

Burlington

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

IN RE: )  
MARGARET M. TERRIEN ) Docket No. M2009-163  
License No. 026.0012228 )

MODIFICATION STIPULATION AND CONSENT ORDER

NOW COME the State of Vermont, by and through State Prosecuting Attorney BetsyAnn Wrask, and the Respondent, Margaret M. Terrien, RN, who 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(a); 3 V.S.A. § 129a; 3 V.S.A. § 814(d); 26 V.S.A. § 1582; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation.

**Statement of Facts**

2. Margaret M. Terrien (the "Respondent") of Burlington, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0012228. This license was originally issued on or about September 8, 1977 and is currently set to expire on or about March 31, 2011. Respondent has also previously held APRN endorsement under license number 101-0012228.
3. By way of history, on or about December 14, 1999 pursuant to a Stipulation and Consent Order, Respondent's APRN license was conditioned for a minimum of three (3) years. Attachment A. This discipline was due in part to Respondent being convicted two (2) times for DUI; her admission that she had a problem with alcohol and was seeking treatment therefore; and for her admission that she falsely answered a renewal application regarding DUI convictions. Attachment A.
4. Upon information and belief, in or around July 2001, Respondent's license was summarily suspended by the Board after Respondent reported to work with the smell of alcohol.
5. By way of history, on or about September 11, 2002, the Board reinstated Respondent's RN license and imposed further conditions subsequent to relapses

STATE OF VERMONT



Prosecuting Attorney  
Office of  
Professional Regulation  
9 Baldwin Street  
Montpelier, VT  
05609-1107

Respondent had in 2001. Attachment B. Respondent's license was reinstated without APRN endorsement.

6. By way of history, on or about September 14, 2005, the Board suspended Respondent's license. Attachment B.
7. By way of history, on or about January 31, 2006, the Board revoked Respondent's license. Attachment B. This discipline was due in part to Respondent's relapse in or around July 2005. Id.
8. By way of history, on or about August 3, 2006, the Board's January 31, 2006 decision to revoke Respondent's license was affirmed on appeal. Attachment C.
9. By way of history, on or about January 12, 2010 pursuant to a Reinstatement Stipulation and Consent Order (the "Order"), the Board reinstated Respondent's RN license with conditions. Attachment D. Condition #12 of the Order required Respondent to practice under the direct supervision of a registered nurse, and Condition #13 prohibited Respondent from administering any controlled substances for at least twelve (12) weeks after Respondent had worked as a nurse. Attachment D. This Order is currently in effect.
10. On or about October 11, 2010, the Board received a letter from Respondent requesting that the Board modify Conditions 12 and 13 of the Order to allow on-site supervision, and to remove the prohibition on the administration of controlled substances. Respondent advised that she has been unable to obtain nursing employment with these two conditions on her license. Respondent asked the Board to recall that she has never had a problem with any regulated drug, and that her previous issues had been with alcohol. Respondent referenced her success in sobriety, and offered to provide random alcohol sensors before, during, or after any nursing shift if requested at any organization.
11. On or about October 11, 2010, the Board received a letter from Dr. E.M., who stated that he supports Respondent's request to have Conditions 12 and 13 modified. Dr. E.M. stated that he has known Respondent from their mutual practices at Fletcher Allen; as Respondent's primary care physician; and in Respondent's role as an active caregiver for her terminally ill mother. Dr. E.M. advised that he has never witnessed any issue regarding Respondent's prescribing or administering any medications, and stated that he was aware of her history with alcoholism, as well as Respondent recently reaching four years of continuous sobriety.
12. On or about October 11, 2010, the Board received a letter from Respondent's treating professional, M.B., a Licensed Clinical Mental Health Counselor and Licensed Alcohol and Drug Counselor. M.B. requested that the Board modify the Order's Conditions 12 and 13, as they have created a barrier to Respondent securing gainful employment; M.B. advised these two conditions appeared excessive and unnecessary. M.B. advised that Respondent has consistently presented herself as stable in her

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sobriety since they began to work together in or around July 2009. M.B. advised Respondent's diagnosis is alcohol dependence in full sustained remission, and stated that Respondent has had four continuous years of sobriety. M.B. further advised that at no time has he been concerned with Respondent's relationship to any other controlled substance, and stated that he feels that Respondent can still receive adequate on-site supervision and would still have the close monitoring of the Order's other conditions, including urinalysis testing; AA support; individual counseling; and a fully-informed employer.

13. On or about October 20, 2010, a subcommittee of the Board reviewed Respondent's request and recommended that Respondent be allowed to have on-site supervision by a registered nurse, and that she be allowed to administered controlled substances during the effective period of the Order.

### ORDER

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

- A. The Board of Nursing hereby **MODIFIES** the Stipulation and Consent Order contained in Attachment D as follows:
- (1) Order A., Condition 12 (Practice Under Supervision) Modification.  
Order A., Condition 12, entitled Practice Under Supervision is modified to read:
- Respondent shall practice as a registered nurse only in a setting where Respondent has on-site supervision for the entire shift by a licensed registered nurse that is in good standing with the Board.
- (2) Order A., Condition 13 (Administration of Medications) Removal.  
Order A., Condition 13, entitled Administration of Medications shall be **removed**.
- B. All other conditions imposed by the Stipulation and Consent Order contained in Attachment D shall remain unchanged.
- C. Notwithstanding any provision above, the Respondent must continue to meet all Nursing 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.

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Office of  
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Montpelier, VT  
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AGREED TO:

Dated: 11-4-10

STATE OF VERMONT  
SECRETARY OF STATE

By:   
Betsy Ann Wrask  
State Prosecuting Attorney

MARGARET M. TERRIEN  
RESPONDENT

Dated: 11/2/10

By:   
Margaret M. Terrien

APPROVED AND SO ORDERED:

Dated: 11/8/10

VERMONT BOARD OF NURSING

By:   
Chairperson

Date of Entry: 11/9/10  
nu.terrien.mod.stip

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Office of  
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STATE OF VERMONT  
BOARD OF NURSING

*entered 12/14/99*

IN RE:

Margaret Terrien

License Number 101-12228

)  
)  
) Docket No: NU37-1298

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, through Attorney General William H. Sorrell, and Respondent Margaret Terrien who stipulate and agree as follows:

1. The Board of Nursing has jurisdiction to investigate complaints of unprofessional conduct and approve consent orders pursuant to 3 V.S.A. §129, and 26 V.S.A. §§1574, 1582.
2. Respondent is an advance practice registered nurse licensed by the State of Vermont holding license number 101-12228.
3. Respondent admits that on or about October 29, 1998, she was convicted of Driving Under the Influence of Intoxicants (DUI) and sentenced to participate in the "Crash Program", an alcohol screening and treatment program.
4. Respondent admits she was convicted on January 20, 1999 of a second offense of DUI.
5. Respondent admits she has a problem with alcohol and is seeking treatment therefore.
6. Respondent admits she signed and filed a license renewal application dated 2/2/99. On said application Respondent answered the question, "Have you been convicted of a crime other than a minor traffic violation?" in the negative. At the time this representation was made, Respondent had been convicted twice of DUI, a major traffic offense.

7. 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.

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

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

10. 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.

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

12. 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 hereby **CONDITIONS** Respondent's license to practice nursing for a minimum period of three (3) years. The **CONDITIONS** on Respondent's license would be as follows:

(1) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed three (3) 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.

(2) Prescribing Medications

Respondent's authority to prescribe medications is conditioned as follows:

- a.) Respondent may only write prescriptions for non-controlled medications.
- b.) All prescriptions must be written in duplicate with one copy to the pharmacy and the other going to her collaborating physician, Dr. Levine.
- c. Respondent's collaborating physician shall file a monthly report with the Board of Nursing. This report shall indicate the number of prescriptions for the period, the drug prescribed and the appropriateness of the prescription.

Respondent's authority to write "orders" at her place of employment is not effected by this Order.

(3) Administration of Medications.

Respondent's authority to administer all medications is conditioned. She may only administer medications where there is on-site supervision.

(4) Approval of Changes of Treating Professional.

Respondent shall obtain prior approval from the Board of all changes of treating professional. Failure to obtain prior approval of a change of treating professional may be grounds for a charge of violation of this Consent Order.

(5) 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 comply with the treatment plan approved by the Board.

(6) 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.

(7) 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 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.

(8) Participation in NA/AA.

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

(9) Random Drug Testing.

Respondent shall designate a person, who shall be approved by the Board or its designee, to administer random drug and 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. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative except for drugs prescribed for her under the care of a physician, dentist, or nurse practitioner. (See paragraph A. (11) Drug Use Exception).

(10) Abstain from Alcohol or Drug Use.

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 A. (11). It is understood that any violation of this clause shall not result in an automatic revocation or suspension. Respondent's treating professional shall be consulted and input solicited as to the nature and seriousness of the deviation from the terms of this clause. The Board shall remain responsible for the final determination of the appropriate sanction.

(11) Drug Use Exception.

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 chemical 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.

(12) Interview with the Board or its designee.

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

(13) Re-issue of License.

Upon imposition of these conditions, Respondent shall be re-issued a license labeled "conditioned".

(14) 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.

(15) 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.

(16) Notification to Employers/Nursing School/Collaborating Physician.

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 nurse 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. 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. Advance Practice Registered Nurses shall cause a copy of the Stipulation and Consent Order to be provided to their collaborating physician and have that individual notify the Board in writing of their receipt of same, on their professional letterhead

(17) Reports from Employers/Nursing School

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. 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. 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 her employer and her 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.

(18) Practice Under Supervision.

Respondent 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, her collaborating physician or an Advance Practice R.N. The persons who will be supervising Respondent shall be given a copy of this stipulation and consent order by Respondent.

(19) Prohibited Duties.

Respondent shall not work as a Charge Nurse.

(20) Types of Employment Prohibited.

Respondent 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 Consent Order.

(21) Prohibited Hours of Work.

Respondent shall work only the day or evening shift during the effective period of this Consent Order. Respondent shall not work the night shift during the effective period of this Consent Order.

(22) 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.

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

(24) Costs.

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

(25) 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.

(26) Reevaluation of Conditions.

In the event Respondent does not work in nursing within three (3) years of the date of entry of this Consent Order, Respondent may appear before the Board for reevaluation of the conditions of this Consent Order.

(27) 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 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 registered nurse. Such proof shall include appropriate support from her treating professional and employer or nursing school administrator. Furthermore, Respondent shall demonstrate, to the Board's satisfaction, that she fully complied with all the terms of this Consent Order.

B. Notwithstanding any provision above, Respondent must meet all Nursing Board requirements for 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)(7).

D. This Stipulation and Consent Order will remain part of Respondent's

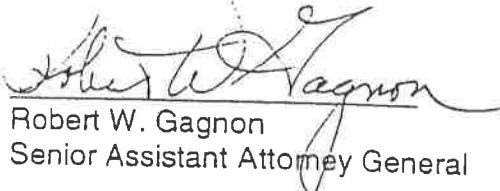
licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

STATE OF VERMONT

WILLIAM H. SORRELL  
ATTORNEY GENERAL

Dated: 11/23/99

by:

  
Robert W. Gagnon  
Senior Assistant Attorney General

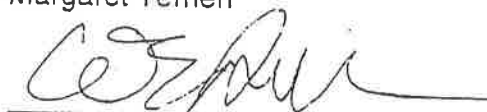
RESPONDENT  
MARGARET TERRIEN

Dated: 11/18/99

by:

  
Margaret Terrien

APPROVED AS TO FORM

  
William Drislane, her attorney

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 12-13-99

by:

  
Chairperson

Date of entry: 12-14-99

*revoked  
1/31/06*

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

In re: Margaret M. Terrien }  
License No. 026-0012228 } Docket No: NU01-0701

**UNPROFESSIONAL CONDUCT CHARGE  
FINDINGS OF FACT, CONCLUSION OF LAW  
& ORDER**

On 12 December 2005, this matter came before the Vermont Board of Nursing for a disposition hearing. Board members Kenneth W. Bush, Susan O. Farrell, Chairperson, Donarac Metcalf, Sandra Norton, Linda Rice and Alan Weiss participated. Ellen W. Leff and Laurey M. Tyo, the Board member who participated in the investigation, both recused themselves from participating in this matter. Prosecuting attorney Edward G. Adrian represented the State of Vermont. The Respondent appeared in person and represented herself. Kevin F. Leahy was the presiding officer.

Based on the evidence presented at the hearing, the Board makes the following finding and conclusions of law:

1. The Respondent is licensed by and subject to the disciplinary authority of this Board. 26 V.S.A. Chapter 28, 3 V.S.A. § 129(a), and the Administrative Rules of the Office of Professional Regulation.
2. Respondent holds a State of Vermont license as registered nurse. Respondent's license is currently suspended pursuant to an Order entered by this Board on 14 September 2005.
3. Prior to having her license suspended, the Respondent worked at the VNA facility as an RN clinical coordinator. She began a leave of absence in July 2005.
4. At the hearing, the Respondent acknowledged her history of alcoholism, and she again acknowledged that she had a relapse in July 2005.
5. The Respondent received a conditioned license in 1999 as a result of two convictions for driving under the influence of alcohol. The conditions required, among other things, that Respondent abstain from alcohol. Respondent acknowledged her alcohol problem at that time and sought treatment for her condition.
6. The Board imposed further conditions on 11 September 2002 subsequent to relapses that the Respondent had in 2001.
7. Since the September 2002 conditions have been in place, Respondent has remained sober and otherwise met the conditions of her license. As of June 2005 she had been sober post her June 2001 relapse, and she otherwise may have been eligible to have the conditions of her license lifted in the fall of 2005. Her

*Attachment B*

employer reports since 2002 indicate no problems with the quality of her work, and she continued to receive counseling to stay in recovery.

8. However, as explained by the Respondent's treating professional, in a letter admitted into evidence at the hearing, the "[Respondent] has worked to understand the dynamics of her relapse this summer [July 2005] and has not shirked from responsibility nor minimized the risk and progression of the disease to herself nor to her profession." Letter, dated 8 Dec. 2005, from Kim Bushey, licensed alcohol and drug counselor. Respondent's Exhibit A.
9. Ms. Bushey's letter to this Board further observed that the Respondent's condition is a "chronic disease that has a tendency to become unstable" similar to other "chronic diseases that have tendency to come out of remission during periods of elevated stress and can also impair professional judgment and functions [such as] depression, cancer, diabetes." *Id.*
10. Neither at the hearing on this matter, nor through employer reports since conditions were imposed on the Respondent's license, did the Board receive evidence suggesting the Respondent was either intemperate while performing nursing duties or that she was responsible for making any practice errors in carrying out her job functions.  
  
The opinion of the Respondent's treating professional is that the Respondent is able to practice the nursing profession competently. Exhibit A.
12. The State did not offer a recommended sanction as a result of the Respondent's July 2005 relapse. The Respondent testified that she was receiving the necessary support she needed to stay in recovery and could safely practice nursing if the Board lifted its current suspension and reissued her license with conditions similar to those previously imposed. See *In Re Terrien*, Order, docketed 11 September 2002.
3. The Board believes the Respondent's July 2005 relapse is sufficient cause to revoke her license.

#### ORDER

In light of its findings of fact and conclusions of law, the Board now ORDERS that the Respondent's Vermont nursing license be REVOKED indefinitely.

Vermont Board of Nursing

By:

Susan Farrell  
Susan Farrell, RN, Chairperson

Date:

1/26/06

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY:

1/31/06

STATE OF VERMONT  
SECRETARY OF STATE, OFFICE OF PROFESSIONAL REGULATION  
State Board of Nursing

In re: Margaret M. Terrien                      Dkt. No. AO-NU01--0701  
License No. 026-0012228  
Appeal from License Revocation Order

Decision On Appeal

Introduction. On January 31, 2006, the Office of Professional Regulation entered an Order providing for the indefinite revocation of the registered nursing license issued to Margaret M. Terrien ["Ms. Terrien" or "Respondent"]. The State Board of Nursing ["Board"] had earlier, on January 26, 2006, issued its written "Findings of Fact, Conclusions of Law and Order on Unprofessional Conduct Charge" ["Decision"], consisting of a two page discussion.

The Decision was rendered after a disposition hearing held on December 12, 2005. Ms. Terrien represented herself in that proceeding, and essentially conceded the factual bases of the unprofessional conduct charges against her. These charges involved instances of discipline arising from her alcoholism and her various relapses from recovery, including one that had occurred in July 2005. Findings ¶4. The prior disciplinary record included a conditioned nursing license in 1999 following convictions for driving under the influence, Findings ¶5. Further conditions were imposed by stipulation in 2002 after a relapse that occurred in June 2001. Findings ¶6. Respondent had been in treatment over a considerable period and had maintained sobriety and otherwise met the conditions of her license during approximately the four

*Attachment C*

years after her June 2001 relapse; as of the fall of 2005, she would have been eligible to have the conditions on her license eliminated. Findings ¶7.

According to the Board, Ms. Terrien's employer reports since 2002 indicated no problems with the quality of her work, and she continued in counseling to stay in recovery. Findings ¶7. The Board further considered evidence from Ms. Terrien's treating professional to the effect that Respondent had worked to understand the dynamics of her most recent relapse and had not sought to evade "responsibility for it or to minimize the risk and progression of the disease to herself or to the profession." The same professional observed that Respondent's "chronic disease"—like others such as depression, cancer and diabetes—may "come out of remission during periods of elevated stress" and "can also impair professional judgement and function."

Respondent's EX. A.

The State offered no sanction recommendation. The Respondent sought reimposition of conditions on a reissued license (her license had in the interim been summarily suspended) similar to those that had earlier been imposed. She testified without contradiction that she was receiving the necessary support she needed to stay in recovery and that she could safely practice nursing under those conditions.

The Board went into deliberative session and emerged to announce, without explanation at that time, that the Respondent's license would be revoked. On May 3, 2006, Respondent timely appealed the Board's decision to do so.

**Ruling.** I have reviewed the entire record in this appeal including the hearing transcript, the exhibits, the Board's Decision and written submissions from Respondent

and the State. In addition, on July 11, 2006 I heard oral argument on the appeal from Respondent and the State's counsel, Mr. Edward Adrian.

I am required under 3 V.S.A. §130a to follow certain standards of review in evaluating appeals from the Board's decisions:

(b) The appellate officer shall not substitute his or her judgment for that of the board as to the weight of the evidence on questions of fact. The appellate officer may affirm the decision, or may reverse and remand the matter with recommendations if substantial rights of the appellant have been prejudiced because the board's finding, inferences, conclusions or decisions are:

- (1) in violation of constitutional or statutory provisions;
- (2) in excess of the statutory authority of the board;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) clearly erroneous in view of the evidence on the record as a whole;
- (6) arbitrary or capricious; or
- (7) characterized by abuse of discretion or clearly unwarranted exercise of discretion.

In judging the sufficiency of the evidence to sustain the Board's findings, I am to apply a deferential standard of review, as put by the Vermont Supreme Court:

on appeal, we will not set aside an administrative agency's findings unless clearly erroneous. (Citations omitted) We view the evidence in the light most favorable to the prevailing party and exclude any modifying evidence. (Citations omitted). So long as the findings are supported by credible evidence we will not disturb them.

Bigelow v. The Department of Taxes, 163 VT. 33, 35 (1994).

In this kind of case, especially, considerable deference "is owed ... because the action arose out of an administrative proceeding in which a professional's conduct was evaluated by a group of his peers ... this court [or an appellate officer] may not

substitute its own judgment for that of the Board." Braun v. Board of Dental Examiners, 167 VT. 110, 114 (1997).

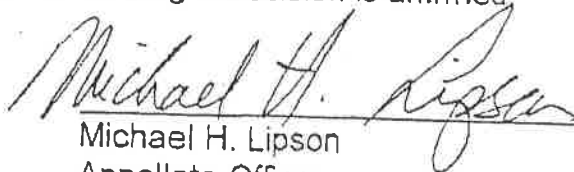
Under the foregoing standards, I am constrained to affirm the Board's Order revoking Respondent's license. In brief, Respondent has not demonstrated to me in what manner the Board's ruling was either contrary to law or in some fashion an abuse of its discretion. However, it is troubling to me that the Board did not make explicit the basis for its decision to revoke Respondent's license, as opposed to choosing another sanction. I have carefully reviewed the findings and conclusions and view them as describing a dedicated nurse of 25 years experience suffering from alcoholism who, but for two relapses over a period of approximately six years, has conducted her profession appropriately, has met the demands of her employment and (in the Board's words) has not been "intemperate while performing nursing duties or [been] responsible for making any practice errors in carrying out her job functions." Findings ¶¶10. Furthermore, the only professional opinion provided to the Board was that Respondent "is able to practice the nursing profession competently." Findings ¶12.

Given the extensive "discipline" chapter in the Nursing Board Rules, which among other provisions define "conduct likely to . . . harm the public", I assume that the Board made a judgment about the risks to the public that would arise from Ms. Terrien's continued practice of her profession. Its members are certainly qualified to make such judgments. 3 V.S.A. §810(4) (Board may use its "experience, technical competence, and specialized knowledge ... in the evaluation of the evidence".) Nevertheless,

it would be preferable in my view if the linkage between Respondent's behaviors and such risks was apparent in the Board's decision. I would recommend strongly that such a discussion accompany future rulings of this nature.

For the foregoing reasons, the Board of Nursing's Decision is affirmed.

Dated: 7/31/06

  
Michael H. Lipson  
Appellate Officer

Date of Entry: 8/3/06

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

IN RE: )  
MARGARET M. TERRIEN ) Docket No. M2009-163  
License No. 026.0012228 )

REINSTATEMENT STIPULATION AND CONSENT ORDER

**STIPULATION**

NOW COME the State of Vermont, by and through State Prosecuting Attorney BetsyAnn Wrask, and the Respondent, Margaret M. Terrien, RN, who 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(a); 3 V.S.A. § 129a; 3 V.S.A. § 814(d); 26 V.S.A. § 1582; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation.

**Statement of Facts**

2. Margaret M. Terrien (the "Respondent") of Burlington, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0012228. This license was originally issued on or about September 8, 1977 and lapsed on or about March 31, 2007. Respondent has also previously held APRN endorsement under license number 101-0012228.
3. By way of history, on or about December 14, 1999 pursuant to a Stipulation and Consent Order, Respondent's APRN license was conditioned for a minimum of three (3) years. Attachment A. This discipline was due in part to Respondent being convicted two (2) times for DUI; her admission that she had a problem with alcohol and was seeking treatment therefore; and for her admission that she falsely answered a renewal application regarding DUI convictions. Attachment A.
4. Upon information and belief, in or around July 2001, Respondent's license was summarily suspended by the Board after Respondent reported to work with the smell of alcohol.

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5. By way of history, on or about September 11, 2002, the Board reinstated Respondent's RN license and imposed further conditions subsequent to relapses Respondent had in 2001. Attachment B. Respondent's license was reinstated without APRN endorsement.
6. By way of history, on or about September 14, 2005, the Board suspended Respondent's license. Attachment B.
7. By way of history, on or about January 31, 2006, the Board revoked Respondent's license. Attachment B. This discipline was due in part to Respondent's relapse in or around July 2005. Id.
8. By way of history, on or about August 3, 2006, the Board's January 31, 2006 decision to revoke Respondent's license was affirmed on appeal. Attachment C.
9. On or about December 18, 2008 in a letter to the Board, Respondent requested reinstatement of her license, as either an APRN or RN. Respondent stated she has been totally abstinent from alcohol since on or about September 18, 2006. Respondent stated she is very active in recovery, attending many AA meetings; working with a 12-step sponsor; and performing recovery service work. Respondent stated she has been working as a paraprofessional with Special Education students at Burlington High School.
10. On or about September 14, 2009 in an Independent Evaluation, Licensed Alcohol and Drug Counselor M.B. diagnosed Respondent as having alcohol dependence in sustained full remission. M.B. stated that Respondent has taken significant strides to address her alcohol dependency issues. M.B. stated his assessment indicated a high potential for Respondent to practice nursing safely and competently, but recommended in part that for Respondent to return to nursing, she should abstain from alcohol and illegal drugs; submit to frequent and random urine screens; initiate individual outpatient therapy; and continue to attend AA regularly.
11. On or about December 1, 2009 in a letter to the Board, Burlington High School Assistant Principal B.G. made a positive recommendation on behalf of Respondent.
12. Respondent has submitted several recent, random, negative urine analyses to the Board.

#### Understandings

13. Respondent admits the facts above are true and that the conditions below are necessary to protect the public.
14. 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.

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15. 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.
16. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
17. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
18. 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.
19. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
20. 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 **REINSTATES AND CONDITIONS RESPONDENT'S REGISTERED NURSING LICENSE – WITHOUT APRN ENDORSEMENT – FOR A MINIMUM PERIOD OF THREE (3) YEARS** from the date of entry below. The conditions will be as follows:

(1) Re-issue of License.

Upon the commencement of these conditions, Respondent shall be issued a license labeled "conditioned."

(2) Length of Time of 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 a **minimum of three (3) years** of supervised registered nursing in which she works at least forty (40) hours every two (2) weeks as a registered nurse. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis. Respondent shall be prohibited from working more than forty (40) hours per week.

(3) Completion of Substance Abuse Counseling and Treatment Plan.

Respondent shall enter into and continue substance abuse counseling with a treating professional pre-approved by the Board until the treating professional shall certify in writing to the Board that such counseling is no longer necessary. Respondent shall enter into and

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comply with the substance abuse treatment plan approved by the Board and the treating professional.

(4) 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.

(5) 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 in writing on forms issued by the Board. The first report is due commencing the month after the date of the commencement of the conditions and subsequent reports are due **monthly** thereafter.

Respondent shall authorize her treating professional to provide all information requested by the Nursing Board, either orally or in writing, at any time during the period this Consent Order is in effect.

(6) Participation in Recovery Group(s).

Respondent shall participate as recommended by her treating professional in substance abuse recovery group(s), and shall submit **quarterly** reports documenting such attendance on forms issued by the Board.

(7) Random Drug and Alcohol Testing.

Respondent shall submit to random drug and alcohol screenings at the request of the Board or its designee. Respondent shall designate a person, who has been pre-approved by the Board or its designee, to administer random drug and alcohol screens. All testing shall be done on a random, unannounced basis and analyzed by a lab qualified to analyze samples for forensic purposes and approved by the Board. All urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative.

Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine screen shall cause that screen to be presumed positive. Any positive screen shall act as a violation of this Order.

(8) Abstain from Drug and Alcohol Use.

Respondent shall abstain completely from the consumption or possession of alcohol and drugs with the exception of medications as outlined in paragraph A.(9) for the period of time described in A.(2).

(9) Drug Use Exception.

Respondent shall not take controlled substances unless necessary. Respondent may take scheduled/controlled 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

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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 substance abuse issue(s) within one (1) week of entering into the practitioner/patient relationship. Respondent shall inform the Board in writing of all scheduled/controlled 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 necessity for the prescribed scheduled/controlled medications if the term exceeds fourteen (14) days. This includes medications to be administered as necessary. It is not anticipated that Respondent would be prescribed scheduled/controlled medication during the term of this Consent Order for a period greater than fourteen (14) days, but if so, then the conditions herein may be revoked by the Board.

Respondent shall keep a written record of all medications taken, including over the counter drugs, and produce such record upon the request of the Board or its designee.

(10) 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 in which Respondent practices as a registered 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 registered 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 the Respondent is attending a nursing program which has a clinical portion that involves actual patient care, 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 the ability of the program to comply with the conditions in the Consent Order during clinical experience.

(11) Reports from Employers/Program Director.

Within one (1) month of the date of reinstatement or within one (1) month of the commencement of registered nursing employment and **monthly** thereafter, Respondent shall cause every nursing employer the Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. This report shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance and attendance.

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. All nursing program reports shall indicate satisfactory performance and attendance.

(12) Practice Under Supervision.

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Respondent shall practice as a registered nurse only in a setting where Respondent has direct supervision for the entire shift by a licensed registered nurse that is in good standing with the Board.

(13) Administration of Medications.

Respondent is prohibited from administering any controlled substances. This condition may be removed only by the Respondent filing a petition with the Board after she has worked as a registered nurse for twelve (12) weeks for at least forty (40) hours every two weeks (or the part time equivalent) after the date of reinstatement.

In any such petition, the Respondent must demonstrate, to the satisfaction of the Nursing Board, that she can safely and competently administer such medications. In any such petition, the Respondent must include appropriate support from her treating professional and employer or nursing school administrator and a description of the documentation and inventory control procedures in place.

The removal of this prohibition shall not automatically result in the reinstatement of all medication privileges. The Board may gradually restore those privileges through whatever intermediary steps it determines are appropriate.

(14) Types of Employment Prohibited.

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

(15) Interview with the Board or its Designee.

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

(16) Out-of-State Practice.

Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board prior to Respondent practicing nursing outside the State of Vermont. If Respondent fails to receive such approval before practicing nursing outside the State of Vermont, none of the time spent practicing nursing 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 nursing practice so long as the Respondent can still comply with the provisions of this Consent Order.

(17) 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 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.

(18) Notification to Other States.

In the event that the Respondent is licensed in nursing in any other state(s), she must inform the nursing licensing board of the state(s) in which the Respondent is licensed of the

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conditional status of her Vermont registered nursing license within thirty (30) days of the date of entry of this Order. If the Respondent fails to provide such notification, it will be considered a violation of this Order.

(19) 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 as a registered nurse, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that she has otherwise complied with the requirements for license renewal.

(20) Release of Information Forms.

The conditions of this Order require the Respondent to authorize drug and/or alcohol treatment providers to report information in verbal and/or written format and/or to discuss the Respondent and any and all treatment rendered to the Respondent for drugs and/or alcohol with the Board or its designee. The conditions of this Order must allow any and all information from the Respondent's treatment providers to also be provided to the Office of Professional Regulation investigators and that the information may be used for further prosecutions if so warranted or if the Office of Professional Regulation determines that said information violates the terms of this Order or any rules or laws governing the profession of nursing.

The Respondent is entitled to revoke this consent at any time. However, any revocation by the Respondent of such consent to disclosure during the term of this Order shall be considered a violation of this Order.

This consent expires when the conditions are removed from the Respondent's registered nursing license.

This Stipulation and Consent Order shall constitute a valid written consent pursuant to the requirements of 42 C.F.R. § 2.31.

The Respondent understands that her treatment provider may require her to sign a separate and distinct consent meeting the requirements of 42 C.F.R. § 2.31.

(21) Costs.

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

(22) 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.

(23) Completion of Conditional License Period.

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on her license. The Respondent must present proof that she has fully complied with the terms of this Order. The Respondent must also present proof of successful substance abuse rehabilitation and she must demonstrate, to the satisfaction of the Board, that

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she poses no danger to the public or the practice of registered nursing and that she can safely and competently perform the duties of a licensed registered nurse.

- 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:

STATE OF VERMONT  
SECRETARY OF STATE

Dated: 1-4-10

By: [Signature]  
BetsyAnn Wrask  
State Prosecuting Attorney

MARGARET M. TERRIEN  
RESPONDENT

Dated: 12/30/09

By: [Signature]  
Margaret M. Terrien

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 1/11/10

By: [Signature]  
Chairperson

Date of Entry: 1/12/2010  
nu.terrien.stip

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