

STATE OF VERMONT
BOARD OF NURSING

In Re:	)	
Sherry Sylvain, LPN	)	Docket No. NU10-0588
License Number 25-6073	)	

STIPULATION AND MODIFICATION OF CONSENT ORDER

STIPULATION

NOW COME Petitioner Sherry Sylvain, and the State of Vermont, through Attorney General William H. Sorrell, and stipulate as follows:

1. Petitioner Sherry Sylvain and the State entered into a Stipulation and Consent Order Regarding Reinstatement which was approved by the Board of Nursing on April 14, 1994. On July 22, 1996, Petitioner requested that the Board modify the Consent Order. The State and Respondent entered a Stipulation and consent Order that was approved by the Board and entered on 10/14/96.

2. Petitioner now requests modification of that order. The State will not oppose that request as long as certain conditions are met.

3. The parties have reached agreement on a modification of the Consent Order that grants Petitioner the change requested and also imposes the conditions sought by the State. This modification is hereby submitted to the Board for approval.

4. Petitioner waives her right to a hearing before the Board on her petition for modification of the Consent Order.

5. The parties understand that the terms of this Stipulation are contingent upon review and acceptance by the Board and that if the Board rejects any portion

the entire Stipulation shall be null and void.

6. Petitioner has read and reviewed this document fully and agrees that it contains the entire agreement between the parties.

7. This consent order is entered into voluntarily by Petitioner after the opportunity to consult with legal counsel. Petitioner has not been coerced by anyone into signing this Stipulation.

8. The parties agree to the entry of the following Modification of Consent Order.

MODIFICATION OF CONSENT ORDER

A. The October 14, 1996 Consent Order in this case is hereby modified as follows:

a. The following sentences are added at the end of paragraph 7.

Practice Under Supervision:

Notwithstanding the above, Petitioner shall be permitted to work for C.

Ronald Spaulding, DDS without the necessity of being directly supervised by an R.N. It is understood that this modification of the stipulation only applies to employment with Dr. Spaulding. Should Respondent change her employment she will need to comply with the supervision requirement of this paragraph unless it be expressly waived by the Board in a subsequent order.

B. This Stipulation is public and the Board may notify other states of its disposition as provided in 3 V.S.A. §129(a)(7).

C. Petitioner understands that this Stipulation and Consent Order will remain part of

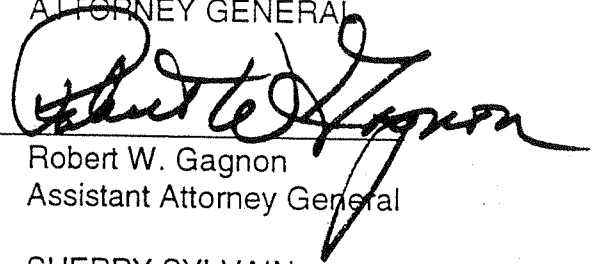
her licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

STATE OF VERMONT

William H. Sorrell
ATTORNEY GENERAL

Dated: 6-14-99

by:

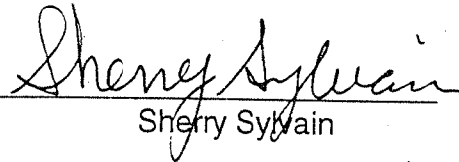


Robert W. Gagnon
Assistant Attorney General

SHERRY SYLVAIN
PETITIONER

Dated: 6-9-99

by:



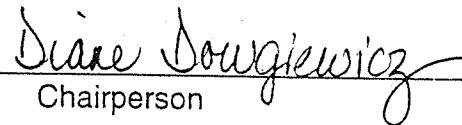
Sherry Sylvain

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 7/12/99

by:



Chairperson

Date of entry: 7-13-99

STATE OF VERMONT
BOARD OF NURSING

In Re:)
Sherry Sylvain, LPN) Docket No. NU10-0588
License Number 25-6073)

STIPULATION AND MODIFICATION OF CONSENT ORDER

STIPULATION

NOW COME Petitioner Sherry Sylvain, and the State of Vermont, through Attorney General Jeffrey L. Amestoy, and stipulate as follows:

1. Petitioner Sherry Sylvain and the State entered into a Stipulation and Consent Order Regarding Reinstatement which was approved by the Board of Nursing on April 14, 1994.

2. On July 22, 1996, Petitioner requested that the Board modify the Consent Order. The State will not oppose that request as long as certain conditions are met.

3. The parties have reached agreement on a modification of the Consent Order which grants Petitioner the changes requested and also imposes the conditions sought by the State. This modification is hereby submitted to the Board for approval.

4. Petitioner waives her right to a hearing on her petition for modification of the Consent Order before the Board.

5. The parties understand that the terms of this Stipulation are contingent upon review and acceptance by the

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Montpelier,
Vermont 05609

Board and that if the Board rejects any portion the entire Stipulation shall be null and void.

6. Petitioner has read and reviewed this document fully and agrees that it contains the entire agreement between the parties.

7. This consent order is entered into voluntarily by Petitioner after the opportunity to consult with legal counsel. Petitioner has not been coerced by anyone into signing this Stipulation.

8. The parties agree to the entry of the following Modification of Consent Order.

MODIFICATION OF CONSENT ORDER

A. The April 14, 1994, Consent Order in this case is hereby modified as follows:

a. The following sentences are added at the end of paragraph 7. Practice Under Supervision:

Notwithstanding this paragraph, Petitioner shall be permitted to work for a home health agency as long as the following conditions are met:

(a) Petitioner's supervisor shall observe Petitioner's care of patients, during visits to each patient to whom she gives care, at least once each week during the first three (3) months of Petitioner's employment with that agency. The supervisor is not required to stay for the entire duration of Petitioner's visit with each patient.

(b) After three months of employment with a home health agency, Petitioner may request that this condition be removed for that particular home health agency, upon a showing that she is safely performing nursing duties. The next intermediate step which the Board may impose will be a condition that Petitioner's supervisor observe Petitioner's care of patients, during visits to each patient to whom she gives care, at least twice each month for three (3) months. Upon completion of that condition to the Board's satisfaction, Petitioner may request that the supervision be reduced to once each month for the remainder of the two-year term of conditions on Petitioner's license.

(c) Each reduction in supervision while Petitioner works in a home health agency shall apply only while Petitioner works for the home health agency for which she requested the reduction. If Petitioner commences work for a different home health agency she shall be required to have her supervisor observe her care of each patient at least once each week as specified in paragraph 7(a). She may thereafter request reductions as specified in paragraph 7(b).

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b. The phrase "home health agency" is deleted from paragraph 9. Types of Employment Prohibited.

B. This Stipulation is public and the Board may notify other states of its disposition as provided in 3 V.S.A. §129(a)(7).

C. Petitioner understands that this Stipulation and Consent Order will remain part of her licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

STATE OF VERMONT

JEFFREY L. AMESTOY
ATTORNEY GENERAL

Dated: 8/5/96

by: Eve Jacobs-Carnahan
Eve Jacobs-Carnahan
Assistant Attorney General

SHERRY SYLVAIN
PETITIONER

Dated: 9/12/96

by: Sherry Sylvain
Sherry Sylvain

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 10/14/96

by: Brenda B. Smith
Chairperson

Date of entry: 10-14-96

STATE OF VERMONT
BOARD OF NURSING

IN RE:	)	
Sherry Sylvain	)	Docket No: NU10-0588
Petition for Reinstatement	)	

STIPULATION AND CONSENT ORDER REGARDING REINSTATEMENT

NOW COME Sherry Sylvain, Petitioner for reinstatement, and the State of Vermont, through Assistant Attorney General Eve Jacobs-Carnahan, and stipulate and agree as follows:

1. The Board of Nursing has jurisdiction pursuant to 26 V.S.A. §1574, 1582 and 3 V.S.A. §129 to reinstate the licenses of nurses which have been suspended or revoked. The Board also has the power to adopt and approve consent orders pursuant to 3 V.S.A. §129, and 26 V.S.A. §§1574, 1582.

2. On November 14, 1988, the Board of Nursing approved a stipulation that suspended Petitioner's license to practice practical nursing for two years and required that she obtain counseling. The suspension and license conditions were imposed upon her license because of her conviction of a crime related to the practice of nursing.

3. Petitioner did not obtain psychological counseling immediately after the November 1988 suspension as required by the stipulation. However, in August 1993 she obtained a psychological assessment and began counseling sessions with a licensed psychologist.

4. Petitioner has not worked as nurse since July 1988.

5. On December 3, 1993, the Board of Nursing received Petitioner's petition for reinstatement.

6. Petitioner waives her right to a hearing before the Board on her petition for reinstatement.

WHEREFORE, the parties agree that the following constitutes a reasonable resolution given the above facts:

A. The Nursing Board hereby reinstates Petitioner's license to practice practical nursing with the following CONDITIONS:

1. Psychological Counseling and Notification to Treating Professional.

For two (2) years commencing with the date of entry of this Stipulation and Consent order, Petitioner shall obtain psychological counseling with a Board approved treating professional. Petitioner shall first develop a treatment plan with that professional which shall include contacts with the treating professional at least every three (3) months. Petitioner shall provide the Board with a copy of the treatment plan which must be reviewed and approved by the Board at the time the Board approves this Stipulation and Consent Order. Petitioner 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 ability to comply with the conditions related to treatment and with all other terms of this Stipulation and Consent Order. By signing this Stipulation and Consent Order,

Petitioner waives any therapist/patient privilege for purposes of obtaining information from her treating professional.

2. Reports from Treating Professional.

Petitioner shall authorize and cause her treating professional to submit to the Board evidence of satisfactory progress with the treatment plan for two (2) years commencing with the date of entry of this Stipulation and Consent Order. These reports shall be submitted in writing on forms issued by the Board and shall be accompanied by a cover letter on the treating professional's professional letterhead. The first report is due three (3) months after the date of entry of this Stipulation and Consent Order and subsequent reports are due every three (3) months thereafter.

3. Re-entry Program.

Before actually resuming the practice of nursing, Petitioner must successfully complete a re-entry program in accordance with Nursing Board Rules Chapter 4, Rule II., E.

4. Notification of Place of Employment/ Personal Address/Telephone Number.

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

5. Notification to Employers/Nursing School.

Petitioner 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 Stipulation and Consent Order or of any subsequent employment, Petitioner 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 its conditions. In the event Petitioner is attending a nursing program, Petitioner shall provide a copy of the Stipulation and Consent Order to the Program Director. Petitioner 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.

6. Reports from Employers/Nursing School

Within three (3) months of commencing nursing employment and every three (3) months thereafter, Petitioner shall cause every nursing employer she has worked for during the quarter to submit to the Board an evaluation of Petitioner's performance and attendance during that quarter. 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 Petitioner attends nursing school, Petitioner

shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Petitioner'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 Petitioner is not employed in nursing during any quarter or portion thereof, Petitioner shall submit to the Board, in writing, a self-report describing other employment or activities.

7. Practice Under Supervision.

Petitioner 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.

8. Prohibited Duties.

Petitioner shall not work as a Charge Nurse.

9. Types of Employment Prohibited.

Petitioner 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 Stipulation and Consent Order.

10. License Renewal.

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

11. Release of Information Forms.

Petitioner shall immediately execute all release of information forms as may be required by the Board or its designee.

12. Costs.

Petitioner shall bear all costs of complying with this Stipulation and Consent Order.

13. Violation of the Stipulation and Consent Order.

If Petitioner violates the terms of this Stipulation and Consent Order in any respect, the Board, after giving Petitioner 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 Petitioner during the term of this Stipulation and Consent Order, the conditional license period shall be extended until the matter is final.

14. Length of Time Conditions Imposed (Effective Period).

These conditions shall remain in place until Petitioner has completed two (2) 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.

15. Reevaluation and Removal of Condition Regarding Employer Reports and Charge Nurse Prohibition.

Notwithstanding paragraph A.14. above, after Petitioner has completed six (6) months of employment as a practical nurse, she may petition the Board to remove the conditions regarding employer reports and charge nurse prohibition stated in paragraphs A.6. and 8. above. In calculating the six (6) months of employment for this section, the time spent in any re-entry or education program shall not be included. In addition, the six (6) months of employment must be months in which petitioner 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.

In order to obtain the removal of these condions, Petitioner agrees that she must demonstrate, to the satisfaction of the Nursing Board, that she can provide nursing care without mental, physical or verbal abuse of patients and 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.

16. Completion of Conditional License Period.

Upon completion of the conditional license period, Petitioner may petition the Board to remove any and all conditions on her license and after formal review by the Board,

Petitioner's nursing license may be fully restored by appropriate Board action. Petitioner however, agrees that she must 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, Petitioner shall demonstrate, to the Board's satisfaction, that she fully complied with all the terms of this Stipulation and Consent Order.

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

B. By signing this Stipulation and Consent Agreement, Petitioner agrees to allow the Nursing Board, or its designee, to obtain information, either orally or in writing, from her treating professional, employer or nursing school administrator at any time during the period this Stipulation and Consent Order is in effect.

C. This Stipulation and Consent Order is public and the Board may notify other states of its contents as provided in 3 V.S.A. §129(a)(7).

D. The parties understand that the terms of this Stipulation and Consent Order are contingent upon review and acceptance by the Board and that if the Board rejects any portion the entire

Stipulation and Consent Order shall be null and void.

E. This consent order is entered into voluntarily by
Petitioner after the opportunity to consult with legal counsel.

STATE OF VERMONT

JEFFREY L. AMESTOY
ATTORNEY GENERAL

Dated: 2/17/94

by: Eve Jacobs-Carnahan
Eve Jacobs-Carnahan
Assistant Attorney General

SHERRY SYLVAIN
Petitioner

Dated: 3/4/94

by: Sherry Sylvain
Sherry Sylvain

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 4/14/94

by: Anda Rustan
Chairperson

In Re: License of)
Sherry Lee)
Cadieux Sylvain, L.P.N.) Docket No. NU 10-0588
(License No. 6073))
)

NOW COMES Attorney General Jeffrey L. Amestoy, and Sherry Sylvain, and agree and stipulate as follows:

1. That Sherry Sylvain is a Licensed Practical Nurse who holds Vermont License number 6073.
2. That Sherry Sylvain voluntarily surrendered her practical nursing license on July 11, 1988.
3. That Sherry Sylvain was convicted of cruelty by person having custody of another for an incident related to her employment at Pine Knoll Nursing Home in Lyndonville, Vermont. This is a crime related to the practice of nursing and, as such, is a violation of 26 V.S.A. §1582(a)(2).
4. That Sherry Sylvain voluntarily waives her right to a contested hearing before the Vermont Board of Nursing.
5. That Sherry Sylvain has been suspended from participation in Medicare/Medicaid programs for 5 years commencing August, 1988.
6. That the following would constitute fair and reasonable discipline given the above circumstances:
 - a. That Sherry Sylvain's license shall be suspended for two years commencing July 11, 1988, the day she voluntarily

surrendered her license.

- b. That Sherry Sylvain agrees to continue with the treatment program in which she is currently participating. Furthermore, Sherry Sylvain agrees to follow through with any additional treatment recommendations made by her treating professional.
- c. That Sherry Sylvain will continue in counseling following the return of her nursing license on a weekly basis or as often as is deemed necessary by her counselor. This counseling will continue until such time as the Board of Nursing is satisfied that counseling is no longer necessary.
- d. That Sherry Sylvain authorize her treating professional to submit quarterly reports regarding her progress beginning January, 1989.
- e. That upon request for reinstatement, Sherry Sylvain shall provide the Board with evidence that she is physically and mentally capable of providing safe and competent care as a Practical Nurse. This evidence shall include:
 - i. Compliance with paragraphs a-d above;
 - ii. Support from treating professionals as to her ability to resume the practice of nursing.
 - iii. Such other evidence as the Board may request.
- f. That, if reinstatement is granted, the Board reserves the option of imposing probation with terms set by the Board of Nursing.
- g. That Sherry Sylvain shall notify the Board of Nursing of any changes of address
- h. That Sherry Sylvain shall inform prospective employers of her prohibition from participating in Medicare/Medicaid programs.

