

**STATE OF VERMONT
BOARD OF NURSING**

In re: Cynthia J. Hughes
License No. 026 21547

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}
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Docket No. M2009-35(RN)
Follow up to NU33-1104

**Decision on
Motion to Modify Conditions**

Participating Board Members:

Ellen W. Leff, RN, Chair
Jeanine Carr, RN, Vice Chair
Alan Weiss
Sandra Norton, LNA
Donarae Metcalf, LPN
De-Ann Welch, LPN
Kenneth W. Bush, RN
William G. White Jr.
John Todd, APRN

Appearances:

for Petitioner, State of Vermont: Lauren Hibbert
for Respondent: Pro se

Presiding Officer: Larry S. Novins

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

The Vermont Board of Nursing held a hearing in the above matter on June 13, 2011 at the National Life Building in Montpelier, Vermont.

Ms. Hughes, the petitioner in this matter, bears burden to show that her motion to modify the Board's previous Order should be granted.

Background

Ms. Hughes appeared before the Board in September 2008. The Board issued an Order dated February 21, 2009 imposing numerous conditions on Ms. Hughes's license. Ms. Hughes wrote to the Board on December 20, 2010 asking that the some of the conditions on that Order be modified.

Findings of Fact

Based on the evidence presented, the Board finds as follows:

1. Ms. Hughes is a licensed registered 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.
2. Condition #7 of the Order requires that Ms. Hughes practice under direct supervision. She requests that this condition be modified to permit "on site" supervision.
3. Condition #8 of the Order prohibits Ms. Hughes from administering medications until she has completed 12 weeks of licensed practice. She requests that the period be shortened.
4. Conditions #10 and #11 of the Order require participation in a recovery group and random alcohol testing. Ms. Hughes asks that these conditions be modified since she is actively engaged in AA and signs forms for others in the groups and because of the cost of the tests.
5. Ms. Hughes submitted ample documentation of her on-going recovery. She appears to be successful in every way. The urinalysis tests taken over the last two and a half years have all been negative.
6. Ms. Hughes has not worked as a nurse for four years. She renewed her license earlier this spring.
7. Ms. Hughes was very articulate in her presentation to the Board. She was forthright about her alcoholism and how she hid it from the Board before discipline was imposed. She testified that she looks forward to the nursing work environment and all that entails. She has made serious efforts to find employment, so far without success. Ms. Hughes believes that the conditions she refers to have prevented her from obtaining employment.
8. Nursing is a stressful occupation. During Ms. Hughes's re-entry into practice a continued period of urinalysis and participation in recovery groups remains necessary to support and assure her safe practice.

Conclusions of Law

Based on the evidence presented and Facts found above we conclude that Ms. Hughes has shown that some modification of the previous Order is appropriate. Her motion to Modify Conditions is *granted in part, denied in part*. We decline to modify conditions #10 and #11. We believe that the amendments that follow will permit Ms. Hughes to practice while protecting the public health, safety, and welfare.

Order

The Conditions set in the Order dated February 21, 2009 (entered on March 2, 2009) are retained except as set forth as follows:

Condition # 7 is amended to read:

Practice Supervision. Ms. Hughes shall practice only in a setting where Ms. Hughes has *on site supervision* by a registered nurse who is in good standing.

Condition #8 is amended to read:

Administration of Medications

- (a) Ms. Hughes is prohibited from administering any controlled substances.
- (b) After Ms. Hughes has worked as a registered nurse for *four (4) weeks* of at least forty (40) hours every two weeks (or the part time equivalent) after the date of reinstatement, Ms. Hughes may file a petition with the Board requesting that the prohibition be removed.
- (c) In any such petition, Ms. Hughes must demonstrate to the satisfaction of the Board, that she can safely and competently administer such medications. In any such petition, Ms. Hughes must include appropriate support from the treating professional and employer or nursing school administrator and a description of the documentation and inventory control procedures in place.
- (d) The removal of this prohibition shall not automatically result in reinstatement of all medication privileges. The Board may gradually restore those privileges through intermediary steps it determines are appropriate.

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, Office of Professional Regulation, National Life Bldg., North, FL2, Montpelier, Vermont 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:

Ellen Leff
Ellen Leff, RN, Chair

Date June 14, 2011

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 6/16/11

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

<i>In re</i>	Cynthia Hughes	}
License No.	026-0021547	}
Docket No.	NU33-1104	}

**FINDINGS OF FACT
CONCLUSIONS OF LAW & ORDER**

On Monday 8 September 2008, the Vermont Board of Nursing (Board) heard this contested case of alleged unprofessional conduct. The State of Vermont brought a Specification of Charges dated 2 April 2008 ("Charges") against Respondent Cynthia Hughes. Board members Jeanine Carr, Ellen W. Leff (Vice-Chairperson), Donarae Metcalf, Sandra J. Norton, Deborah Robinson, Alan H. Weiss, DeAnn Welch and William White were present and participated in the hearing. Board member Linda M. Y. Rice recused herself from the proceedings.

The Respondent appeared on her own behalf. Edward G. Adrian represented the State of Vermont. Board counsel Kevin F. Leahy presided.

Summary:

Original disciplinary proceedings resulted from allegations of unprofessional conduct related to Respondent's abuse of controlled substances. The instant case is the result of allegations that Respondent failed to abide by the terms of a Board Order entered in 2007.

The Respondent and the State of Vermont stipulated to the facts of this case. Both parties concur that the facts substantiate a finding of unprofessional conduct.

There is no dispute between the Respondent and the State of Vermont regarding the appropriateness for Board imposed discipline for the unprofessional conduct. The parties disagree on some aspects of the discipline, however.

After a review of the full evidentiary record in this matter, the Board finds that the facts demonstrate a violation of 3 V.S.A. §129a. The Respondent's violations constitute unprofessional conduct, the unprofessional conduct warrants discipline. The Board also finds that public safety requires Respondent receive a conditioned license for an extended period beyond the current period of conditional licensure.

The following Order also reprimands the Respondent for failure to abide by a prior order entered on 10 October 2007.

Findings of Fact &
Conclusions of Law:

1. The Board licenses the Respondent and may exercise its disciplinary authority if the Board finds that the State has proven allegations of licensee unprofessional conduct. 26 V.S.A. Chapter 28; 3 V.S.A. § 129(a); the Admin. Rules for the Bd. of Nursing and the Admin. Rules for the Office of Prof. Reg.
2. Respondent holds a Board issued State of Vermont registered nursing license.
3. The Respondent holds a conditioned license pursuant to an order entered on 2 October 2007 (the "2007 ORDER"). The conditions on the 2007 ORDER as originally written could have expired, at the earliest, in October 2010.
4. Respondent is not currently practicing.
5. In a disciplinary hearing, the state has the burden of proof. To satisfy its evidentiary burden, it must "show by a preponderance of the evidence that [a licensee] has engaged in unprofessional conduct." 3 V.S.A. § 129a(c).
6. The Respondent does not dispute the material factual allegations. The State therefore meets its statutory burden of proof. *Id.*
7. The material factual allegation is that Respondent failed to participate in the mandatory toxicology screening required by the 2007 ORDER. The toxicology screening is due to Respondent's admitted substance abuse history. *See Charges at ¶¶ 5-6 (factual allegations).*
8. For Respondent's failure to abide with the toxicology screening provision of the 2007 ORDER, the State brings the specific statutory unprofessional conduct charge of violating 3 V.S.A. §129a(a)(4). *See Charges at ¶9(ii)* ("Failing to comply with an order of the board [of nursing] or violating any term or condition of a license restricted by the board [of nursing]" shall constitute unprofessional conduct).
9. There is no dispute between the parties that the Respondent failed to comply fully with the 2007 ORDER.
10. The Respondent testified that she was not working as a nurse, that she was unable, financially, to continue toxicology screening required by the Board of Nursing and that she did not believe that she had to make certain reports to the Board when she was not employed as a nurse. Respondent has since resumed toxicology screening.
11. Although the Respondent has no obligation to submit employer reports while not practicing nursing, that does not relieve her of the other obligations of the Board's order as long as the license is active. The Board notes that when it imposes conditions, those conditions run with a Respondent's license and are not affected by breaks in employment.
12. The Board therefore finds that the Respondent engaged in unprofessional conduct by violating 3 V.S.A. §129a (a)(4).
13. The Board also finds that public safety requires reestablishing conditions on Respondent's license, which shall include a three year conditional licensure period that

will begin as of the docketing of this order. No credit shall be given toward the performance of any condition under the 2007 ORDER.

Motion to Reopen Evidence:

14. Finally, after the close of evidence, the State of Vermont filed a motion to reopen evidence in this matter. OPR docketed the State's motion on 17 October 2008.

15. The Respondent had ten days to file an opposition to the State's motion (OPR Rule 3.8 (Part 3)). Respondent did not submit an opposition brief to the State's motion or request a hearing.

16. The State's motion alleges that the Respondent informed her treatment provider that she consumed alcohol in August 2008, and Respondent's treatment provider so informed OPR as the Board's designee under the terms of the 2007 ORDER.

17. The State's motion does not ask for specific relief of any nature. Rather the motion asks the Board to "take up this matter at its next regularly scheduled meeting."

18. Without a request for relief, it is unclear whether there is anything new pending before the Board, and it is also unclear whether new or additional evidence could be relevant to anything now pending before the Board.

19. The motion to reopen evidence does not explain how the potential evidence would have been essential for Board consideration at the September evidentiary hearing. The motion does not explain why the evidence was unavailable or, in fact, whether it was unavailable.

20. Importantly, if the Board were to reopen the evidentiary record, the motion does not explain what relevance new or additional evidence might have to the final disposition of this matter. There is nothing in the motion stating or demonstrating a change of circumstances that materially affects the ability of the current Order to protect public safety.

21. The Board therefore finds no cause to reopen the evidentiary record in this case.

ORDER

Based on the findings of fact and conclusions of law set forth above, which includes a finding of UNPROFESSIONAL CONDUCT, the Board of Nursing ORDERS the following:

The Respondent is REPRIMANDED for violating 3 V.S.A. §129a(4); and

The license conditions previously imposed on Respondent's license, and which originally began in October 2007 and which were eligible to be lifted as early as 2010 are VACATED; and

The Respondent's license shall be CONDITIONED for a minimum period of THREE (3) YEARS and consistent with the terms set forth in APPENDIX A to this order; and

The THREE (3) YEAR period of conditioned licensure status shall begin on the date this Order is docketed; and

The State of Vermont's motion to reopen evidence is DENIED.

- END -

(signature page to follow)

Vermont Board of Nursing:

By: Ellen W. Leff
Ellen W. Leff
Board Chairperson.

Date: 2.21.09

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 3/2/09

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 the decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Secretary of State's Office, National Life Building, FL2, 1 National Life Drive, Montpelier, Vermont 05602-3402 within 30 days of the entry of the order.

For more information about the procedure for filing an appeal, please see the Administrative Rules for the Office of Professional Regulation, which you can find at: <http://www.vtprofessionals.org/opr1/opr/admrule.pdf> and the Rules are also available at the Office of Professional Regulation.

If you file an appeal, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The appellate officer will review the record (the tape recording, exhibits etc.) created before the board during the hearing of your case. In cases of alleged irregularities in procedure before the board, not shown in the record, proof related to that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.

APPENDIX A

Consistent with the preceding order entered *In re Hughes*, the following conditions (1) through (22) apply to Respondent's license.

1. Period of License Conditions.

The conditions shall remain in place until Respondent completes three (3) years of supervised nursing practice in which Respondent works forty (40) hours every two (2) weeks as a licensed registered nurse. Respondent shall receive credit for part-time work (*i.e.* work that is less than forty (40) hours every two (2) weeks) on a prorated basis. The Respondent may not work more than forty (40) hours per week.

2. Completion of Drug and Alcohol Abuse Counseling and Treatment Plan.

Respondent shall enter into and continue drug and alcohol abuse counseling with a treating professional approved by the Board until the treating professional certifies that counseling is no longer necessary. Respondent shall comply with the substance abuse treatment plan approved by the Board and the treating professional.

3. Notification to Treating Professional.

Respondent shall provide a copy of this Order and its conditions to Respondent's substance abuse treating professional. Respondent's treating professional must confirm for the Board, in writing and on professional letterhead, receipt of this Order and the treating professional's ability to comply with the treatment related conditions all other terms of this Order.

4. Reports from Treating Professional.

Respondent shall authorize and cause Respondent's treating professional to submit evidence of satisfactory progress with the treatment plan during the effective period of this Order. The treating professional shall submit reports on forms issued by the Board. The first report is due the month after the date of commencement of the conditions. Subsequent reports are due every month thereafter.

Respondent shall authorize Respondent's treating professional to provide information requested by the Nursing Board while this Order is in effect.

5. Notification to Employers/Nursing School.

Respondent shall provide a copy of this Order to all employers in any current or future setting in which Respondent practices nursing and inform them of Respondent's conditional license status. Within ten (10) days of the date of entry of this Order, or with ten (10) days of obtaining any subsequent nursing employment, Respondent shall cause Respondent's supervisor to write to the Board, on the employer's letterhead, acknowledging receipt of the Order and acknowledging the ability to comply with its conditions. In the event Respondent attends a nursing program, Respondent shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Order and ability of the program to comply with the conditions in the Order during clinical experience.

6. Reports from Employers.

Within one (1) month of the date of entry of this Order or within one (1) month of the commencement of nursing employment and monthly thereafter, Respondent shall cause every nursing employer for which Respondent worked during that month to submit an evaluation of Respondent's work performance and number of days worked. The employer report will be on a Board issued form.

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 Respondent's performance and days attended. The report will be on a Board issued form and accompanied by a cover letter on the school's letterhead.

7. Practice Supervision.

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

8. Administration of Medications

Respondent may not administer controlled substances. The Respondent may petition to have this condition removed or modified after completing twelve (12) weeks of licensed nursing work. A petition seeking removal or modification of this condition must demonstrate to the Board, or its designee for monitoring condition compliance, that Respondent can safely administer controlled substances. Support for the petition shall include an explanation of Respondent's employer/school administrator inventory control procedures, and the Board may also require documented support for removing this condition from any applicable treating professional.

9. Interview with Board or Board Designee

Respondent shall cooperate in good faith and appear for interviews or phone calls from Board investigators or other designees.

10. Participation in Recovery Group.

Respondent shall participate in a substance abuse recovery group as recommended by Respondent's treating professional.

11. Random Drug and Alcohol Testing.

Respondent shall submit to random drug and alcohol screenings at the request of the Board or its designee pursuant to Board procedures. Testing shall be random. Urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative.

12. Abstain from Drug and Alcohol Use.

Respondent shall abstain completely from the consumption or possession of alcohol and drugs, with the exception of prescribed medications, while these conditions are in place.

13. Drug Use Exception.

The Respondent may only use lawfully prescribed medications. Respondent shall inform the Board in writing of a prescribing physician, dentist, or nurse practitioner's identity within forty-eight (48) hours of the establishment of the practitioner/patient relationship. Respondent shall ensure that the prescribing health care professional confirms knowledge, in writing and on appropriate letterhead, of Respondent's substance abuse history within one (1) week of entering into the practitioner/patient relationship. Respondent shall inform the Board in writing of all scheduled medications prescribed, including the name of the prescribing health care professional, within forty-eight (48) hours of receiving the prescription medication.

The Board or its designee may request that the Respondent's health care practitioner document the continued necessity for scheduled/controlled medications prescribed for an extended term.

14. Records.

Respondent shall keep a record of all medications that the Respondent takes including over-the-counter medications, and Respondent shall produce the record upon reasonable request of the Board or its designee.

15. Types of Employment Prohibited.

Respondent shall not work in a supervisory role with the exception of supervising unlicensed assistive persons. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency or as a personal care provider during the effective period of this Order.

16. Out of State Practice/Residence.

Before the Board credits any out-of-state practice or residence toward fulfillment of these terms and conditions, Respondent must obtain Board approval prior to leaving the State of Vermont. If Respondent fails to receive approval, the Board will not credit time spent out-of-state toward the fulfillment of the terms and conditions of this Order. The Board will approve out-of-state practice so long as the Respondent can still comply with the provisions of this Order.

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

Within five (5) days of the date of entry of this Order, Respondent shall notify the Board, in writing, of Respondent's (a) current place of employment, (b) personal address, (c) email address and (d) telephone number. Respondent must notify the Board, in writing, within forty-eight (48) hours of any change in (a) employment or any change in (b-d) contact information.

18. Notification to Other States.

If the Respondent holds a nursing license from another jurisdiction(s), Respondent must inform the licensing authority of the jurisdiction(s) in which also licensed of the conditional status of Respondent's Vermont nursing license. This notice must occur within thirty (30) days of the date of entry of this Order.

19. License Renewal.

Respondent must timely apply for renewal and otherwise comply with the requirements for license renewal.

20. Release of Information Forms.

In fulfilling the conditions of this Order, the Respondent must authorize various persons identified in this order to report information or to discuss the Respondent with the Board. This includes treating professionals and employers. The Respondent must execute a consent form that allows disclosure to the Board or its designee.

21. Violation of this Order.

If the Respondent violates the terms of this Order, the Board, after giving the Respondent notice and an opportunity for a hearing, may impose additional disciplinary actions.

22. Completion of Conditional License Period.

After completing the conditional license period, the Respondent may petition the Board to remove the license conditions. The Respondent must present proof that Respondent has complied with the terms of this Order. As a requirement for reinstatement, Respondent shall demonstrate successful rehabilitation.

(- END -)

S. Burdette

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

IN RE:)
CYNTHIA HUGHES) Docket No: NU 33-1104
License No. 026-0021547)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Cynthia Jean Hughes, 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, 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 pursuant to 3 V.S.A. §§129, 129a, and 814; 26 V.S.A. §1582, the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.

Statement of Facts

2. The Respondent, Cynthia Hughes, is licensed in the State of Vermont as a Registered Nurse under license number 026-0021547. This license was originally issued on June 16, 1994, and lapsed on March 31, 2007.
3. By way of history, the Respondent's license was conditioned for a period of three (3) years pursuant to a Stipulation and Consent Order entered by the Board on or about May 10, 2006. Attachment A. The Respondent's license was conditioned due to her failure to disclose several criminal convictions to the Board. Attachment A. These convictions were related to alcohol abuse. Attachment A.
4. On or about August 9, 2006, the Board received a complaint from Fletcher Allen Health Care (FAHC) based in part on the following information:
- a. The Respondent appeared on the Pyxis High User Report for the months of May, June, and July, 2006 as having a high standard deviation from the normal level of Percocet use. This report indicated that for those months, Respondent's use of Percocet for patients was substantially higher than ~~then~~ the average of other nurses. The Respondent had a number of patients with multisystem problems.

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9 Baldwin Street
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05609-1107

b. Based on the above detailed High User Reports, FAHC nurse manager S.B. and assistant nurse manager J.S. reviewed thirty-nine (39) of the Respondent's patient charts. The chart audit revealed some inconsistent charting and administration practices in respect to medications.

5. On or about July 10, 2006, Investigator Carlson was present at Kinney Drug, store #55, located in South Burlington, Vermont. Investigator Carlson observed the Respondent arrive at the pharmacy drive-thru window and submit a prescription for Roxicet. Investigator Carlson then observed pharmacist L.R. inform the Respondent that her insurance would not cover the cost of the prescription. L.R. advised the Respondent that an insufficient number of days had passed since her last prescription for Roxicet was filled.
6. There are no allegations that patients complained about the Respondent's nursing practice or administration of medications.
7. The Respondent's license was summarily suspended by the Board on or about September 11, 2006.

Charges

8. The acts, omissions and/or circumstances described above constitute grounds for discipline because Respondent violated:
 - i. 3 V.S.A. §129a(b)(2) (failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes failure to conform to the essential standards of acceptable and prevailing practice).

Understandings

9. Respondent agrees that the Board may impose the Order below.
10. 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.
11. 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.
12. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

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13. Respondent is not under the influence of any drugs or alcohol at the time she 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 her right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.

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

17. The facts recited above indicate that in 2006 the Respondent made mistakes involving medications. The facts recited above occurred at a time where the Respondent was conditioned pursuant to the Board's May 10, 2006 Order and the conditions were in place as the result of the Respondent's prior problems with alcohol abuse. The Respondent denies diverting medications. **This Stipulation is neither an admission of liability by the Respondent, not a concession by the State of Vermont that its charges are not well founded. To avoid delay, uncertainty, inconvenience, and expense of protracted litigation of the charges above the Parties reach a full and final Stipulation pursuant to these understandings and the Order below.**

ORDER

THIS ORDER WILL SUPPLANT THE STIPULATION AND CONSENT ORDER ENTERED ON MAY 10, 2006 (attached hereto). Based on the Stipulation above, it is **ORDERED AND ADJUDGED** as follows:

A. The Board of Nursing hereby **SUSPENDS** the Respondent's license to practice as a registered nurse for a minimum period of **14 MONTHS**. This period of suspension shall begin retroactively on the date of the Respondent's summary suspension, September 11, 2006. Before applying for reinstatement, Respondent must (1) obtain an independent evaluation report by a licensed professional specializing in drug and alcohol abuse pre-approved by the Board. If approved by the Board, the Respondent may utilize the services of the treatment provider that she has been seeing for the last year and a half; and (2) the results of the treatment with the drug and alcohol abuse evaluator must indicate that the Respondent does not present a risk to the safety, health or welfare of her potential patients. The Respondent's license shall not be reinstated until these prerequisites are met, regardless of whether more than fourteen (14) months have passed since the suspension went into effect. Once reinstated, Respondent's license will be **CONDITIONED FOR THREE (3) YEARS**. 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 Conditions Imposed.

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The conditions shall remain in place until Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent completes **three (3) years** of supervised registered nursing in which she works 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 approved by the Board until the treating professional shall certify in writing to the Nursing Board that such counseling is no longer necessary. Respondent shall enter into and comply with the 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) 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, 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.

(7) Reports from Employers.

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9 Baldwin Street
Montpelier, VT
05609-1107

Within one (1) month of the date of entry of this Order or within one (1) month of the commencement of registered nursing employment and **monthly** thereafter, Respondent shall cause every registered 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.

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.

(8) Practice Under Supervision.

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

(9) Participation in Recovery Groups.

Respondent shall participate as recommended by her treating professional, in Narcotics Anonymous meetings and/or other recovery group(s).

(10) 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 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.

(11) Abstain from Drug and Alcohol Use.

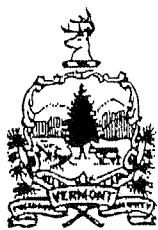
Respondent shall abstain completely from the consumption or possession of alcohol and drugs with the exception of medications as outlined in paragraph A.(12) for the period of time described in paragraph A.(2).

(12) Drug Use Exception.

The 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 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 14 days. This includes medications to be administered as necessary. It is not anticipated that

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

Respondent would be prescribed scheduled/controlled medication during the term of this Consent Order for a period greater than 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.

(13) Documentation Course and Medication Administration Course

Respondent must successfully complete (i.e.: receive a passing grade, if applicable) a course focusing on documentation and a course focusing on medication administration with prior approval by the Board or its designee, and then submit written documentation (certificate of completion, etc.) to verify the same to the satisfaction of the Board or its designee. This course must be completed within ninety (90) days of the date of entry of this Stipulation and Consent Order.

(14) Administration of Medications.

Before being allowed to administer any controlled substances, 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 and a description of the documentation and inventory control procedures in place.

(15) Interview with the Board or its Designee.

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

(16) 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 personal care provider during the effective period of this Consent Order.

(17) 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. The Board will approve out-of-state practice so long as the Respondent can still comply with the provisions of this Consent Order.

(18) 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.

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(19) 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 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.

(20) 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 he has otherwise complied with the requirements for license renewal.

(21) 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 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.

(22) Costs.

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

(23) 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.

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(24) 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 Nursing Board, that she poses no danger to the public or the practice of nursing and that she can safely and competently perform the duties of a 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.

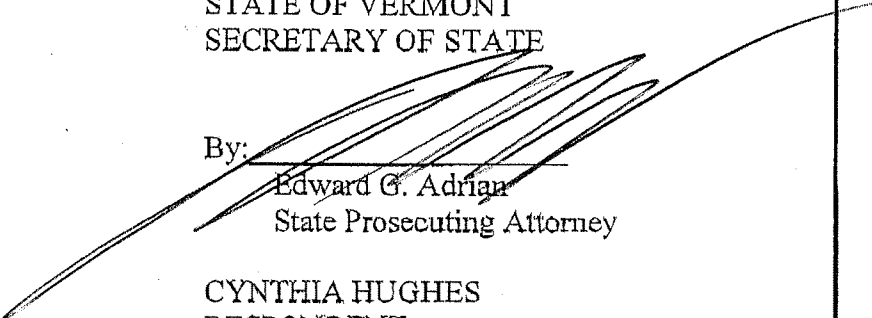
C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

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: 9/7/07

By: 

Edward G. Adrian
State Prosecuting Attorney

CYNTHIA HUGHES
RESPONDENT

Dated: 09-05-2007

By: Cynthia Hughes

Cynthia Hughes

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 9/5/07

By: John L. Pacht

John L. Pacht, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: Sept. 10, 2007

By: Susan Farrell

Chairperson

Date of Entry: 10/2/07

nu.hughes.stip4

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Montpelier, VT
05609-1107

S Burlington

STATE OF VERMONT
BOARD OF NURSING

In re: Cynthia Hughes
License No. 026-0021547

}
}
}

Docket No. NU33-1104

DECISION ON REQUEST FOR
SUMMARY SUSPENSION ORDER

Appearances:

for Petitioner, State of Vermont: Judith Cutler
for Respondent: John Pacht

Presiding Officer: Larry S. Novins

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

On September 11, 2006 this matter came before the Board of Nursing on the prosecution's Request for Summary Suspension pursuant to 3 V.S.A. § 814(c). The respondent did appear with counsel. 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.

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. 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), the Administrative Rules of the Office of Professional Regulation.
2. The prosecution has filed a "Request for Summary Suspension" dated September 8, 2006 alleging that Ms. Hughes, whose license is already conditioned for substance abuse matters, is now the subject of a complaint regarding substance diversion and possible abuse.
3. The prosecution further alleges that the public health, safety or welfare imperatively requires emergency action.
4. The Respondent has been provided notice of this matter via "Notice of Summary Suspension Hearing" sent to her at her last known address. She received the notice.
5. The Board has reviewed documents and testimony presented by the State.
6. Ms. Hughes presented no evidence.

7. The allegations in the Request for Summary Suspension (copy attached) have been established to the necessary degree.
8. The evidence presented does imperatively require emergency action for the public health, safety, and welfare.

Conclusions of Law

The prosecution'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.

The Board issues the following order which shall remain in effect until further action by the Board. 3 V.S.A. § 814(c).

Order

The Respondent'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

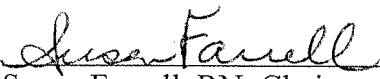
This is a final administrative determination by the Vermont Board of Nursing.

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, 26 Terrace Street, Montpelier, Vermont 05609-1101 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: 
Susan Farrell, RN, Chair

Date: September 11, 2006

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 9/12/06

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

IN RE:)
CYNTHIA HUGHES) Docket No. NU33-1104
License No. 026-0021547)

REQUEST FOR SUMMARY SUSPENSION

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 and; the rules of the Board and the Vermont 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. The Respondent, Cynthia Hughes, is licensed in the State of Vermont as a Registered Nurse under license number 026-0021547. This license was originally issued on June 16, 1994, and is currently set to expire on March 31, 2007.
4. The Respondent's license is currently conditioned for a period of three (3) years pursuant to a Stipulation and Consent Order entered by the Board on or about May 10, 2006. Attachment A. The Respondent's license was conditioned due to her failure to disclose several criminal convictions to the Board. Attachment A. These convictions were related to substance abuse. Attachment A.
5. On or about August 9, 2006, the Board received a complaint from Fletcher Allen Health Care (FAHC) regarding possible narcotic diversion by the Respondent. The complaint was based in part on the following information:

a. FAHC provided the Office of Professional Regulation (OPR) with a report of a the Respondent's Pyxis withdrawals dating back to 2004. A review of the report revealed that on numerous occasions the Respondent withdrew Oxycodone with Acetaminophen (Percocet) and Acetaminophen tablets for patients simultaneously. For example, the Pyxis report indicates that on May 21, 2006, the Respondent withdrew a combination of Percocet and Acetaminophen for patient H.F. three times on that day: once at 12:31 a.m., once at 4:42 and 4:43 a.m., and once at 11:47 p.m. FAHC assistant nurse manager, J.S., advised OPR Investigator Amy Carlson that

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these medications are contraindicated.

b. The Respondent appeared on the Pyxis High User Report for the months of May, June, and July as having a high standard deviation from the normal level of Percocet use. This report indicated that for the month of June the average use of Percocet per nurse on the Respondent's assigned unit was 11.86 while the Respondent's use was 87.00. The report indicated that for the month of July the average use of Percocet per nurse on the Respondent's assigned unit was 9.00 while the Respondent's use was 99.00.

c. FAHC also provided OPR with a copy of the Pyxis report documenting the Oxycodone withdrawals for the Respondent's assigned unit covering a thirty (30) day period in June and July of 2006. On the ninety-two (92) nurses listed on the report, ninety-one (91) had equal to or less than nineteen (19) withdrawals in the 30 day period. The Respondent had eighty-one (81) Oxycodone withdrawals in the same 30 day period.

d. Based on the above detailed High User Reports, FAHC nurse manager S.B. and assistant nurse manager J.S. reviewed thirty-nine (39) of the Respondent's patient charts. The chart audit revealed the following practice issues:

i) Percocet charted as given for general aches and pains. Most of the time removing 2 Percocets when assessment might have warranted 1.

ii) Opening then wasting Percocet. Retrieving Percocet before notes indicate that Respondent actually saw the patient. No Prior patient assessment.

iii) Pain intensity scale documentation not consistent

iv) Practice and medication administration not consistent with nurses caring for same patient.

v) Inappropriate combinations of medications given (e.g. Tylenol and Percocet charted as given at the same time or closely following one another).

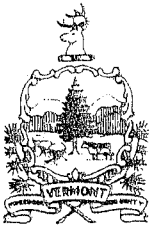
vi) Failure to document medication given to tie in with medication removed from PYXIS.

vii) Question of "viewing", opening and canceling.

viii) Calling physician to obtain order for narcotics, when not ordered on their patients.

ix) Administering medications on timetables that are not consistent with physician's order.

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x) Improper use of override function in PYXIS.

e. On or about July 27, 2006, a FAHC staff member witnessed the Respondent searching through a patient's purse. When asked on two occasions, the patient advised both times that she had not given the Respondent or any other staff member permission to go into her purse.

6. On or about July 10, 2006, Investigator Carlson was present at Kinney Drug, store #55, located in South Burlington, Vermont. Investigator Carlson observed the Respondent arrive at the pharmacy drive-thru window and submit a prescription for Roxicet. Investigator Carlson then observed pharmacist L.R. inform the Respondent that her insurance would not cover the cost of the prescription. L.R. advised the Respondent that an insufficient number of days had passed since her last prescription for Roxicet was filled. Investigator Carlson, who is familiar with the Respondent and the conditions on her license through the Respondent's previous involvement with OPR, subsequently reported her observations to Elizabeth Hansen of the Vermont Board of Nursing.

7. The Respondent is currently receiving prescriptions for Percocet 5mg, Amitriptyline 25mg, Ibuprofen 800mg, Klonopin .5mg, and Tramadol 50mg from her primary care physician. Since September of 2005, the Respondent has received a total of twenty-nine (29) prescriptions for opiate-based narcotics.

Request for Relief

8. The facts as set out above establish that in order to protect the public health, safety or welfare of the people of the State of Vermont emergency action is imperative.

9. The above acts and circumstances, alone or in combination, violate:

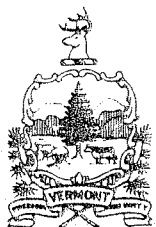
i. 3 V.S.A. § 129a(a)(3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession);

ii. 26 V.S.A. § 1582(3) (is unable to practice nursing competently by reason of any cause, which includes, but is not limited to, failing to conform to the essential standards of acceptable and prevailing nursing assistant practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(2));

iii. 26 V.S.A. § 1582(7) (engages in conduct of a character likely to deceive, defraud or harm the public which includes, but is not limited to, diverting supplies, equipment, or drugs for personal or other unauthorized use pursuant to ARBN Chapter 4, Rule IV(II)(D)(4)); and

iv. 3 V.S.A. § 129a(b)(2) (failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes failure to conform to the essential standards of acceptable and prevailing practice).

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WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. § 814(c), the Respondent's registered nursing license be summarily suspended, pending a hearing on the merits.

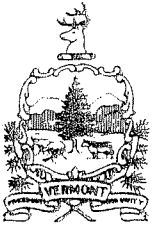
DATED at Montpelier, Vermont this 8th day of September, 2006.

STATE OF VERMONT
SECRETARY OF STATE

By: Judith L. Cutler
Judith L. Cutler
State Prosecuting Attorney

na.hughes.sumsusp

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Prosecuting Attorney
Office of
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9 Baldwin Street
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STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

IN RE:)
CYNTHIA JEAN HUGHES) Docket No: NU 33-1104
License No. 026-0021547)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Cynthia Jean Hughes, 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, 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 pursuant to 3 V.S.A. §§129, 129a, and 814; 26 V.S.A. §1582, the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.

Statement of Facts

2. The Respondent, Cynthia Hughes, is licensed in the State of Vermont as a Registered Nurse under license number 026-0021547. This license was originally issued on June 16, 1994, and is currently set to expire on March 31, 2007.
3. At all times relevant, the Respondent was employed as a registered nurse in the State of Vermont.
4. Certified copies of the Respondent's criminal convictions in the State of Vermont indicate that the Respondent was convicted of Negligent Operation, a misdemeanor offense, on February 10, 2003. On May 31, 2000, the Respondent was convicted of DWI #3, a felony offense, and DLS #1 Mandatory Jail, a misdemeanor offense. On September 9, 1991, the Respondent was convicted of DLS #1, a misdemeanor offense. The Respondent has never disclosed these convictions to the Vermont Board of Nursing.

Charges

5. The acts, omissions and/or circumstances described above constitute grounds for discipline because Respondent committed unprofessional conduct in violation of:

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(i) 3 V.S.A. §129a(a)(3) (Failure to comply with the provisions of state statutes or rules governing the practice of the profession); and

(ii) 3 V.S.A. §1582(a)(1) (Has made or caused to be made a false, fraudulent or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing); and

(iii) 26 V.S.A. §1582(a)(2) (Whether or not committed in this state, being convicted of a crime related to the practice of nursing or a felony which evinces an unfitness to practice nursing); and

(iv) 26 V.S.A. §1582(a)(3) (Is unable to practice nursing competently by reason of any cause), which includes the performance of unsafe or unacceptable patient care pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(2).

Understandings

6. Respondent agrees that the Order below is necessary to protect the public.
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 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.
9. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
10. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
11. 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.
12. 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.
13. Respondent agrees that the Order set forth below may be entered by the Board.

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ORDER

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

A. The Board of Nursing hereby **CONDITIONS** the Respondent's license to practice as a registered nurse for a minimum period of **THREE (3) YEARS** commencing with the date of entry of this Stipulation and Consent Order. The conditions are 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 Conditions Imposed.

The conditions shall remain in place until Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent completes three (3) years of supervised registered nursing in which she works 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 approved by the Board until the treating professional shall certify in writing to the Nursing Board that such counseling is no longer necessary. Respondent shall enter into and comply with the 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 every month 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) Notification to Employers/Nursing School.

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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, 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.

(7) Reports from Employers.

Within one (1) month of the date of entry of this Order or within one (1) month of the commencement of registered nursing employment and **monthly** thereafter, Respondent shall cause every registered 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.

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 his 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.

(8) Practice Under Supervision.

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

(9) Participation in Recovery Groups.

Respondent shall participate as recommended by her treating professional, in Alcohol Anonymous meetings and/or other recovery group(s).

(10) 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 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.

(11) 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.(12) for the period of time described in paragraph A.(2).

(12) Drug Use Exception.

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The 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 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 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 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.

(13) Interview with the Board or its Designee.

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

(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 personal care provider during the effective period of this Consent Order.

(15) 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. The Board will approve out-of-state practice so long as the Respondent can still comply with the provisions of this Consent Order.

(16) 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.

(17) Notification to Other States.

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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 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.

(18) 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 he has otherwise complied with the requirements for license renewal.

(19) 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 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.

(20) Costs.

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

(21) 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.

STATE OF VERMONT



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(22) 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 Nursing Board, that she poses no danger to the public or the practice of nursing and that she can safely and competently perform the duties of a 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: 5/8/06

By: [Signature]

Edward G. Adrian
State Prosecuting Attorney

CYNTHIA JEAN HUGHES
RESPONDENT

Dated: 5-5-2006

By: Cynthia Jean Hughes RN

Cynthia Jean Hughes

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 5.5.06

By: [Signature]

Michael J. Gannon, Esq.

APPROVED AND SO ORDERED:
VERMONT BOARD OF NURSING

by: Lisa Farrell 5/8/06

Date of Entry 5/10/06

STATE OF VERMONT



Prosecuting Attorney
Office of
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9 Baldwin Street
Montpelier, VT
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STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

IN RE:
CYNTHIA JEAN HUGHES
License No.: 026-0021547

)
)
)
Docket No. NU33-1104

STATE'S AMENDMENT TO THE SPECIFICATION OF CHARGES

NOW COMES the State of Vermont by and through its State Prosecuting Attorney Edward G. Adrian and hereby AMENDS the Specification of Charges in the above referenced matter as follows:

Statement of Facts

Delete factual allegations 4 through 8.

Charges

Delete charge 10(v)

Dated at Montpelier, Vermont this 12th day of January, 2006

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

nu016.amend.lit.wpd

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
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STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

IN RE:)
CYNTHIA JEAN HUGHES) Docket No: NU 33-1104
License No. 026-0021547)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Cynthia Jean Hughes, R.N.:

Board Authority

1. The Vermont State Board of Nursing ("the Board") has authority to issue warnings or reprimands, suspend, revoke, limit, 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 pursuant to 3 V.S.A. §§129, 129a, and 814; 26 V.S.A. §1582, the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.

Statement of Facts

2. The Respondent, Cynthia Hughes, is licensed in the State of Vermont as a Registered Nurse under license number 026-0021547. This license was originally issued on June 16, 1994, and is currently set to expire on March 31, 2007.

3. At all times relevant, the Respondent was employed as a R.N. by Green Mountain Nursing Home ("GMNH") located in Colchester, Vermont.

STATE OF VERMONT



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9. In a separate matter, certified copies of the Respondent's criminal convictions in the State of Vermont indicate that the Respondent was convicted of Negligent Operation, a misdemeanor offense, on February 10, 2003. On May 31, 2000, the Respondent was convicted of DWI #3, a felony offense, and DLS #1 Mandatory Jail, a misdemeanor offense. On September 9, 1991, the Respondent was convicted of DLS #1, a misdemeanor offense. The Respondent has never disclosed these convictions to the Vermont Board of Nursing.

Charges

10. The acts, omissions and/or circumstances described above constitute grounds for discipline because Respondent committed unprofessional conduct in violation of:

(i) 3 V.S.A. §129a(a)(3) (Failure to comply with the provisions of state statutes or rules governing the practice of the profession); and

(ii) 3 V.S.A. §1582(a)(1) (Has made or caused to be made a false, fraudulent or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing); and

(iii) 26 V.S.A. §1582(a)(2) (Whether or not committed in this state, being convicted of a crime related to the practice of nursing or a felony which evinces an unfitness to practice nursing); and

(iv) 26 V.S.A. §1582(a)(3) (Is unable to practice nursing competently by reason of any cause), which includes the performance of unsafe or unacceptable patient care pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(2); and

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Relief Requested

WHEREFORE, the license of Cynthia Jean Hughes should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 28th day of June 2005.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

nu.hughes.soc

STATE OF VERMONT



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