

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

IN RE:)
PAUL S. THORNHILL)
License Nos. 025.0073890)

Docket No. 2013-355

STIPULATION AND CONSENT ORDER

Now come the State of Vermont, by and through Chief State Prosecuting Attorney Lauren Hibbert, and the respondent in this matter, Paul S. Thornhill, represented by Attorney Alan Rome, Esq., who stipulate and agree as follows:

Board Authority

1. The Vermont Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by Nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28; the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Paul S. Thornhill ("Respondent") of Sioux Falls, South Dakota and Barre, Vermont is credentialed by the Board as a licensed practical nurse under number 025.0073890. On October 14, 2013, the Board ordered Respondent's license suspended summarily pending further proceedings pursuant to 3 V.S.A. § 814.
3. At all times relevant, Respondent was employed by TLC Nursing Associates as a traveling, licensed practical nurse assigned to Rowan Court Health and Rehabilitation Center, Barre, Vermont.
4. Following several injuries, Respondent was prescribed opiate analgesics for legitimate therapeutic use. Respondent became dependent upon those medications.
5. As Respondent's dependence deepened, Respondent was driven to divert opiate analgesics accessible to him in his capacity as an LPN. Respondent took steps to conceal the diversion.
6. The supervisor who made the mandatory report of unprofessional conduct that initiated this case felt compelled to comment upon Respondent's excellent clinical skill prior to these events, and several of Respondent's colleagues have written letters of support, admitted into evidence at a prior hearing in this matter, commenting favorably upon Respondent's integrity and clinical skill.

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7. Respondent has now resolved collateral matters arising from the diversion described above. The parties enter into the Consent Order below in order to establish a plan by which Respondent may, by participating successfully in rehabilitative work, earn conditional reinstatement of his license, and if compatible with the protection of the public, health, safety, and welfare, return fully to nursing practice.

Violations

8. The above acts and circumstances, alone or in combination, violate:
- a. 26 V.S.A. § 1582(a)(5) (Is ... addicted to the use of habit-forming drugs);
 - b. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud, or harm the public) which includes diverting supplies, equipment, or drugs for personal or other unauthorized use pursuant to ARBN Rule 11.2(d)(4) and falsifying or altering clinical records or making inaccurate or misleading entries pursuant to ARBN Rule 11.2(d)(3).

Understandings

9. Respondent acknowledges that the facts set out above are true and the conditions set out below are appropriate to protect the public and the integrity of the nursing professions.
10. Respondent understands that the Board must review and accept the terms of the Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.
11. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement prejudice Respondent's right to a fair and impartial hearing if this agreement is not accepted by the Board and proceeds to a contested hearing.
12. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
13. Respondent is not under the influence of any drugs or alcohol at the time Respondent signs this Stipulation and Consent Order.
14. 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.
15. Respondent voluntarily waives Respondent's right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.

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16. Respondent agrees that the Order set forth below may be entered by the Board.

CONSENT ORDER

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

- A. The Board of Nursing hereby **INDEFINITELY SUSPENDS** Respondent's license. Respondent may petition for reinstatement. Within forty-five (45) days of requesting reinstatement, Respondent must:

1) Obtain an independent evaluation report by a licensed professional specializing in drug and alcohol abuse pre-approved by the Board ("Independent Evaluator") and who has verified receipt of this Order, the results of which must indicate that Respondent does not present a risk to the safety, health or welfare of Respondent's potential patients;

2) Submit to the Board the results of a minimum of three (3) random urine analyses, collected in an observed setting; administered by a person or entity that has been pre-approved by the Board; and analyzed by a lab qualified to analyze samples for forensic purposes and pre-approved by the Board, the results of which shall be negative; failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine analysis shall cause that screen to be presumed positive;

3) If recommended by Independent Evaluator, enter into a treating professional agreement and substance abuse treatment plan with a treating professional(s) pre-approved by the Board.

Once reinstated, Respondent's license will be **CONDITIONED FOR A MINIMUM OF TWO (2) YEARS**, commencing with the date of reinstatement. In the event of disagreement between Respondent and the Executive Director as to whether the above prerequisites have been satisfied, Respondent may move for a hearing before the full Board in the manner specified by AROPR 3.6 & 3.8.

- B. License conditions shall be as follows:

(1) Re-issuance of License.

Upon the approval of the Executive Director, 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 two (2) years** of supervised nursing in which Respondent works at least forty (40) hours every two (2) weeks as a nurse. Part time hours of fewer than forty (40) hours every two (2) weeks shall be credited on a prorated basis. Respondent shall be prohibited from working more than fifty (50) hours per week.

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

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

(4) Reports from Treating Professional.

Respondent shall authorize and cause Respondent's 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 Respondent's 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.

(5) Participation in Recovery Group(s).

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

(6) 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 or entity that 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 constitute a violation of this Order.

(7) 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.(8) for the period of time described in A.(2).

(8) Drug Use Exception.

Respondent shall not take controlled substances unless medically 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 prescription. Respondent shall cause the physician, dentist or nurse practitioner to inform the Board, in writing and on appropriate letterhead, of knowledge of

Respondent's substance abuse issue(s) within seven (7) days of entering into the practitioner/patient relationship. Moreover, Respondent shall cause this prescribing practitioner to inform the Board, in writing and on appropriate letterhead, of all scheduled/controlled medications prescribed – and the anticipation of how long such prescriptions will need to be taken – within seven (7) days of the prescription. The Board or its designee may request at any time that the practitioner document the necessity for the prescribed scheduled/controlled medications or other medications known to have abuse potential. 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 provide the Board with a current medication list of any medications taken on a scheduled or as-needed basis on forms issued by the Board within seven (7) days of the date of reinstatement and shall update this list within forty-eight (48) hours of any change in these medications.

(9) 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 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 nursing employment, Respondent shall cause Respondent's immediate supervisor to submit to the Board an employer agreement form approved by the Board, 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 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 submit to the Board a nursing program agreement form approved by the Board, 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.

(10) Reports from Employers/Program Director.

Within one (1) month of the date of reinstatement or within one (1) month of the commencement of nursing employment and **monthly** thereafter, Respondent shall cause every nursing employer Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. Moreover, on a **quarterly** basis, these reports shall include the results of the employer's medication audits of Respondent's medication administration and practices. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance.

In the event 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 Respondent's performance and attendance. These reports shall be submitted in writing on forms issued by the Board. All nursing program reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance.

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(11) Practice Under Supervision.

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

(12) Administration of Medications.

Respondent is prohibited from administering any controlled substances. This condition may be removed only by Respondent filing a petition with the Board after Respondent has worked as a nurse for six (6) months for at least forty (40) hours every two weeks (or the part time equivalent) after the date of reinstatement. In any such petition, Respondent must demonstrate, to the satisfaction of the Nursing Board or its designee, that Respondent can safely and competently administer such medications. In any such petition, Respondent must include appropriate support from Respondent's 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.

(13) Types of Employment Prohibited.

Respondent shall not work in a supervisory role. Respondent shall not work as a private duty nurse or personal care provider requiring a nursing or nursing assistant license during the effective period of this Consent Order.

If Respondent is employed by a nurse registry, traveling nurse agency, float-pool, home health care agency, or temporary nursing employment agency, both the underlying agency and the worksite shall be regarded simultaneously as Respondent's "employer" for the purposes of this Consent Order; notification and supervision requirements must be met with respect to both the underlying agency and the worksite.

(14) Interview with the Board or its Designee.

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

(15) 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 Respondent can still comply with the provisions of this Consent Order. If Respondent receives discipline on a nursing license held in another state during the conditioned period, Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.

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(16) Notification of Place of Employment/Personal Address/Telephone Number.

Within ten (10) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of Respondent's 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 (including resignation or termination), personal address, or telephone number.

(17) Notification to Other States.

In the event that Respondent is licensed in nursing in any other state(s), Respondent must inform the nursing licensing board of the state(s) in which Respondent is licensed of the conditional status of Respondent's Vermont nursing license within thirty (30) days of the date of entry of this Order.

(18) License Renewal.

If 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 nurse, Respondent must timely apply for renewal, pay the applicable fee, and demonstrate that Respondent has otherwise complied with the requirements for license renewal.

(19) Release of Information Forms.

The conditions of this Order require Respondent to authorize drug and/or alcohol treatment providers to report information in verbal and/or written format and/or to discuss Respondent and any and all treatment rendered to Respondent for drugs and/or alcohol with the Board or its designee. The conditions of this Order must allow any and all information from 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. Respondent is entitled to revoke this consent at any time. However, any revocation by 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 Respondent's nursing license. This Stipulation and Consent Order shall itself constitute a valid written consent pursuant to the requirements of 42 C.F.R. § 2.31. Respondent understands that Respondent's treatment provider may require Respondent's to sign a separate and distinct consent meeting the requirements of 42 C.F.R. § 2.31.

(20) Costs.

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

(21) Violation of this Order.

If Respondent violates the terms of this Order in any respect, the Board, after giving 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 Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

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(22) Completion of Conditional License Period.

After the conditional license period, Respondent may petition the Board, or its designee, to remove any and all conditions on Respondent's license. Respondent must present proof that Respondent has fully complied with the terms of this Order. Respondent must also present proof of successful substance abuse rehabilitation and Respondent must demonstrate, to the satisfaction of the Board, that Respondent poses no danger to the public or the practice of nursing and that Respondent can safely and competently perform the duties of a licensed nurse.

- 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.

AGREED TO:

Dated: 2/5/15

STATE OF VERMONT
SECRETARY OF STATE

By: S. Lauren Hibbert
S. Lauren Hibbert
State Prosecuting Attorney

Dated: 30 Jan 15

PAUL S. THORNHILL
RESPONDENT

By: Paul S. Thornhill
Paul S. Thornhill

APPROVED AS TO FORM:

Dated: 1/18/15

ATTORNEY FOR RESPONDENT

By: Alan Rome, Esq.
Alan Rome, Esq.

APPROVED AND SO ORDERED:

Dated: 2/9/15

VERMONT BOARD OF NURSING

By: Janine Carr
Chairperson

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Date of Entry:

2/10/15

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**STATE OF VERMONT
BOARD OF NURSING**

In re: Paul S. Thornhill
License No. 025-73890

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Docket No. 2013-355(LPN)

**DECISION ON REQUEST FOR
SUMMARY SUSPENSION ORDER**

Appearances:

Prosecuting the case: Gabriel Gilman
for Respondent: Pro se

Presiding Officer: Larry S. Novins

**Summary Suspension Order
FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

On October 14, 2013 this matter came before the Board of Nursing on a Request for a Summary Suspension. The hearing was held at the Office of Professional Regulation conference room at the City Center in Montpelier, Vermont. Mr. Thornhill did appear. The Board has authority to summarily suspend a license pending further action, if it determines that public health, safety, or welfare imperatively requires emergency action. 3 V.S.A. § 814(c).

Findings of Fact

Based on a Review of the pleadings and the file, and on evidence presented to the Board at the hearing, the Board finds:

1. Mr. Thornhill is a licensed practical nurse and is therefore subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 26 V.S.A. § 1582(a), the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.. 3 V.S.A. § 814(c) permits the Board to summarily suspend a license if it finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order.
2. The prosecutor has filed a "Request for Summary Suspension." A copy of the Request is attached to this Decision and Order. The Request alleges that
3. The Request for Summary Suspension further alleges that the public health, safety or welfare imperatively requires emergency action.
4. Mr. Thornhill was served with Notice for this hearing by personal service on Friday, October 11, 2013.

5. The Board finds for purposes of this hearing that Mr. Thornhill, while employed as an LPN stole at least seven doses of Oxycontin and was working while impaired by drugs. He left that employment and obtained employment elsewhere.
6. The allegations in the Request for Summary Suspension (copy attached) have been established to the necessary degree.
7. The evidence presented does imperatively require emergency action for the public health, safety, and welfare. Specifically, summary suspension is necessary to prevent Mr. Thornhill from practicing while impaired or diverting drugs from patients. If summary suspension is not ordered, the Board finds that patient harm could occur.

Conclusions of Law

Our Findings of Fact and Conclusions of Law in this Summary Suspension hearing are for purposes of deciding whether *at this time* there is an imperative need to take emergency action. 3 V.S.A. § 814(c). Our Findings of Fact and Conclusions of Law herein are for purposes of this Order only.

The Prosecutor's Request for a Summary Suspension is supported by the evidence presented. The Board concludes that the allegations in the Request for Summary Suspension have been established to the necessary degree. For purposes of this Summary Suspension Hearing, the Findings of Fact above support Summary Suspension of Mr. Thornhill's license. There is an imperative need to take emergency action. 3 V.S.A. § 814(c).

Vermont law requires that unprofessional charges be filed promptly with Mr. Thornhill being afforded a prompt hearing. At any merits hearing in this matter, the prosecutor will bear the burden of proving unprofessional conduct. Our Findings and Conclusions in this matter will not absolve the prosecution or Mr. Thornhill from producing or challenging relevant evidence at a merits hearing. The Findings of Fact and Conclusions of Law at a contested hearing will be based exclusively on the evidence admitted at that hearing.

Order

The Request for Summary Suspension is **Granted**. Mr. Thornhill's license is summarily suspended pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. 3 V.S.A. § 814(c).

APPEAL RIGHTS

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

A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, 89 Main Street, Fl. 3, Montpelier, VT 05620-3402 within 30 days of the entry

of this order.

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

Vermont Board of Nursing

By: *Jeanine Carr*
Jeanine Carr, RN, Chair

Date: October 14, 2013

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 10/14/13

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

IN RE:)
PAUL S. THORNHILL)
License Nos. 025.0073890)

Docket No. 2013-355

PETITION FOR SUMMARY SUSPENSION

Now comes the State of Vermont, by and through State Prosecuting Attorney Gabriel M. Gilman, and petitions the Board to summarily suspend the practical nursing license of Paul S. Thornhil.

Board Authority

1. The Vermont Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by Nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28; the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.
2. The Board of Nursing is authorized by 3 V.S.A. § 814 to summarily suspend the license of a nurse when it finds that the public health, safety, or welfare imperatively requires emergency action.

Statement of Facts

3. Paul S. Thornhill ("Respondent") of Sioux Falls, South Dakota, is credentialed by the Board as a licensed practical nurse under number 025.0073890. At this writing, the license is active and set to expire on January 31, 2014.
4. At all times relevant, Respondent was employed by TLC Nursing Associates as a traveling, licensed practical nurse assigned to Rowan Court Health and Rehabilitation Center, Barre, Vermont.
5. At all times relevant, Respondent resided in Barre, Vermont, but for at least thirty days and continuing to present, has failed to notify the Board of Nursing of his true address.
6. Those facts and circumstances set out in the July 24, 2013 affidavit of Office of Professional Regulation Detective Dennis Menard, attached hereto as Exhibit A, are repeated and re-alleged as if fully set forth herein.

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7. On September 12, 2013 Respondent was arraigned in the Superior Court of Vermont, Washington Criminal Division, on docket no. 1054-9-13 Wncr, and charged with prescription fraud, a felony violation of 18 V.S.A. § 4233(a)(1). The Court found probable cause on the basis of Detective Menard's affidavit.
8. At this writing, Respondent has pending a motion to amend conditions of release issued upon his arraignment. The Board is not a party to Respondent's criminal proceeding and cannot rely upon conditions of release to protect the public from continued nursing practice by respondent.
9. At this writing, and independent of any action taken or not taken by the Criminal Division, individuals and potential employers checking Respondent's license status would learn only that Respondent actively holds an unencumbered license.

Request for Relief

10. The facts as set out above establish that emergency action is imperative to protect the public health, safety, or welfare of the people of the State of Vermont.
11. The above acts and circumstances, alone or in combination, violate:
 - a. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause) which includes performance of unsafe or unacceptable patient care pursuant to ARBN Rule 11.2(b)(1) and failure to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Rule 11.2(b)(2);
 - b. 26 V.S.A. § 1582(a)(5) (Is habitually intemperate or is addicted to the use of habit-forming drugs);
 - c. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud, or harm the public) which includes diverting supplies, equipment, or drugs for personal or other unauthorized use pursuant to ARBN Rule 11.2(d)(4) and falsifying or altering clinical records or making inaccurate or misleading entries pursuant to ARBN Rule 11.2(d)(3);
 - d. 3 V.S.A. § 129a(a)(3) (Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession);
 - e. 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records);

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- f. 3 V.S.A. § 129a(b)(1) and (2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and
- g. 3 V.S.A. § 129a(a)(13)(14) (Failing to report to the office within 30 days a change of name or address).

WHEREFORE, pursuant to 3 V.S.A. § 814(c), the State of Vermont requests that the Board summarily suspend the Respondent's license, numbered 025.0073890, pending further proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.

DATED at Montpelier, Vermont this 11th day of October, 2013.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Gabriel Gilman
State Prosecuting Attorney

STATE OF VERMONT



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Oxycontin 15mg tabs twice daily at 9:00 AM and 9:00 PM. This Narcotics log indicates that the defendant "wasted" a dose of Oxycontin seven (7) times between the dates of 4/12/2013 and 4/28/2013. Wasting means that the dose was not administered to the patient that it was intended for and should have been destroyed. Wasting can be done for legitimate reasons and can also be done by an individual who is diverting narcotics and trying to avoid detection.

7. On July 11, 2013, I interviewed Deborah Shattuck, who now works in Cleveland, Ohio as an interim Director of Nursing. The interview was conducted by telephone and was digitally recorded. Shattuck stated that the defendant worked at Rowan Court from February, 2011 until this incident. She stated that she thought that he was an excellent nurse and that if she was ever in medical distress, Paul Thornhill was the nurse that she would want treating her.
8. I reviewed the written report that she had prepared (attached) with her. She stated that she had confronted the defendant about the concerns in the report. She stated that he had stated that in each of the seven cases of wasting Oxycontin for resident GB, he had punched the 15 mg Oxycontin by mistake because GB had two Oxycontin prescriptions. GB had the Oxycontin 15 mg at 9:00 AM and 9:00 PM and she had another prescription for 5 mg Oxycontin PRN as needed for breakthrough pain. The defendant told Shattuck that he had (on multiple occasions) punched the 15 mg in error and then wasted it and punched the correct 5 mg. Shattuck stated that she had checked the narcotics log for the other prescription and found a corresponding entry for each date and time when the defendant wasted 15 mg Oxycontin.
9. I asked Shattuck if it seemed strange to her that the defendant, a very experienced nurse, had made the same error at least seven times in a very short period of time. She stated that it did seem very suspicious.
10. Shattuck stated that she felt he had been diverting Oxycontin and it had begun when he had been injured. She stated that he suffered an injury while working the night shift, where he slipped on some water in the stairwell and injured his knee. He was out of work for five weeks before he was cleared to come back to work. She stated that the wasting pattern that she described above stopped while the defendant was out on injury leave. She stated, "Nobody else had a problem with popping pills from the wrong blister pack". She stated that when the defendant first went out with an injury, he was very anxious to get back to work and then, all of a sudden, he wasn't. She stated, "I remember thinking, now he's got a script. My feeling, my suspicion, those doses went in his pockets. Before he went out he was complaining about knee pain, he's got bad knees. When he started complaining about that, that's when this activity started happening". Shattuck stated, "He made a comment that he was still in pain and the only thing [that the doctor would give him] is Tramadol. So, they graduated him off narcotics at that point in time. Once he got an injury and got a script, he was OK. But when they switched him to Tramadol, he was pushing really hard to come back to work because that was where he had access to narcotics. He even wanted me to call his doctor to push for him to be cleared to come back to work". Shattuck also stated, "He always wanted to be on night shift where he had total access, he was the only nurse on shift and there was no one to question him".
11. Tammy Peters was a Registered Nurse at Rowan Court during April, 2013. She is no longer employed by Rowan Court. She gave the following written statement as part of the internal investigation:
12. *On April 27th, I was working an 11-7 shift. Night nurse Paul Thornhill came to me around*

0100 to witness a waste of a narcotic. He stated he miss punched an Oxy. I then went to look at the pill and before I could he dumped in the sharps container. I saw the pill for a split second and it was a tiny white pill. I than co-signed for the waste. The following week I was working on wing II and noticed the pill I wasted with Paul was not the same color as what I signed for on 4/27/13. I than looked back and saw all the wasted Oxy by him on different occasions. Approx a month ago Paul asked me to waste a bunch of narcotics with him as he came onto the shift. In doing so he grabbed the to be destroyed narcotics and took them into the med room to grab the "waste container" full of vinegar. I felt he took a little bit longer than needed in the med room to grab the "waste container" and at that point went into the med room to see what the hold up was and he quickly left med room at this point with the narcotics and waste container. On the night of 4/27/13 I felt Paul was acting different than typical. He had been chewing tobacco and had spit and drool running down [his] chin. I did not say anything to him about this.

13. I have reviewed narcotic patient medication records provided to me by Rowan Court. These records indicate that:

On 4/12/2013 @ 0150 hours Thornhill punched and "wasted" one (1) 15mg Oxycontin tablet. On the same date and time he also punched and recorded that he administered one (1) 5 mg Oxycontin tablet to patient GB.

On 4/14/2013 @ 2345 hours Thornhill punched and "wasted" one (1) 15mg Oxycontin tablet. On the same date and time he also punched and recorded that he administered one (1) 5 mg Oxycontin tablet to patient GB.

On 4/18/2013 @ 2320 hours Thornhill punched and "wasted" one (1) 15mg Oxycontin tablet. On the same date and time he also punched and recorded that he administered one (1) 5 mg Oxycontin tablet to patient GB.

On 4/20/2013 @ 0130 hours Thornhill punched and "wasted" one (1) 15mg Oxycontin tablet. On the same date and time he also punched and recorded that he administered one (1) 5 mg Oxycontin tablet to patient GB.

On 4/21/2013 @ 2140 hours Thornhill punched and "wasted" one (1) 15mg Oxycontin tablet. On the same date and time he also punched and recorded that he administered one (1) 5 mg Oxycontin tablet to patient GB.

On 4/22/2013 @ 2100 hours Thornhill punched and "wasted" one (1) 15mg Oxycontin tablet. On the same date and time he also punched and recorded that he administered one (1) 5 mg Oxycontin tablet to patient GB.

On 4/28/2013 @ 0115 hours Thornhill punched and "wasted" one (1) 15mg Oxycontin tablet. On the same date and time he also punched and recorded that he administered one (1) 5 mg Oxycontin tablet to patient GB.

14. On July 19, 2013, I interviewed the defendant, Paul Thornhill, at the Office of Professional Regulation. Detective Marie Beland of the Office of Professional Regulation, Investigative Division was also present for the interview. The interview was digitally recorded with the

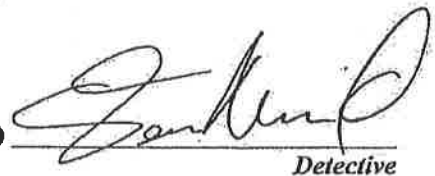
knowledge of the defendant. I began by informing Thornhill that he was not under arrest and was free to leave at any time. He indicated that he understood this. He sat in the chair closest to the door of the office so that he had unimpeded access to the door. I demonstrated for him that the door was unlocked and he again indicated that he understood this.

15. Throughout the interview, I observed Thornhill's pupils to be extremely small. I know, from my training and experience, that this is often an indicator of narcotics use.
16. Thornhill stated that he was still employed by TLC Nursing Services and was currently assigned to the "women's prison" [Chittenden County Correctional Center] as a nurse. During the interview, I asked Thornhill about medications that he currently had prescriptions for. He stated that he took "Hydrocodone 10 325 two times a day". He stated that he had been prescribed narcotic painkillers "off and on" for ten to twelve years for knee pain as a result of surgeries. During the course of the interview, I asked Thornhill if he thought that he could benefit from meeting with a drug and alcohol counselor and he stated that he thought that would be beneficial. I asked Thornhill if he felt he was "dependant" upon narcotic pain killers. He stated that he did not think he was dependant, but if he was not taking his current medications he would experience significant pain in his knees.
17. I spoke with Thornhill about the fact that he had wasted 15 mg Oxycontin prescribed to patient GB on seven (7) occasions between 4/12/2013 and 4/28/2013. He initially stated that he had simply made mistakes in punching those medications and had wasted the medication appropriately. Later in the interview, he admitted that he had, in fact, diverted those narcotics for his own use.
18. Thornhill stated, "Yeah, I diverted medicine". I asked him to help me understand why. He stated, "I caught myself between prescriptions and ran out and didn't have enough for the rest of the month". I asked him if there were other instances besides the seven doses intended for patient GB. He stated, "No".
19. I asked Thornhill to tell me specifically what had happened to the 15mg Oxycontin that he "wasted" and the 5 mg Oxycontin that he subsequently signed out in each of the seven instances. He stated, "Um, the 5 mg went to Gladys [patient GB]". I asked him where the 15 mg Oxycontin went. He stated, "I guess it went to me". I said, "Do you guess?". Thornhill stated, "It went to me". I asked him if he had taken them at work or waited until he got home. He stated, "I would take them later". I stated, "You would take them later when you got home?" Thornhill stated, "Mmm, hmm" and nodded affirmatively.
20. I asked Thornhill if seven times diverting the Oxycontin to his own use sounded about right. He stated, "I didn't think it happened that many times". I asked him how many times he thought it happened. He stated, "I thought four or five times".
21. I asked Thornhill what he was going to do after leaving the interview. He stated that he had to go home and tell his wife and then he had to go and tell his boss [for TLC Nursing]. He also stated that he was going to look for a counselor to get some substance abuse counseling.
22. On Monday, July 22, 2013, I issued a citation to Paul Thornhill to appear in court on September 12, 2013 to answer to the charge specified in this affidavit. During that meeting, he told me that he wanted to recant his previous statement admitting to diverting medications. He told me

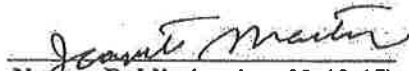
that he was lying when he told me that and he only said it because he felt trapped. I told him that I didn't feel it was beneficial to his case to continue to change his story back and forth. This conversation was also digitally recorded with the knowledge of the defendant. It should be noted that during this meeting, I again observed the defendant's pupils to be extremely small.

23. Fingerprints were not obtained from the defendant. I would respectfully request that the court order the defendant to report to a law enforcement agency to obtain fingerprints.

(Affiant)


Detective

Subscribed and sworn to before me on July 24, 2013, at Montpelier, Vermont.


Notary Public (expires 02-10-15)