

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

IN RE:)
CYNTHIA C. WALL, L.P.N.)
License No. 025-0004232)

Docket No: NU 42-0300

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, through Attorney General William H. Sorrell, and Respondent Cynthia C. Wall, L.P.N. who stipulate and agree as follows:

Board Authority

1. The Board of Nursing has jurisdiction to investigate complaints of unprofessional conduct and approve consent orders pursuant to 3 V.S.A. §§129 and 129a, and 26 V.S.A. §§1574 and 1582.
2. Failure to comply with the provisions of state statutes or rules governing the practice of the profession is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(3).
3. Being addicted to the use of habit-forming drugs is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(5).
4. Being unable to practice the profession of nursing competently by reason of any cause, including the use of drugs, narcotics or chemicals is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(3); Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(3).

Facts

5. The Respondent (whose address is listed in the database of the Office of Professional Regulation as RFD #2 Box 432, Bethel, VT 05032) is a Licensed Practical Nurse under License Number 025-0004232.

6. Respondent was originally licensed around September 1976 and Respondent's license has a current expiration date of January 31, 2002.
7. Respondent was employed by the Brookside Nursing Home in White River Junction, Vermont, until March 10, 2000 when she was terminated.
8. During February 2000, Respondent checked herself into Maple Leaf for inpatient treatment for alcohol addiction.
9. Around May 2000, Respondent checked herself into the Intensive Care Unit at the Cambridge Hospital in Massachusetts for a severe Pancreatitis.
10. By way of history, Respondent has been treated for Pancreatitis on one prior occasion.
11. Respondent is currently scheduled to enter the Marathon House and/or Maple Leaf Farms for inpatient treatment around August 2000.

Charges

12. Failure to comply with the provisions of state statutes or rules governing the practice of the profession is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(3).
13. Being addicted to the use of habit-forming drugs is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(5).
14. Being unable to practice the profession of nursing competently by reason of any cause, including the use of drugs, narcotics or chemicals is unprofessional conduct and is a basis on which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(3); Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(3).

Understandings

- A. The Respondent understands that the Board of Nursing must review and accept the terms of the Order set forth below and that if the Board rejects all or any portion of the Order, then this entire document shall be null and void.
- B. The Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- C. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.

- D. The Respondent agrees that she has had sufficient opportunity to consult with legal counsel before signing this document.
- E. The Respondent is voluntarily waiving her right to a contested hearing before the Board of Nursing.
- F. The Respondent agrees that the Order set forth immediately below may be entered by the Board of Nursing.

Consent Order

G. Based on the above stipulations, it is **ADJUDGED** as follows:

- (1) The "Facts" listed above are true; and
- (2) The Respondent has engaged in unprofessional conduct in that the Respondent:
 - I. Failed to comply with the provisions of state statutes or rules governing the practice of the profession;
 - II. Is addicted to the use of habit-forming drugs; and
 - III. Is unable to practice the profession of nursing competently by reason of any cause, including the use of drugs, narcotics or chemicals.

Based on the above stipulation and on the above Findings and Conclusions of this Board, it is **ORDERED** follows:

- (3) The Respondent's license is **SUSPENDED INDEFINITELY**;
- (4) If the Respondent petitions the Board to reinstate her license, in the petition the Respondent must demonstrate, to the satisfaction of the Board, that:
 - i The Respondent poses no danger to the public or the practice of nursing and she will safely and competently perform the duties of a licensed practical nurse;
 - ii Respondent is successfully participating in alcohol treatment and counseling; and
 - iii She meets any applicable requirements for license renewal and license reinstatement.

H. Upon Respondent proving she meets the requirements of paragraph "G", then Respondent's license shall be **CONDITIONED** for a minimum period of three (3) years. The **CONDITIONS** on Respondent's license would be as follows:

(1) Length of Time Conditions Imposed.

The conditions shall remain in place until respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent completes three (3) years of supervised nursing practice in which she works at least forty (40) hours every two (2) weeks as a nurse. 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-eight (48) hours per week. Respondent's license is additionally conditioned as follows.

(2) Completion of Counseling and Treatment Plan.

Respondent shall enter into and continue counseling with the treating professional approved by the Board until the treating professional shall certify in writing to the Nursing Board that such counseling is no longer necessary. Respondent shall enter into and comply with the treatment plan approved by the Board and/or the Board's designee and the treating professional.

(3) Substance Abuse Therapy and Notification to Treating Professional.

Respondent shall provide a copy of this Stipulation and Consent Order to her treating professional and cause her treating professional to inform the Board, in writing and on professional letterhead, of receipt of the Stipulation and Consent Order and the treating professional's ability to comply with the conditions related to treatment and with all other terms of this Consent Order.

(4) Reports from Treating Professional.

Respondent shall authorize and cause her treating professional to submit to the Board evidence of satisfactory progress with the treatment plan during the effective period of this Consent Order. These reports shall be submitted in writing on forms issued by the Board and shall be accompanied by a cover letter on the treating professional's letterhead. The first report is due commencing the month after the date of entry of this Consent Order and subsequent reports are due every month thereafter.

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

(5) Participation in Support Group.

Respondent shall participate, at least weekly, or as recommended by her treating professional, in Alcoholics Anonymous or a similar support group.

(6) Random Alcohol/Drug Testing.

Respondent shall submit to random alcohol and drug screening at the request of the Board. Respondent shall ensure that her treating professional or employer or both shall administer random alcohol or drug tests as required by the Board or its designee. All testing shall be done on a random, unannounced basis, and analyzed by a lab qualified to analyze samples for forensic purposes. All screens shall be negative except for drugs prescribed for her under the care of a physician, dentist, or nurse practitioner. (See paragraph 8 Drug Use Exception.)

(7) Abstain from Alcohol or Drug Use.

Respondent shall abstain completely from the consumption of alcohol or the use or possession of any drugs with the exception of prescribed medications as outlined in paragraph 8 for the period of time described in paragraph (1) above.

(8) Drug Use Exception.

Respondent may take medications lawfully prescribed for a bona fide illness or condition by a physician, dentist, or nurse practitioner whose identity shall be made known to the Board in writing by Respondent within forty-eight (48) hours of the establishment of the practitioner/patient relationship. Respondent shall ensure that the physician, dentist or nurse practitioner informs the Board, in writing and on appropriate letterhead, of knowledge of Respondent's alcohol dependency within one (1) week of entering into the practitioner/patient relationship. Respondent shall inform the Board in writing of all medications prescribed, including the name of the prescribing practitioner, within forty-eight (48) hours of receiving the prescription. The Board or its designee may request at any time that the practitioner document the continued need for prescribed medications. Respondent shall keep a written record of medications taken, including over the counter drugs, and produce such record upon the request of the Board or its designee.

(9) Interview with the Board or its designee.

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

(10) Re-Issue of License.

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

(11) 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.

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

Within five (5) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of her current place of nursing employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in nursing employment, personal address, or telephone number. Respondent shall provide a copy of this Consent Order to all employers, current and future, and shall inform them of the conditional status of her license.

(13) Notification to Employers.

Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which she practices as a nurse and inform them of her conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any subsequent employment, Respondent shall cause her immediate supervisor to write to the Board, on the employer's letterhead, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

(14) Reports from Employers.

Within one (1) month of the date of entry of this Consent Order and every month thereafter, Respondent shall cause every employer she has worked for during the month to submit to the Board an evaluation of Respondent's performance and attendance during that month. This report shall be submitted in writing on forms issued by the Board. In the event Respondent is not employed in nursing during any month or portion thereof, Respondent shall submit to the Board, in writing, a self-report describing other employment or activities. In the event the Respondent is attending a nursing program, she shall provide a copy of the Consent Order to the Program Director. Respondent shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Consent Order and ability of the program to comply with the conditions in the Consent Order during clinical experience.

Respondent shall sign a consent, upon request of the Board, to authorize her employer to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period the Consent Order is in effect.

(15) Practice Under Supervision.

Respondent shall practice only in a setting where she has on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing. "On site supervision" means actual presence in the building and should not be construed to include "on-call" supervision.

(16) Types of Employment Prohibited.

Respondent shall not work for a nurse registry, travelling 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.

(18) License Renewal.

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

(19) Release of Information Forms.

Upon the establishment of all practitioner/patient relationships with (1) treating professionals for substance abuse treatment, and with (2) treating professionals who prescribe any medication to Respondent, Respondent shall execute all release of information forms which are necessary to authorize those practitioners to release information described in this Consent Order to the Board of Nursing, its investigators, and the Attorney General's Office. All information disclosed to the Board shall be made available to its investigators and the Attorney General's Office. Respondent shall specifically execute a consent to disclosure form which meets the requirements of 42 C.F.R. §2.31 to permit disclosure of all information regarding respondent's substance abuse treatment to the Nursing Board, its investigators, and the Attorney General's Office. Any revocation by respondent of such a consent to disclosure during the term of this Consent Order shall be considered a violation of this Consent Order.

(20) Costs.

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

(21) Violation of the Consent Order.

If Respondent violates the terms of this Consent Order in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke the terms of the conditional license and take further disciplinary action. If a complaint or charges are filed against Respondent during the term of this Consent Order, the conditional license period shall be extended until the matter is final.

(22) Reevaluation of Conditions.

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

(23) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on her license and after formal review by the Board, Respondent's nursing license may be fully

restored by appropriate Board action. Respondent, however, must present proof of successful substance abuse rehabilitation and demonstrate, to the satisfaction of the Nursing Board, that she poses no danger to the practice of nursing and that she can safely and competently perform the duties of a nurse. Such proof shall include appropriate support from her treating professional, employer and/or nursing school administrator. Furthermore, Respondent shall demonstrate, to the Board's satisfaction, that she fully complied with all the terms of this Consent Order.

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

K. At any time after the entry of this Order, the Respondent may petition the Board to reinstate her license and/or modify the conditions.

L. 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)(8).

M. This Stipulation and Consent Order will remain part of the Respondent's licensing file and may be used in determining sanctions in future disciplinary matters.

AGREED TO:

Date: 8-2-00
8-4-00

BY: CYNTHIA WALL
RESPONDENT

Cynthia Wall
Cynthia Wall
D. Kent Penfield
ATTORNEY FOR
MS. WALL

AND BY: STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

Date: _____

George C. Haegle IV
George C. Haegle IV
Assistant Attorney General

ACCEPTED AND SO ORDERED:

Date: 8/14/00
Dated entered: 8-17-00

BOARD OF NURSING

Diane Dowgiewicz
ACTING Chairperson