is hereby effectively changed to "nursing".

C. The language "nursing assistant" in the June 11, 2001 Stipulation and Consent Order is changed to "nursing".

D. The language in paragraph I (16) on page 7 of the June 11, 2001 Stipulation and Consent Order only requires that the Respondent cause every nursing employer as the

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term nursing is defined under 26 V.S.A. §§ 1571 and 1572 to submit monthly reports.

AGREED TO:

Dated:

2/5/04

STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

DENISE SPINELLI
RESPONDENT

Dated:

2/4/04

By:

Denise Spinelli
Denise Spinelli

APPROVED AS TO FORM:

Dated:

2/4/04

RESPONDENT'S ATTORNEY

By:

Kerin E. Stackpole, Esq.

APPROVED AND SO ORDERED:

Dated:

2/9/04

Date of Entry:

2/12/04

By:

Laurey M. Tye
Chairperson (acting)

nu.spinelli.stip

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Prosecuting Attorney
Office of
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Montpelier, VT 05602

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

IN RE:

DENISE SPINELLI, R.N.
License No. 026-0022031)
)
)

Docket No: NU70-0401

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the Respondent, Denise Spinelli, and the State of Vermont, by its Attorney General, William H. Sorrell, and stipulate to the following:

Board Authority

1. The Vermont State Board of Nursing ["the Board"] has authority to issue warnings or reprimands, suspend, revoke, limit, condition or prevent the renewal of licenses after disciplinary hearings. 3 V.S.A. §129(a)(5).
2. The Board has authority to adopt consent orders approving a settlement that has been agreed to and submitted by a respondent and the investigating committee. 3 V.S.A. §129(a)(3).

Facts

3. The Respondent (whose address is listed in the database of the Office of Professional Regulation as 2502 Brand Farm Road, South Burlington, Vermont 05403) is a Registered Nurse under License Number 026-0022031.
4. Respondent was originally licensed on March 21, 1995 and Respondent's license is currently extended.
5. By way of history, on or about January 15, 1998 Respondent was Reprimanded and Respondent's license was conditioned for a period of one (1) year based upon an incident of Respondent reporting to work with alcohol on her breath. Stipulation and Consent Order entered January 15, 1998 (the "1998 Order").
6. On or about September 1999, Respondent petitioned the Board for removal of the conditions on her license. The Board reinstated Respondent's license without conditions. Order entered on September 19, 1999 (the "1999 Order").
7. On or about March 20, 2001, the Respondent submitted to the Vermont State Nursing Board an application for renewal in which Respondent indicated that she had "been convicted of a crime other than a minor traffic violation".

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8. Respondent disclosed to the Board that Respondent was convicted of Driving While Under the Influence of Alcohol (DUI) on August 30, 2000.

Charges

- A. By recently being convicted of Driving Under the Influence, subsequent to Respondent's prior Stipulation and Consent Order for arriving at work with alcohol on her breath, Respondent has:

(1) Shown she is habitually intemperate, in violation of 26 V.S.A. §1582(a)(5).

Understandings

- B. The Respondent understands that the board of Nursing must review and accept the terms of the Order set forth below and that if the Board rejects all or any portion of the Order, then this entire document shall be null and void.
- C. The Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- D. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.
- E. The Respondent agrees that she has had sufficient opportunity to consult with legal counsel before signing this document.
- F. The Respondent is voluntarily waiving her right to a contested hearing before the Board of Nursing.
- G. The Respondent agrees that the Order set forth immediately below may be entered by the Board of Nursing.

ORDER

- H. Based on the above stipulation above, it is **ADJUDGED** as follows:

(1) The above facts are true: and

(2) Respondent has engaged in unprofessional conduct in that the Respondent has:

i. Shown she is habitually intemperate, in violation of 26 V.S.A. §1582(a)(5).

- I. The Respondent's license is hereby **CONDITIONED** for a period of not less than three (3) years, commencing on the date this Order is entered by the Board. The **CONDITIONS** on Respondent's license are as follows:

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(1) 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 at least forty (40) hours every two (2) weeks as a nurse assistant. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis.

(2) Completion of Counseling and Treatment Plan.

Respondent shall enter into and continue counseling with the 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 enter into and comply with the treatment plan approved by the Board and the treating professional.

(3) 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.

(4) 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

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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.

(5) Compliance with Parole or Probation Conditions

Respondent shall fully comply with all terms, conditions and requirements of her probation or parole.

(6) Reports from Parole/Probation Officer

Respondent shall authorize and cause her probation or parole officer to submit to the Board evidence of satisfactory progress with the terms, conditions and requirements of her probation or parole during the effective period of this Consent Order. These reports shall be submitted in writing on forms issued by the Board (see Attached Form). 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 probation or parole officer 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.

(7) Participation in AA/NA

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

(8) Random Alcohol/Drug Testing.

No Problem

Respondent shall submit to random alcohol and drug 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 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.

(9) Abstain from Alcohol or Drug Use.

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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 (10) for the period of time described in paragraph (1).

(10) Drug Use Exception.

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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 alcohol 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.

(11) Interview with the Board or its designee.

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

(12) Re-issue of License.

Upon the imposition of these conditions, and successful completion of the competency evaluation test, Respondent shall be issued a license labeled "conditioned".

(13) 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.

(14) 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.

(15) Notification to Employers.

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 nursing assistant 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.

(16) Reports from Employers.

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.

Respondent shall sign a consent, upon request of the Board, to authorize her employer 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.

(17) Practice Under Supervision.

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

(18) 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.

(19) 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 consent to disclosure during the term of this Consent Order shall be considered a violation of this Consent Order.

(20) Costs.

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

(21) 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.

(22) 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 assistant 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 nursing assistant. Such proof shall include appropriate support from her treating professional and employer. Furthermore, Respondent shall

demonstrate, to the Board's satisfaction, that she fully complied with all the terms of this Consent Order.

- J. Notwithstanding any provision above, Respondent must meet all Nursing Board requirements for license renewal and license reinstatement.
- K. This Stipulation and Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- L. This Stipulation and Order will remain part of the Respondent's licensing file and may be used in determining sanctions in any future disciplinary matter.

AGREED TO:

Date: June 14/01BY: DENISE SPINELLI
RESPONDENTDenise Spinelli
Denise SpinelliAND BY: STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERALDate: 6/25/01George C. Haegle IV
George C. Haegle IV
Assistant Attorney General

ACCEPTED AND SO ORDERED:

Date: 7-9-01

BOARD OF NURSING

Diane Dowiegiewicz
ChairpersonDated entered: 7-11-01

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