

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

IN RE:

Bernard D. Walzak

License No: 026-0024882

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Docket No: APP-NU 50 -0299

MODIFIED STIPULATION AND ORDER

STIPULATION

NOW COME the Respondent, Bernard Walzak, and the State of Vermont, by its Attorney General, William H. Sorrell, and stipulate to the following:

Board Authority

- 1) The Vermont State Board of Nursing ["the Board"] has authority revoke, suspend or otherwise condition the practice of a licensee for certain conduct. 26 V.S.A. §§1582.
- 2) The Board has authority to adopt consent orders approving a settlement which has been agreed to and submitted by a respondent and the investigating committee. 3 V.S.A. §129(a)(3).
- 3) Being addicted to the use of habit-forming drugs is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(5).
- 4) Use of drugs, narcotics, chemicals or other materials is conduct showing that the Respondent is unable to practice nursing competently is unprofessional conduct upon which the Board can base disciplinary action. Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(3); 26 V.S.A. §1582(a)(3).
- 5) Violating any term or condition of a license restricted by the Board is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(4).

Facts

- 6) By way of history, in January, 1999, the Respondent applied for registration and licensure as a Registered Nurse by endorsement based on his previous licensure in Mississippi, License Number R851716.

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

- 7) The Respondent's Mississippi license was restricted and several conditions imposed for a minimum of three (3) years based on a Program Participation Affidavit which he had signed on November 16, 1998.
- 8) In 1998, the Respondent was addicted to Lorcet (Hydrocodone) and had diverted some of this drug for his personal use from the hospital in which he was working.
- 9) On November 12, 1998, the Respondent was discharged from a rehabilitation center and returned to work at the hospital at which he had been working.
- 10) On July 14, 1999 the Vermont Board of Nursing approved a Stipulation and Consent Order granting the Respondent a Conditioned License (In Re: Bernard Walzack, Doc. No. App-NU 50-0299, attached and incorporated by reference)(hereinafter the "1999 order").
- 11) Respondent is required to submit to random urinalysis test(s) as one of the conditions from the 1999 order.
- 12) Respondent is required to completely abstain from ingesting drugs and alcohol as one of the conditions from the 1999 order, with exceptions not relevant here.
- 13) On or about December 11, 2000, Respondent submitted a urinalysis test which subsequent analysis showed contained opiates, specifically codeine.
- 14) Respondent subsequently admitted that he had taken approximately forty (40) Tylenol number one (1) in violation of the 1999 order.
- 15) As a result of Respondent's December 2000 relapse, Respondent's license was re-conditioned for three years pursuant to a Second Modified Stipulation and Order. (In Re: Bernard Walzack, App-NU 50-0299, attached and incorporated by reference)(hereinafter the "2000" order).
- 16) On or about February 28, 2002, the Board of Nursing received an unsatisfactory report from Respondent's treating professional disclosing that Respondent had recently relapsed.
- 17) Respondent's relapse was due to Respondent consuming alcohol.
- 18) On or about March 11, 2002, Respondent's license was summarily suspended based on his relapse.
- 19) Since March 11, 2002, Respondent completed the following at the request of the investigative team, an independent evaluator and/or his treating professional:
 - a) Respondent has been suspended for a period of three (3) months;

- b) Respondent submitted to an independent evaluation with a licensed drug and alcohol counselor which resulted in a report with recommendations;
- c) Respondent has had two clean urinalysis test, including a test for alcohol;
- d) Respondent has a written relapse prevention plan;
- e) Respondent has participated in a support group; and
- f) Respondent has participated in self-help groups.

Understandings

- 20) The Respondent understands that the Nursing Board 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.
- 21) The Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- 22) The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.
- 23) The Respondent agrees that he has had sufficient opportunity to consult with legal counsel before signing this document.
- 24) The Respondent is voluntarily waiving his right to a contested hearing before the Board.
- 25) The Respondent agrees that the Order set forth immediately below may be entered by the Board.
- 26) The Respondent understands that this entire document is a public record and that it may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- 27) The Respondent understands that this Stipulation and Order will remain part of the Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

ORDER

Findings and Conclusions

Based on the above stipulation it is **ADJUDGED** as follows:

- A. The "Facts" listed above are taken as true.

- B. The Respondent has violated the conditions imposed under the 2000 order, specifically by relapsing;
- C. The Conditions established under the 2000 Order remain necessary.
- D. The Conditions from the date of entry of this Order, are as follows:

Conditions

- E. Based on the above Findings and Conclusions of this Board, it is **ORDERED** that **CONDITIONS** shall be imposed on any license to practice nursing issued to Respondent and the conditions shall remain until the Respondent has completed at least three (3) years, or one hundred and fifty (150) weeks, of supervised nursing practice during which he works as a nurse at least forty (40) hours every two (2) weeks from the date of entry of this order:
- F. License to be labeled "Conditioned" Any license issued to the Respondent by this board shall be labeled "Conditioned".
- G. Completion of Counseling and Treatment Plan. Respondent shall enter into and continue counseling with the treating professional approved by the Board until the Board and treating professional agree that such counseling is no longer necessary. Respondent shall submit to the Board a treatment plan and relapse prevention plan within 14 days of the entry of this order. Respondent shall comply with the treatment plan approved by the Board. The treatment plan must include those recommendations per the independent evaluation unless the Board finds them not necessary.
If the Board (1) does not approve the treating professional presented to the Board for approval or (2) does not approve the treatment plan presented to the Board for review and approval, Respondent must submit another treating professional and/or treatment plan for the Board's approval prior to the next regularly scheduled monthly meeting of the Board. If Respondent fails to comply with this paragraph or the Board should again reject the proposed treating professional or treatment plan, Respondent shall be deemed to have violated this Consent Order.
- H. Substance Abuse Therapy and Notification to Treating Professional. Respondent shall provide a copy of this Stipulation and Consent Order to his treating professional and cause his 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.
- I. Reports from Treating Professional. Respondent shall authorize and cause his 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 professional 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 his 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.

- J. Abstention from Alcohol and Drug Use The Respondent shall abstain completely from the use or possession of any drugs or alcohol with the only exception being lawfully prescribed drugs for a bona fide illness or condition if prescribed by a physician, dentist, or nurse practitioner whose identity has been made known to the Board in writing by the Respondent.
- (1) Within forty-eight (48) hours of the establishment of a practitioner/patient relationship and, for all such relationships established at the time this Order takes effect, prior to working as a nurse, the Respondent shall provide the Board with the name, business address and telephone number of each physician, dentist or nurse practitioner with whom he has or establishes a practitioner/patient relationship.
 - (2) The 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 and, for all valid prescriptions within the Respondent's possession at the time of this Order, prior to working as a nurse.
 - (3) The Respondent shall authorize, and shall take all reasonable steps to, ensure that each physician, dentist or nurse practitioner with whom he has, or in the future establishes, a practitioner/patient responds to all requests of the Board, or its designee, to discuss or document the need for medications prescribed by that practitioner.
 - (4) The Respondent shall keep a written record of all medications taken, including over-the-counter drugs, and shall provide the record to the Board within three (3) days of a request from the Board or its designee.
- K. Participation in Substance Abuse Support Group The Respondent shall participate in one or more substance abuse support group programs such as Alcoholics Anonymous, Narcotics Anonymous, or other program approved by the Board, at least three times weekly unless less frequent participation is recommended by a treating professional familiar with the Respondent's history and that recommendation is accepted by the Board or its designee.

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

The frequency of the random tests is as follows: Respondent shall be tested four (4) times a month for the first six (6) months and thereafter twice a month for a period of twelve (12) months. The remaining period of tests shall be on a monthly basis. If Respondent fails a single test the above frequency shall be restarted.

- M. Administration of Medications. The Applicant is prohibited from administering any controlled substances.

- (1) This condition may be removed only by the Applicant filing a petition with the Board after he has worked as nurse for twelve (12) weeks or at least 40 hours work every two weeks (or the part time equivalent) after the entry date of this Order.
- (2) In any such petition, the Applicant must demonstrate, to the satisfaction of the Nursing Board, that he can safely and competently administer such medications.
- (3) In any such petition, the applicant must include appropriate support from his treating professional and employer or nursing school administrator and a description of the documentation and inventory control procedures in place.
- (4) The removal of this prohibition shall not automatically result in the reinstatement of all medication privileges. The Board may gradually restore those privileges through whatever intermediary steps in determines are appropriate.

- N. Interview with the Board or its designee The Respondent shall appear in person for interviews with the Board or its designee upon request of the Board or its designee.

- O. Employment and Personal Information Within five (5) days of the date of entry of this Order, and within forty-eight (48) hours of obtaining employment as a nurse or of any change in employers, the Respondent shall notify the Board, in writing, of his current place of nursing employment, personal address, and telephone number.

P. Employers and Nursing Schools Regarding any employer who employs the Respondent as a nurse and any Nursing School that the Respondent is attending or may in the future attend:

- (1) Within ten (10) days of the date of entry of this Order and prior to any future employment or attendance at a Nursing School, the Respondent shall provide the employer or the School's Program Director with a copy of this Order and shall inform them of his conditional license status.
- (2) Within ten (10) days of the date of entry of this Stipulation and Order and prior to any future employment or attendance at a Nursing School, the Respondent shall take all reasonable steps to ensure that his immediate employment supervisor, and, if applicable, the Program Director of a Nursing School, write to the Board, on appropriate letterhead, acknowledging receipt of the Stipulation and Order and indicating a willingness to comply with the conditions in paragraphs (3) and (4) below.
- (3) The Respondent shall authorize, and shall take all reasonable steps to ensure that, the each employer of the Respondent as a nurse and any Nursing School that the Respondent attended to submit to the Board monthly reports, submitted by the end of the subsequent month on forms available from the Board, regarding the Respondent's performance, attendance, and the existence of any indications of drug use during the previous month. In the event that the Respondent is not employed as a nurse or is not attending a nursing school during any month or portion thereof, the Respondent shall submit to the Board, in writing, a self-report describing other employment, activities, and drug use during that period.
- (4) The Respondent authorize, and shall take all reasonable steps to ensure that, each employer and, if applicable, the Program Director at a nursing school, responds to all requests of the Board, or its designee, to discuss and document the Respondent's performance, attendance, the existence of any indications of drug use and, in general, the Respondent's compliance with this Order.

Q. Limitations on Practice

- (1) The Respondent shall practice only in a setting where he has one-on-one supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing.
- (2) The Respondent shall not work as a Charge Nurse.
- (3) The Respondent shall not work for a nurse registry, travelling nurse agency, float-pool, home health care agency, temporary employment agency or as a personal care provider.

(4) The Respondent shall not work the night shift.

- R. 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 nursing, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that he has otherwise complied with the requirements for license renewal.
- S. Release of Information Forms In fulfilling the conditions of this Order which require the Respondent to authorize various persons to report information or to discuss the Respondent with the board or its designee, the Respondent must execute a consent to disclose form which meets the requirements of 42 C.F.R. §2.31. The authorization must allow the information to also be provided to the Office of Professional Regulation investigators and to the Attorney General's Office. Any revocation by The Respondent of such a consent to disclosure during the term of this Order shall be considered a violation of this Order.
- T. Costs The Respondent shall bear all costs of complying with this Consent Order.
- U. 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 the unprofessional conduct matter is concluded.
- V. Completion of Conditional License Period After the conditional license period, the Respondent may petition the Board to remove any and all conditions on his license. The Respondent must present proof that he fully complied with the terms of this Order. The Respondent must also present proof of successful substance abuse rehabilitation and he must demonstrate, to the satisfaction of the Nursing Board, that he poses no danger to the public or the practice of nursing and that he can safely and competently perform the duties of a registered nurse.
- W. Notwithstanding any provision above, The Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- X. This Stipulation and Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- Y. This Stipulation and Order will remain part of the Respondent's licensing file and may be used in determining sanctions in any future disciplinary matter.

AGREED TO:

Date:

5/10/02

BY: BERNARD WALZAK
THE RESPONDENT

Bernard Walzak
Bernard Walzak

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

Date:

5/10/02

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

ACCEPTED AND SO ORDERED:

Date:

May 13, 2002

BOARD OF NURSING

Susan Farrell
Chairperson

Dated entered:

5/13/02

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

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

IN RE:
Bernard Walzak,
The Applicant

Docket No: APP NU 50-- 0299

STIPULATION AND ORDER

STIPULATION

NOW COME the Applicant, Bernard Walzak, and the State of Vermont, by its Attorney General, William H. Sorrell, and stipulate to the following:

Board Authority

1. The Vermont State Board of Nursing ["the Board"] has authority to deny an application for registration or licensure or to revoke, suspend or otherwise condition the practice of a registrant or licensee for certain conduct by a person who later becomes an Applicant. 26 V.S.A. §§1582.
2. The Board has the authority to discipline any licensee or refuse to license any person who has had a license revoked, suspended, limited, or conditioned by a licensing agency in another jurisdiction for an offense which would constitute unprofessional conduct in this state. 3 V.S.A. §129(7).
3. The Board has authority to adopt consent orders approving a settlement which has been agreed to and submitted by a respondent and the investigating committee. 3 V.S.A. §129(a)(3).
4. Being addicted to the use of habit-forming drugs is conduct sufficient to support the conditioning of an the Applicant's license. 26 V.S.A. §1582(a)(5).
5. Use of drugs, narcotics, chemicals or other materials is conduct showing that the Applicant or licensee is unable to practice nursing competently and is a basis on which the Board can condition the practice of a registrant or licensee. Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(3); 26 V.S.A. §1582(a)(3).
6. Diverting supplies, equipment, or drugs for personal or other unauthorized use is conduct likely to deceive, defraud or harm the public and is a basis on which the Board can condition the practice of a registrant or licensee. -BNAR Chapter 4, Rule IV (B)(3); 26 V.S.A. §1582(a)(3).

(4)(d)

(7)

Post-It® Fax Note	7671	Date	7/9/94	Page	7
To	Munira Head holder	From	Conrad Smith		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #	2384	Fax #			

Facts

7. In January, 1999, the Applicant applied for registration and licensure as a Registered Nurse by endorsement based on his previous licensure in Mississippi, License Number R851716.
8. The Applicant's Mississippi license was restricted and several conditions imposed for a minimum of three (3) years based on a Program Participation Affidavit which he had signed on November 16, 1998.
9. In 1998, the Applicant was addicted to Lorcet (Hydrocodone) and had diverted some of this drug for his personal use from the hospital in which he was working.
10. On November 12, 1998, the Applicant was discharged from a rehabilitation center and returned to work at the hospital at which he had been working.

Understandings

11. The Applicant understands that the Nursing Board 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.
12. The Applicant has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
13. The Applicant is not under the influence of any drugs or alcohol at the time this document is being signed.
14. The Applicant agrees that he has had sufficient opportunity to consult with legal counsel before signing this document.
15. The Applicant is voluntarily waiving his right to a contested hearing before the Board.
16. The Applicant agrees that the Order set forth immediately below may be entered by the Board.
17. The Applicant understands that this entire document is a public record and that it may be reported to other licensing authorities as provided in 3 V.S.A. §129(a)(8).
18. The Applicant understands that this Stipulation and Order will remain part of the the Applicant's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

ORDER

Findings and Conclusions

Based on the above stipulation it is **ADJUDGED** as follows:

- A. The "Facts" listed in paragraphs 7 - 10 are taken as true.
- B. The Applicant's conduct, as set out in the Facts, was the basis on which the Applicant's Mississippi license was restricted and conditioned and such conduct would have constituted unprofessional conduct in Vermont.
- C. The Applicant's use of habit-forming drugs, as set out in the Facts, now requires that the conditions set forth below be imposed on any license issued by this Board.
- D. The Applicant's conduct, as set out in the Facts, was conduct showing that the Applicant was unable to practice nursing competently and now requires that the conditions set forth below be imposed on any license issued by this Board.
- E. The Applicant's conduct, as set out in the facts, was conduct likely to deceive, defraud or harm the public and now requires that the conditions set forth below be imposed on any license issued by this Board.

Conditions

Based on the above Findings and Conclusions of this Board, it is **ORDERED** that the following conditions shall be imposed on any license to practice nursing issued to Applicant under his current application and the conditions shall remain until the Applicant has completed at least three (3) years, or one hundred and fifty (150) weeks, of supervised nursing practice during which he works as a nurse at least forty (40) hours every two (2) weeks:¹

- F. License to be labeled "Conditioned" Any license issued to the Applicant by this board shall be labeled "Conditioned".
- G. Abstinence from Drug Use The Applicant shall abstain completely from the use or possession of any drugs with the only exception being lawfully prescribed drugs for a bona fide illness or condition if prescribed by a physician, dentist, or nurse practitioner whose identity has been made known to the Board in writing by the Applicant.

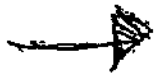
¹ Part time hours of less than forty (40) hours every two (2) weeks will be credited on a prorated basis. Out-of-state nursing practice that has already occurred in Mississippi between November 16, 1998 and the date of entry of this Order may be counted. Additional out-of-state nursing practice will be only credited toward fulfillment of this time period if the Applicant first obtains approval from the Board and accepts any additional conditions or modifications of the conditions below that the Board determines are appropriate.

(1) Within forty-eight (48) hours of the establishment of a practitioner/patient relationship and, for all such relationships established at the time this Order takes effect, prior to working as a nurse, the Applicant shall provide the Board with the name, business address and telephone number of each physician, dentist or nurse practitioner with whom he has or establishes a practitioner/patient relationship.

(2) Within one (1) week of entering into the practitioner/patient relationship and, for relationships established at the time of this Order, prior to working as a nurse, the Applicant shall authorize, and shall take all reasonable steps to ensure that, the physician, dentist or nurse practitioner informs the Board, in writing and on appropriate letterhead, that the physician, dentist or nurse practitioner has received a copy of this Stipulation and Order and that the physician, dentist or nurse practitioner is able and willing to comply with the conditions in paragraphs 1(4) below.

 (3) The Applicant 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 and, for all valid prescriptions within the applicant's possession at the time of this Order, prior to working as a nurse.

(4) The Applicant shall authorize, and shall take all reasonable steps to, ensure that each physician, dentist or nurse practitioner with whom he has, or in the future establishes, a practitioner/patient responds to all requests of the Board, or its designee, to discuss or document the need for medications prescribed by that practitioner.

 (5) The Applicant shall keep a written record of all medications taken, including over-the-counter drugs, and shall provide the record to the Board within three (3) days of a request from the Board or its designee.

H. Participation in Substance Abuse Support Group The Applicant shall participate in one or more substance abuse support group programs such as Alcoholics Anonymous, Narcotics Anonymous, or other program approved by the Board, at least three times weekly unless less frequent participation is recommended by a treating professional familiar with the Applicant's history and that recommendation is accepted by the Board or its designee.

I. Administration of Medications. The Applicant is prohibited from administering any controlled substances.

(1) This condition may be removed only by the Applicant filing a petition with the Board after he has worked as nurse for twelve (12) weeks or at least 40 hours work every two weeks (or the part time equivalent) after the entry date of this Order.

(2) In any such petition, the Applicant must demonstrate, to the satisfaction of Nursing Board, that he can safely and competently administer such medications.

- (3) In any such petition, the applicant must include appropriate support from his treating professional and employer or nursing school administrator and a description of the documentation and inventory control procedures in place.
 - (4) The removal of this prohibition shall not automatically result in the reinstatement of all medication privileges. The Board may gradually restore those privileges through whatever intermediary steps it determines are appropriate.
- J. Random Drug Testing The Applicant shall submit to random drug screening at the request of the Board or its designee. The Applicant shall designate a person, who has been approved by the Board or its designee, to administer random drug screens. All testing shall be done on a unannounced basis and shall be analyzed by a lab qualified to analyze samples for forensic purposes. All urine specimens collected for tests shall be collected in an observed setting.
- K. Interview with the Board or its designee The Applicant shall appear in person for interviews with the Board or its designee upon request of the Board or its designee.
- L. Employment and Personal Information Within five (5) days of the date of entry of this Order, and within forty-eight (48) hours of obtaining employment as a nurse or of any change in employers, the Applicant shall notify the Board, in writing, of his current place of nursing employment, personal address, and telephone number.
- M. Employers and Nursing Schools Regarding any employer who employs the Applicant as a nurse and any Nursing School that the Applicant is attending or may in the future attend:
- (1) Within ten (10) days of the date of entry of this Order and prior to any future employment or attendance at a Nursing School, the Applicant shall provide the employer or the School's Program Director with a copy of this Order and shall inform them of his conditional license status.
 - (2) Within ten (10) days of the date of entry of this Stipulation and Order and prior to any future employment or attendance at a Nursing School, the Applicant shall take all reasonable steps to ensure that his immediate employment supervisor, and, if applicable, the Program Director of a Nursing School, write to the Board, on appropriate letterhead, acknowledging receipt of the Stipulation and Order and indicating a willingness to comply with the conditions in paragraphs M(3) and (4) below.
 - (3) The Applicant shall authorize, and shall take all reasonable steps to ensure that, each employer of the Applicant as a nurse and any Nursing School that the Applicant attended to submit to the Board monthly reports, submitted by the end of the subsequent month on forms available

from the Board, regarding the Applicant's performance, attendance, and the existence of any indications of drug use during the previous month. In the event that the Applicant is not employed as a nurse or is not attending a nursing school during any month or portion thereof, the Applicant shall submit to the Board, in writing, a self-report describing other employment, activities, and drug use during that period.

- (4) The Applicant authorize, and shall take all reasonable steps to ensure that, each employer and, if applicable, the Program Director at a nursing school, responds to all requests of the Board, or its designee, to discuss and document the Applicant's performance, attendance, the existence of any indications of drug use and, in general, the Applicant's compliance with this Order.

N. Limitations on Practice

- (1) The Applicant shall practice only in a setting where he has on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing.
- (2) The Applicant shall not work as a Charge Nurse.
- (3) The Applicant shall not work for a nurse registry, travelling nurse agency, float-pool, home health care agency, temporary employment agency or as a personal care provider.
- (4) The Applicant shall not work night shifts.

O. License Renewal If the Applicant'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 nursing, the Applicant must timely apply for renewal, pay the applicable fee and demonstrate that he has otherwise complied with the requirements for license renewal.

P. Release of Information Forms In fulfilling the conditions of this Order which require the Applicant to authorize various persons to report information or to discuss the Applicant with the board or its designee, the Applicant must execute a consent to disclose form which meets the requirements of 42 C.F.R. §2.31. The authorization must allow the information to also be provided to the Office of Professional Regulation Investigators and to the the Attorney General's Office. Any revocation by The Applicant of such a consent to disclosure during the term of this Order shall be considered a violation of this Order.

Q. Costs The Applicant shall bear all costs of complying with this Consent Order.

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

S. Reevaluation of Conditions In the event that the Applicant does not work in nursing during the three (3) years following the date of entry of this Order, the Applicant may petition the Board for reevaluation of the conditions of this Order.

T. Completion of Conditional License Period After the conditional license period, the Applicant may petition the Board to remove any and all conditions on his license. The Applicant must present proof that he fully complied with the terms of this Order. The Applicant must also present proof of successful substance abuse rehabilitation and he must demonstrate, to the satisfaction of the Nursing Board, that he poses no danger to the public or the practice of nursing and that he can safely and competently perform the duties of a registered nurse.

U. Notwithstanding any provision above, The Applicant must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.

V. This Stipulation and Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a)(7).

W. This Stipulation and Order will remain part of the Applicant's licensing file and may be used in determining sanctions in any future disciplinary matter.

AGREED TO:

BY: BERNARD WALZAK
THE APPLICANT

Date: July 8/99

Bernard Walzak
Bernard Walzak

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

Date:

July 9, 1999

Conrad W. Smith
Conrad W. Smith
Assistant Attorney General

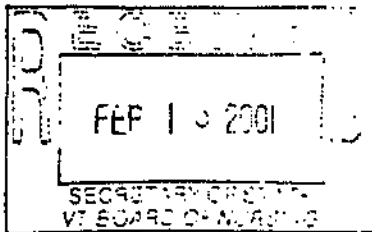
ACCEPTED AND SO ORDERED:

BOARD OF NURSING

Date: 7/12/99

Marie Soucie
Chairperson

Dated entered: 7-19-99



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

IN RE:
Bernard D. Walzak
License No: 026-0024882

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Docket No: APP-NU 50 -0299

MODIFIED STIPULATION AND ORDER

STIPULATION

NOW COME the Respondent, Bernard Walzak, and the State of Vermont, by its Attorney General, William H. Sorrell, and stipulate to the following:

Board Authority

1. The Vermont State Board of Nursing ["the Board"] has authority revoke, suspend or otherwise condition the practice of a licensee for certain conduct. 26 V.S.A. §§1582.
2. The Board has authority to adopt consent orders approving a settlement which has been agreed to and submitted by a respondent and the investigating committee. 3 V.S.A. §129(a)(3).
3. Being addicted to the use of habit-forming drugs is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(5).
4. Use of drugs, narcotics, chemicals or other materials is conduct showing that the Respondent is unable to practice nursing competently is unprofessional conduct upon which the Board can base disciplinary action. Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(3); 26 V.S.A. §1582(a)(3).
5. Violating any term or condition of a license restricted by the Board is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(4).

Facts

6. By way of history, in January, 1999, the Respondent applied for registration and licensure as a Registered Nurse by endorsement based on his previous licensure in Mississippi, License Number R851716.

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7. The Respondent's Mississippi license was restricted and several conditions imposed for a minimum of three (3) years based on a Program Participation Affidavit which he had signed on November 16, 1998.
8. In 1998, the Respondent was addicted to Lorcet (Hydrocodone) and had diverted some of this drug for his personal use from the hospital in which he was working.
9. On November 12, 1998, the Respondent was discharged from a rehabilitation center and returned to work at the hospital at which he had been working.
10. On July 14, 1999 the Vermont Board of Nursing approved a Stipulation and Consent Order granting the Respondent a Conditioned License (In Re: Bernard Walzack, Doc. No. App-NU 50-0299, attached and incorporated by reference)(hereinafter the "1999 order").
11. Respondent is required to submit to random urinalysis test(s) as one of the conditions from the 1999 order.
12. Respondent is required to completely abstain from ingesting drugs and alcohol as one of the conditions from the 1999 order, with exceptions not relevant here.
13. On or about December 11, 2000, Respondent submitted a urinalysis test which subsequent analysis showed contained opiates, specifically codeine.
14. Respondent subsequently admitted that he had taken approximately forty (40) Tylenol number one (1) in violation of the 1999 order.

Understandings

15. The Respondent understands that the Nursing Board 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.
16. The Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
17. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.
18. The Respondent agrees that he has had sufficient opportunity to consult with legal counsel before signing this document.
19. The Respondent is voluntarily waiving his right to a contested hearing before the Board.

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20. The Respondent agrees that the Order set forth immediately below may be entered by the Board.
21. The Respondent understands that this entire document is a public record and that it may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
22. The Respondent understands that this Stipulation and Order will remain part of the Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

ORDER

Findings and Conclusions

Based on the above stipulation it is **ADJUDGED** as follows:

- A. The "Facts" listed above are taken as true.
- B. The Respondent has violated the conditions imposed under the 1999 order;
- C. The Conditions established under the 1999 Order remain necessary.
- D. The Conditions from the date of entry of this Order, are as follows:

Conditions

- E. Based on the above Findings and Conclusions of this Board, it is **ORDERED** that **CONDITIONS** shall be imposed on any license to practice nursing issued to Respondent and the conditions shall remain until the Respondent has completed at least three (3) years, or one hundred and fifty (150) weeks, of supervised nursing practice during which he works as a nurse at least forty (40) hours every two (2) weeks from the date of entry of this order:
- F. License to be labeled "Conditioned" Any license issued to the Respondent by this board shall be labeled "Conditioned".
- G. Completion of Counseling and Treatment Plan. Respondent shall enter into and continue counseling with the treating professional approved by the Board until the Board and treating professional agree that such counseling is no longer necessary. Respondent shall submit to the Board a treatment plan within 14 days of the entry of this order. Respondent shall comply with the treatment plan approved by the Board.
- If the Board (1) does not approve the treating professional presented to the Board for approval or (2) does not approve the treatment plan presented to the Board for review and approval, Respondent must submit another treating

professional and/or treatment plan for the Board's approval prior to the next regularly scheduled monthly meeting of the Board. If Respondent fails to comply with this paragraph or the Board should again reject the proposed treating professional or treatment plan, Respondent shall be deemed to have violated this Consent Order.

H. Substance Abuse Therapy and Notification to Treating Professional.

Respondent shall provide a copy of this Stipulation and Consent Order to his treating professional and cause his 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.

I. Reports from Treating Professional. Respondent shall authorize and cause his 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 professional 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 his 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.

J. Abstinence from Drug Use The Respondent shall abstain completely from the use or possession of any drugs with the only exception being lawfully prescribed drugs for a bona fide illness or condition if prescribed by a physician, dentist, or nurse practitioner whose identity has been made known to the Board in writing by the Respondent.

- (1) Within forty-eight (48) hours of the establishment of a practitioner/patient relationship and, for all such relationships established at the time this Order takes effect, prior to working as a nurse, the Respondent shall provide the Board with the name, business address and telephone number of each physician, dentist or nurse practitioner with whom he has or establishes a practitioner/patient relationship.
- (2) The 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 and, for all valid prescriptions within the Respondent's possession at the time of this Order, prior to working as a nurse.
- (3) The Respondent shall authorize, and shall take all reasonable steps to, ensure that each physician, dentist or nurse practitioner with whom he has, or in the future establishes, a practitioner/patient responds to all

requests of the Board, or its designee, to discuss or document the need for medications prescribed by that practitioner.

- (4) The Respondent shall keep a written record of all medications taken, including over-the-counter drugs, and shall provide the record to the Board within three (3) days of a request from the Board or its designee.

K. Participation in Substance Abuse Support Group The Respondent shall participate in one or more substance abuse support group programs such as Alcoholics Anonymous, Narcotics Anonymous, or other program approved by the Board, at least three times weekly unless less frequent participation is recommended by a treating professional familiar with the Respondent's history and that recommendation is accepted by the Board or its designee.

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

M. Administration of Medications. The Applicant is prohibited from administering any controlled substances.

- (1) This condition may be removed only by the Applicant filing a petition with the Board after he has worked as nurse for twelve (12) weeks or at least 40 hours work every two weeks (or the part time equivalent) after the entry date of this Order.
- (2) In any such petition, the Applicant must demonstrate, to the satisfaction of the Nursing Board, that he can safely and competently administer such medications.
- (3) In any such petition, the applicant must include appropriate support from his treating professional and employer or nursing school administrator and [a description of the documentation and inventory control procedures in place]
- (4) The removal of this prohibition shall not automatically result in the reinstatement of all medication privileges. The Board may gradually restore those privileges through whatever intermediary steps in determines are appropriate.

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

O. Employment and Personal Information Within five (5) days of the date of entry of this Order, and within forty-eight (48) hours of obtaining employment as a nurse or of any change in employers, the Respondent shall notify the Board, in writing, of his current place of nursing employment, personal address, and telephone number.

P. Employers and Nursing Schools Regarding any employer who employs the Respondent as a nurse and any Nursing School that the Respondent is attending or may in the future attend:

- (1) Within ten (10) days of the date of entry of this Order and prior to any future employment or attendance at a Nursing School, the Respondent shall provide the employer or the School's Program Director with a copy of this Order and shall inform them of his conditional license status.
- (2) Within ten (10) days of the date of entry of this Stipulation and Order and prior to any future employment or attendance at a Nursing School, the Respondent shall take all reasonable steps to ensure that his immediate employment supervisor, and, if applicable, the Program Director of a Nursing School, write to the Board, on appropriate letterhead, acknowledging receipt of the Stipulation and Order and indicating a willingness to comply with the conditions in paragraphs (3) and (4) below.
- (3) The Respondent shall authorize, and shall take all reasonable steps to ensure that, the each employer of the Respondent as a nurse and any Nursing School that the Respondent attended to submit to the Board monthly reports, submitted by the end of the subsequent month on forms available from the Board, regarding the Respondent's performance, attendance, and the existence of any indications of drug use during the previous month. In the event that the Respondent is not employed as a nurse or is not attending a nursing school during any month or portion thereof, the Respondent shall submit to the Board, in writing, a self-report describing other employment, activities, and drug use during that period.
- (4) The Respondent authorize, and shall take all reasonable steps to ensure that, each employer and, if applicable, the Program Director at a nursing school, responds to all requests of the Board, or its designee, to discuss and document the Respondent's performance, attendance, the existence of any indications of drug use and, in general, the Respondent's compliance with this Order.

Q. Limitations on Practice

- (1) The Respondent shall practice only in a setting where he has on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing.
 - (2) The Respondent shall not work as a Charge Nurse.
 - (3) The Respondent shall not work for a nurse registry, travelling nurse agency, float-pool, home health care agency, temporary employment agency or as a personal care provider.
 - (4) The Respondent shall not work the night shift.
- R. 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 nursing, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that he has otherwise complied with the requirements for license renewal.
- S. Release of Information Forms In fulfilling the conditions of this Order which require the Respondent to authorize various persons to report information or to discuss the Respondent with the board or its designee, the Respondent must execute a consent to disclose form which meets the requirements of 42 C.F.R. §2.31. The authorization must allow the information to also be provided to the Office of Professional Regulation investigators and to the Attorney General's Office. Any revocation by The Respondent of such a consent to disclosure during the term of this Order shall be considered a violation of this Order.
- T. Costs The Respondent shall bear all costs of complying with this Consent Order.
- U. 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 the unprofessional conduct matter is concluded.
- V. Reevaluation of Conditions In the event that the Respondent does not work in nursing during the three (3) years following the date of entry of this Order, the Respondent may petition the Board for reevaluation of the conditions of this Order.
- W. Completion of Conditional License Period After the conditional license period, the Respondent may petition the Board to remove any and all conditions on his license. The Respondent must present proof that he fully complied with the

terms of this Order. The Respondent must also present proof of successful substance abuse rehabilitation and he must demonstrate, to the satisfaction of the Nursing Board, that he poses no danger to the public or the practice of nursing and that he can safely and competently perform the duties of a registered nurse.

- X. Notwithstanding any provision above, The Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- Y. This Stipulation and Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- Z. This Stipulation and Order will remain part of the Respondent's licensing file and may be used in determining sanctions in any future disciplinary matter.

AGREED TO:

Date: 2/2/01

BY: BERNARD WALZAK
THE RESPONDENT

Bernard Walzak
Bernard Walzak

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

Date: 2/6/01

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

ACCEPTED AND SO ORDERED:

Date: 2/12/01

BOARD OF NURSING

Susan Farrell
Chairperson

Dated entered: 2-14-01

Office of the
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State Street
Montpelier, VT
05609

STATE OF VERMONT
BOARD OF NURSING

In re: Bernard Walzak
License No. 26-24882

}
}
}
Docket No. NU50-0299

SUMMARY SUSPENSION ORDER

On March 11, 2002, this case came before the Board of Nursing for a hearing on the State's request for summary suspension.

Based upon the evidence presented by the parties, the Board finds that the allegations in the request for summary suspension have been established to the necessary degree. Therefore, the Board finds that the public health, safety, or welfare imperatively require emergency action against the Respondent's license.

Pursuant to 3 V.S.A. § 814(c), Respondent Bernard Walzak's nursing license is SUMMARILY SUSPENDED until a hearing on charges has been held and determined, or other resolution of this case.

BOARD OF NURSING

By: Susan Farrell
Chair

Dated: 3/11/02

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 3/12/02

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

IN RE:

**Bernard D. Walzak
License No: 026-0024882**

Docket No: APP-NU 50 -0299

SECOND MODIFIED STIPULATION AND ORDER

STIPULATION

NOW COME the Respondent, Bernard Walzak, and the State of Vermont, by its Attorney General, William H. Sorrell, and stipulate to the following:

Board Authority

1. The Vermont State Board of Nursing ["the Board"] has authority revoke, suspend or otherwise condition the practice of a licensee for certain conduct. 26 V.S.A. §§1582.
2. The Board has authority to adopt consent orders approving a settlement which has been agreed to and submitted by a respondent and the investigating committee. 3 V.S.A. §129(a)(3).

Facts

3. By way of history, in January, 1999, the Respondent applied for registration and licensure as a Registered Nurse by endorsement based on his previous licensure in Mississippi, License Number R851716.
4. By way of history, the Respondent's Mississippi license was restricted and several conditions imposed for a minimum of three (3) years based on a Program Participation Affidavit which he had signed on November 16, 1998.
5. By way of history, in 1998, the Respondent was addicted to Lorcet (Hydrocodone) and had diverted some of this drug for his personal use from the hospital in which he was working.
6. By way of history, on November 12, 1998, the Respondent was discharged from a rehabilitation center and returned to work at the hospital at which he had been working.

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7. By way of history, on July 14, 1999 the Vermont Board of Nursing approved a Stipulation and Consent Order granting the Respondent a Conditioned License (In Re: Bernard Walzack, Doc. No. App-NU 50-0299, attached and incorporated by reference)(hereinafter the "1999 order").
8. By way of history, Respondent was required to submit to random urinalysis test(s) as one of the conditions from the 1999 order.
9. By way of history, Respondent was required to completely abstain from ingesting drugs and alcohol as one of the conditions from the 1999 order, with exceptions not relevant here.
10. By way of history, on or about December 11, 2000, Respondent submitted a urinalysis test which subsequent analysis showed contained opiates, specifically codeine.
11. By way of history, Respondent subsequently admitted that he had taken approximately forty (40) Tylenol number one (1) in violation of the 1999 order.
12. By way of history, on February 14, 2001, the Vermont Board of Nursing approved a Stipulation and Consent Order granting the Respondent a Conditioned License with an addition of required counseling and/or treatment (In Re: Bernard Walzack, Doc. No. App-NU 50-0299, attached and incorporated by reference)(hereinafter the "2001 order").
13. Respondent has complied with all terms and/or conditions of his restricted license since the entry of the 2001 order.

Understandings

14. The Respondent understands that the Nursing Board 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.
15. The Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
16. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.
17. The Respondent agrees that he has had sufficient opportunity to consult with legal counsel before signing this document.
18. The Respondent is voluntarily waiving his right to a contested hearing before the Board.

7. By way of history, on July 14, 1999 the Vermont Board of Nursing approved a Stipulation and Consent Order granting the Respondent a Conditioned License (In Re: Bernard Walzack, Doc. No. App-NU 50-0299, attached and incorporated by reference)(hereinafter the "1999 order").
8. By way of history, Respondent was required to submit to random urinalysis test(s) as one of the conditions from the 1999 order.
9. By way of history, Respondent was required to completely abstain from ingesting drugs and alcohol as one of the conditions from the 1999 order, with exceptions not relevant here.
10. By way of history, on or about December 11, 2000, Respondent submitted a urinalysis test which subsequent analysis showed contained opiates, specifically codeine.
11. By way of history, Respondent subsequently admitted that he had taken approximately forty (40) Tylenol number one (1) in violation of the 1999 order.
12. By way of history, on February 14, 2001, the Vermont Board of Nursing approved a Stipulation and Consent Order granting the Respondent a Conditioned License with an addition of required counseling and/or treatment (In Re: Bernard Walzack, Doc. No. App-NU 50-0299, attached and incorporated by reference)(hereinafter the "2001 order").
13. Respondent has complied with all terms and/or conditions of his restricted license since the entry of the 2001 order.

Understandings

14. The Respondent understands that the Nursing Board 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.
15. The Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
16. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.
17. The Respondent agrees that he has had sufficient opportunity to consult with legal counsel before signing this document.
18. The Respondent is voluntarily waiving his right to a contested hearing before the Board.

19. The Respondent agrees that the Order set forth immediately below may be entered by the Board.
20. The Respondent understands that this entire document is a public record and that it may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
21. The Respondent understands that this Stipulation and Order will remain part of the Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

ORDER

Findings and Conclusions

Based on the above stipulation it is **ADJUDGED** as follows:

- A. The "Facts" listed above are taken as true.
- B. The Respondent has not violated the conditions imposed under the 2001 order;
- C. Many of the Conditions established under the 1999 Order remain necessary.
- D. The Condition concerning the prohibition against administering any controlled substances is hereby modified and the Conditions from the date of entry of this Order, are as follows:

Conditions

- E. Based on the above Findings and Conclusions of this Board, it is **ORDERED** that **CONDITIONS** shall be imposed on any license to practice nursing issued to Respondent and the conditions shall remain until the Respondent has completed at least three (3) years, or one hundred and fifty (150) weeks, of supervised nursing practice during which he works as a nurse at least forty (40) hours every two (2) weeks from the date of entry of this order:
- F. License to be labeled "Conditioned" Any license issued to the Respondent by this board shall be labeled "Conditioned".
- G. Completion of Counseling and Treatment Plan. Respondent shall enter into and continue counseling with the treating professional approved by the Board until the Board and treating professional agree that such counseling is no longer necessary. Respondent shall submit to the Board a treatment plan within 14 days of the entry of this order. Respondent shall comply with the treatment plan approved by the Board.

If the Board (1) does not approve the treating professional presented to the Board for approval or (2) does not approve the treatment plan presented to the Board for review and approval, Respondent must submit another treating professional and/or treatment plan for the Board's approval prior to the next regularly scheduled monthly meeting of the Board. If Respondent fails to comply with this paragraph or the Board should again reject the proposed treating professional or treatment plan, Respondent shall be deemed to have violated this Consent Order.

H. Substance Abuse Therapy and Notification to Treating Professional.

Respondent shall provide a copy of this Stipulation and Consent Order to his treating professional and cause his 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.

I. Reports from Treating Professional. Respondent shall authorize and cause his 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 professional 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 his 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.

J. Abstinence from Drug Use The Respondent shall abstain completely from the use or possession of any drugs with the only exception being lawfully prescribed drugs for a bona fide illness or condition if prescribed by a physician, dentist, or nurse practitioner whose identity has been made known to the Board in writing by the Respondent.

(1) Within forty-eight (48) hours of the establishment of a practitioner/patient relationship and, for all such relationships established at the time this Order takes effect, prior to working as a nurse, the Respondent shall provide the Board with the name, business address and telephone number of each physician, dentist or nurse practitioner with whom he has or establishes a practitioner/patient relationship.

(2) The 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 and, for all valid prescriptions within the Respondent's possession at the time of this Order, prior to working as a nurse.

If the Board (1) does not approve the treating professional presented to the Board for approval or (2) does not approve the treatment plan presented to the Board for review and approval, Respondent must submit another treating professional and/or treatment plan for the Board's approval prior to the next regularly scheduled monthly meeting of the Board. If Respondent fails to comply with this paragraph or the Board should again reject the proposed treating professional or treatment plan, Respondent shall be deemed to have violated this Consent Order.

H. Substance Abuse Therapy and Notification to Treating Professional.

Respondent shall provide a copy of this Stipulation and Consent Order to his treating professional and cause his 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.

I. Reports from Treating Professional. Respondent shall authorize and cause his 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 professional 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 his 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.

J. Abstinence from Drug Use The Respondent shall abstain completely from the use or possession of any drugs with the only exception being lawfully prescribed drugs for a bona fide illness or condition if prescribed by a physician, dentist, or nurse practitioner whose identity has been made known to the Board in writing by the Respondent.

(1) Within forty-eight (48) hours of the establishment of a practitioner/patient relationship and, for all such relationships established at the time this Order takes effect, prior to working as a nurse, the Respondent shall provide the Board with the name, business address and telephone number of each physician, dentist or nurse practitioner with whom he has or establishes a practitioner/patient relationship.

(2) The 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 and, for all valid prescriptions within the Respondent's possession at the time of this Order, prior to working as a nurse.

- (3) The Respondent shall authorize, and shall take all reasonable steps to, ensure that each physician, dentist or nurse practitioner with whom he has, or in the future establishes, a practitioner/patient responds to all requests of the Board, or its designee, to discuss or document the need for medications prescribed by that practitioner.
- (4) The Respondent shall keep a written record of all medications taken, including over-the-counter drugs, and shall provide the record to the Board within three (3) days of a request from the Board or its designee.

K. Participation in Substance Abuse Support Group The Respondent shall participate in one or more substance abuse support group programs such as Alcoholics Anonymous, Narcotics Anonymous, or other program approved by the Board, at least three times weekly unless less frequent participation is recommended by a treating professional familiar with the Respondent's history and that recommendation is accepted by the Board or its designee.

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

M. Administration of Medications. The Respondent is prohibited from administering any controlled substance with the following exceptions:

- (1) Respondent shall only be permitted to access, possess and/or administer controlled substances under direct observational one-on-one supervision of a licensed nurse in good standing while this prohibition is in effect.
- (2) This condition may be removed only by the Respondent filing a petition with the Board after he has worked as nurse for three (3) months at a minimum of 40 hours work every two weeks (or the part time equivalent) after the entry date of this Order.
- (3) Subject to the approval of the Board or its designee, the removal of this prohibition shall result in the reinstatement of all medication privileges if the Board does not receive any complaints concerning Respondent while the prohibition is in effect.

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

O. Employment and Personal Information Within five (5) days of the date of entry of this Order, and within forty-eight (48) hours of obtaining employment as a nurse or of any change in employers, the Respondent shall notify the Board, in writing, of his current place of nursing employment, personal address, and telephone number.

P. Employers and Nursing Schools Regarding any employer who employs the Respondent as a nurse and any Nursing School that the Respondent is attending or may in the future attend:

- (1) Within ten (10) days of the date of entry of this Order and prior to any future employment or attendance at a Nursing School, the Respondent shall provide the employer or the School's Program Director with a copy of this Order and shall inform them of his conditional license status.
- (2) Within ten (10) days of the date of entry of this Stipulation and Order and prior to any future employment or attendance at a Nursing School, the Respondent shall take all reasonable steps to ensure that his immediate employment supervisor, and, if applicable, the Program Director of a Nursing School, write to the Board, on appropriate letterhead, acknowledging receipt of the Stipulation and Order and indicating a willingness to comply with the conditions in paragraphs (3) and (4) below.
- (3) The Respondent shall authorize, and shall take all reasonable steps to ensure that, the each employer of the Respondent as a nurse and any Nursing School that the Respondent attended to submit to the Board monthly reports, submitted by the end of the subsequent month on forms available from the Board, regarding the Respondent's performance, attendance, and the existence of any indications of drug use during the previous month. In the event that the Respondent is not employed as a nurse or is not attending a nursing school during any month or portion thereof, the Respondent shall submit to the Board, in writing, a self-report describing other employment, activities, and drug use during that period.
- (4) The Respondent authorize, and shall take all reasonable steps to ensure that, each employer and, if applicable, the Program Director at a nursing school, responds to all requests of the Board, or its designee, to discuss and document the Respondent's performance, attendance, the existence of any indications of drug use and, in general, the Respondent's compliance with this Order.

Q. Limitations on Practice

- (1) The Respondent shall practice only in a setting where he has on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing.

O. Employment and Personal Information Within five (5) days of the date of entry of this Order, and within forty-eight (48) hours of obtaining employment as a nurse or of any change in employers, the Respondent shall notify the Board, in writing, of his current place of nursing employment, personal address, and telephone number.

P. Employers and Nursing Schools Regarding any employer who employs the Respondent as a nurse and any Nursing School that the Respondent is attending or may in the future attend:

- (1) Within ten (10) days of the date of entry of this Order and prior to any future employment or attendance at a Nursing School, the Respondent shall provide the employer or the School's Program Director with a copy of this Order and shall inform them of his conditional license status.
- (2) Within ten (10) days of the date of entry of this Stipulation and Order and prior to any future employment or attendance at a Nursing School, the Respondent shall take all reasonable steps to ensure that his immediate employment supervisor, and, if applicable, the Program Director of a Nursing School, write to the Board, on appropriate letterhead, acknowledging receipt of the Stipulation and Order and indicating a willingness to comply with the conditions in paragraphs (3) and (4) below.
- (3) The Respondent shall authorize, and shall take all reasonable steps to ensure that, the each employer of the Respondent as a nurse and any Nursing School that the Respondent attended to submit to the Board monthly reports, submitted by the end of the subsequent month on forms available from the Board, regarding the Respondent's performance, attendance, and the existence of any indications of drug use during the previous month. In the event that the Respondent is not employed as a nurse or is not attending a nursing school during any month or portion thereof, the Respondent shall submit to the Board, in writing, a self-report describing other employment, activities, and drug use during that period.
- (4) The Respondent authorize, and shall take all reasonable steps to ensure that, each employer and, if applicable, the Program Director at a nursing school, responds to all requests of the Board, or its designee, to discuss and document the Respondent's performance, attendance, the existence of any indications of drug use and, in general, the Respondent's compliance with this Order.

Q. Limitations on Practice

- (1) The Respondent shall practice only in a setting where he has on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing.

- (2) The Respondent shall not work as a Charge Nurse.
- (3) The Respondent shall not work for a nurse registry, travelling nurse agency, float-pool, home health care agency, temporary employment agency or as a personal care provider.
- (4) The Respondent shall not work the night shift.

- R. 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 nursing, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that he has otherwise complied with the requirements for license renewal.
- S. Release of Information Forms In fulfilling the conditions of this Order which require the Respondent to authorize various persons to report information or to discuss the Respondent with the board or its designee, the Respondent must execute a consent to disclose form which meets the requirements of 42 C.F.R. §2.31. The authorization must allow the information to also be provided to the Office of Professional Regulation investigators and to the Attorney General's Office. Any revocation by The Respondent of such a consent to disclosure during the term of this Order shall be considered a violation of this Order.
- T. Costs The Respondent shall bear all costs of complying with this Consent Order.
- U. 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 the unprofessional conduct matter is concluded.
- V. Reevaluation of Conditions In the event that the Respondent does not work in nursing during the three (3) years following the date of entry of this Order, the Respondent may petition the Board for reevaluation of the conditions of this Order.
- W. Completion of Conditional License Period After the conditional license period, the Respondent may petition the Board to remove any and all conditions on his license. The Respondent must present proof that he fully complied with the terms of this Order. The Respondent must also present proof of successful substance abuse rehabilitation and he must demonstrate, to the satisfaction of the Nursing Board, that he poses no danger to the public or the practice of

nursing and that he can safely and competently perform the duties of a registered nurse.

- X. Notwithstanding any provision above, The Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- Y. This Stipulation and Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- Z. This Stipulation and Order will remain part of the Respondent's licensing file and may be used in determining sanctions in any future disciplinary matter.

AGREED TO:

BY: BERNARD WALZAK
THE RESPONDENT

Date: 9/5/01

Bernard Walzak
Bernard Walzak

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

Date: 9/5/01

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

ACCEPTED AND SO ORDERED:

BOARD OF NURSING

Date: 9-10-01

Susan O. Farrell
Chairperson

Dated entered: 9/14/01

nursing and that he can safely and competently perform the duties of a registered nurse.

- X. Notwithstanding any provision above, The Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- Y. This Stipulation and Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- Z. This Stipulation and Order will remain part of the Respondent's licensing file and may be used in determining sanctions in any future disciplinary matter.

AGREED TO:

BY: BERNARD WALZAK
THE RESPONDENT

Date:

9/5/01

Bernard Walzak
Bernard Walzak

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

Date:

9/5/01

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

ACCEPTED AND SO ORDERED:

BOARD OF NURSING

Date:

9-10-01

Susan D. Farrell
Chairperson

Dated entered:

9/14/01

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

IN RE:
Bernard Walzak,
The Applicant

Docket No: APP NU 50-- 0299

STIPULATION AND ORDER

STIPULATION

NOW COME the Applicant, Bernard Walzak, and the State of Vermont, by its Attorney General, William H. Sorrell, and stipulate to the following:

Board Authority

1. The Vermont State Board of Nursing ["the Board"] has authority to deny an application for registration or licensure or to revoke, suspend or otherwise condition the practice of a registrant or licensee for certain conduct by a person who later becomes an Applicant. 26 V.S.A. §§1582.
2. The Board has the authority to discipline any licensee or refuse to license any person who has had a license revoked, suspended, limited, or conditioned by a licensing agency in another jurisdiction for an offense which would constitute unprofessional conduct in this state. 3 V.S.A. §129(7).
3. The Board has authority to adopt consent orders approving a settlement which has been agreed to and submitted by a respondent and the investigating committee. 3 V.S.A. §129(a)(3).
4. Being addicted to the use of habit-forming drugs is conduct sufficient to support the conditioning of an the Applicant's license. 26 V.S.A. §1582(a)(5).
5. Use of drugs, narcotics, chemicals or other materials is conduct showing that the Applicant or licensee is unable to practice nursing competently and is a basis on which the Board can condition the practice of a registrant or licensee. Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(3); 26 V.S.A. §1582(a)(3).
6. Diverting supplies, equipment, or drugs for personal or other unauthorized use is conduct likely to deceive, defraud or harm the public and is a basis on which the Board can condition the practice of a registrant or licensee. -BNAR Chapter 4, Rule IV (B)(3); 26 V.S.A. §1582(a)(3).

(4)(d)

(7)

Post-It® Fax Note	7671	Date	7/9/94	# of pages	7
To	Monica head holder	From	Cynthia Smith		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #	2344	Fax #			

Facts

7. In January, 1999, the Applicant applied for registration and licensure as a Registered Nurse by endorsement based on his previous licensure in Mississippi, License Number R851716.
8. The Applicant's Mississippi license was restricted and several conditions imposed for a minimum of three (3) years based on a Program Participation Affidavit which he had signed on November 16, 1998.
9. In 1998, the Applicant was addicted to Lorcet (Hydrocodone) and had diverted some of this drug for his personal use from the hospital in which he was working.
10. On November 12, 1998, the Applicant was discharged from a rehabilitation center and returned to work at the hospital at which he had been working.

Understandings

11. The Applicant understands that the Nursing Board 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.
12. The Applicant has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
13. The Applicant is not under the influence of any drugs or alcohol at the time this document is being signed.
14. The Applicant agrees that he has had sufficient opportunity to consult with legal counsel before signing this document.
15. The Applicant is voluntarily waiving his right to a contested hearing before the Board.
16. The Applicant agrees that the Order set forth immediately below may be entered by the Board.
17. The Applicant understands that this entire document is a public record and that it may be reported to other licensing authorities as provided in 3 V.S.A. §129(a)(8).
18. The Applicant understands that this Stipulation and Order will remain part of the the Applicant's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

Facts

7. In January, 1999, the Applicant applied for registration and licensure as a Registered Nurse by endorsement based on his previous licensure in Mississippi, License Number R851716.
8. The Applicant's Mississippi license was restricted and several conditions imposed for a minimum of three (3) years based on a Program Participation Affidavit which he had signed on November 16, 1998.
9. In 1998, the Applicant was addicted to Lorcet (Hydrocodone) and had diverted some of this drug for his personal use from the hospital in which he was working.
10. On November 12, 1998, the Applicant was discharged from a rehabilitation center and returned to work at the hospital at which he had been working.

Understandings

11. The Applicant understands that the Nursing Board 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.
12. The Applicant has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
13. The Applicant is not under the influence of any drugs or alcohol at the time this document is being signed.
14. The Applicant agrees that he has had sufficient opportunity to consult with legal counsel before signing this document.
15. The Applicant is voluntarily waiving his right to a contested hearing before the Board.
16. The Applicant agrees that the Order set forth immediately below may be entered by the Board.
17. The Applicant understands that this entire document is a public record and that it may be reported to other licensing authorities as provided in 3 V.S.A. §129(a)(6).
18. The Applicant understands that this Stipulation and Order will remain part of the the Applicant's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

ORDER

Findings and Conclusions

Based on the above stipulation it is **ADJUDGED** as follows:

- A. The "Facts" listed in paragraphs 7 - 10 are taken as true.
- B. The Applicant's conduct, as set out in the Facts, was the basis on which the Applicant's Mississippi license was restricted and conditioned and such conduct would have constituted unprofessional conduct in Vermont.
- C. The Applicant's use of habit-forming drugs, as set out in the Facts, now requires that the conditions set forth below be imposed on any license issued by this Board.
- D. The Applicant's conduct, as set out in the Facts, was conduct showing that the Applicant was unable to practice nursing competently and now requires that the conditions set forth below be imposed on any license issued by this Board.
- E. The Applicant's conduct, as set out in the facts, was conduct likely to deceive, defraud or harm the public and now requires that the conditions set forth below be imposed on any license issued by this Board.

Conditions

Based on the above Findings and Conclusions of this Board, it is **ORDERED** that the following conditions shall be imposed on any license to practice nursing issued to Applicant under his current application and the conditions shall remain until the Applicant has completed at least three (3) years, or one hundred and fifty (150) weeks, of supervised nursing practice during which he works as a nurse at least forty (40) hours every two (2) weeks.¹

- F. License to be labeled "Conditioned" Any license issued to the Applicant by this board shall be labeled "Conditioned".
- G. Abstinence from Drug Use The Applicant shall abstain completely from the use or possession of any drugs with the only exception being lawfully prescribed drugs for a bona fide illness or condition if prescribed by a physician, dentist, or nurse practitioner whose identity has been made known to the Board in writing by the Applicant.

¹ Part time hours of less than forty (40) hours every two (2) weeks will be credited on a prorated basis. Out-of-state nursing practice that has already occurred in Mississippi between November 15, 1998 and the date of entry of this Order may be counted. Additional out-of-state nursing practice will be only credited toward fulfillment of this time period if the Applicant first obtains approval from the Board and accepts any additional conditions or modifications of the conditions below that the Board determines are appropriate.

- (1) Within forty-eight (48) hours of the establishment of a practitioner/patient relationship and, for all such relationships established at the time this Order takes effect, prior to working as a nurse, the Applicant shall provide the Board with the name, business address and telephone number of each physician, dentist or nurse practitioner with whom he has or establishes a practitioner/patient relationship.
- (2) Within one (1) week of entering into the practitioner/patient relationship and, for relationships established at the time of this Order, prior to working as a nurse, the Applicant shall authorize, and shall take all reasonable steps to ensure that, the physician, dentist or nurse practitioner informs the Board, in writing and on appropriate letterhead, that the physician, dentist or nurse practitioner has received a copy of this Stipulation and Order and that the physician, dentist or nurse practitioner is able and willing to comply with the conditions in paragraphs 1(4) below.
-  (3) The Applicant 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 and, for all valid prescriptions within the applicant's possession at the time of this Order, prior to working as a nurse.
- (4) The Applicant shall authorize, and shall take all reasonable steps to, ensure that each physician, dentist or nurse practitioner with whom he has, or in the future establishes, a practitioner/patient responds to all requests of the Board, or its designee, to discuss or document the need for medications prescribed by that practitioner.
-  (5) The Applicant shall keep a written record of all medications taken, including over-the-counter drugs, and shall provide the record to the Board within three (3) days of a request from the Board or its designee.

H. Participation in Substance Abuse Support Group The Applicant shall participate in one or more substance abuse support group programs such as Alcoholics Anonymous, Narcotics Anonymous, or other program approved by the Board, at least three times weekly unless less frequent participation is recommended by a treating professional familiar with the Applicant's history and that recommendation is accepted by the Board or its designee.

I. Administration of Medications. The Applicant is prohibited from administering any controlled substances.

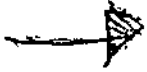
- (1) This condition may be removed only by the Applicant filing a petition with the Board after he has worked as nurse for twelve (12) weeks or at least 40 hours work every two weeks (or the part time equivalent) after the entry date of this Order.
- (2) In any such petition, the Applicant must demonstrate, to the satisfaction of Nursing Board, that he can safely and competently administer such medications.

(1) Within forty-eight (48) hours of the establishment of a practitioner/patient relationship and, for all such relationships established at the time this Order takes effect, prior to working as a nurse, the Applicant shall provide the Board with the name, business address and telephone number of each physician, dentist or nurse practitioner with whom he has or establishes a practitioner/patient relationship.

(2) Within one (1) week of entering into the practitioner/patient relationship and, for relationships established at the time of this Order, prior to working as a nurse, the Applicant shall authorize, and shall take all reasonable steps to ensure that, the physician, dentist or nurse practitioner informs the Board, in writing and on appropriate letterhead, that the physician, dentist or nurse practitioner has received a copy of this Stipulation and Order and that the physician, dentist or nurse practitioner is able and willing to comply with the conditions in paragraphs 1(4) below.

 (3) The Applicant 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 and, for all valid prescriptions within the applicant's possession at the time of this Order, prior to working as a nurse.

(4) The Applicant shall authorize, and shall take all reasonable steps to, ensure that each physician, dentist or nurse practitioner with whom he has, or in the future establishes, a practitioner/patient responds to all requests of the Board, or its designee, to discuss or document the need for medications prescribed by that practitioner.

 (5) The Applicant shall keep a written record of all medications taken, including over-the-counter drugs, and shall provide the record to the Board within three (3) days of a request from the Board or its designee.

H. Participation in Substance Abuse Support Group The Applicant shall participate in one or more substance abuse support group programs such as Alcoholics Anonymous, Narcotics Anonymous, or other program approved by the Board, at least three times weekly unless less frequent participation is recommended by a treating professional familiar with the Applicant's history and that recommendation is accepted by the Board or its designee.

I. Administration of Medications. The Applicant is prohibited from administering any controlled substances.

(1) This condition may be removed only by the Applicant filing a petition with the Board after he has worked as nurse for twelve (12) weeks or at least 40 hours work every two weeks (or the part time equivalent) after the entry date of this Order.

(2) In any such petition, the Applicant must demonstrate, to the satisfaction of Nursing Board, that he can safely and competently administer such medications.

- (3) In any such petition, the applicant must include appropriate support from his treating professional and employer or nursing school administrator and a description of the documentation and inventory control procedures in place.
 - (4) The removal of this prohibition shall not automatically result in the reinstatement of all medication privileges. The Board may gradually restore those privileges through whatever intermediary steps it determines are appropriate.
- J. Random Drug Testing The Applicant shall submit to random drug screening at the request of the Board or its designee. The Applicant shall designate a person, who has been approved by the Board or its designee, to administer random drug screens. All testing shall be done on a unannounced basis and shall be analyzed by a lab qualified to analyze samples for forensic purposes. All urine specimens collected for tests shall be collected in an observed setting.
- K. Interview with the Board or its designee The Applicant shall appear in person for interviews with the Board or its designee upon request of the Board or its designee.
- L. Employment and Personal Information Within five (5) days of the date of entry of this Order, and within forty-eight (48) hours of obtaining employment as a nurse or of any change in employers, the Applicant shall notify the Board, in writing, of his current place of nursing employment, personal address, and telephone number.
- M. Employers and Nursing Schools Regarding any employer who employs the Applicant as a nurse and any Nursing School that the Applicant is attending or may in the future attend:
- (1) Within ten (10) days of the date of entry of this Order and prior to any future employment or attendance at a Nursing School, the Applicant shall provide the employer or the School's Program Director with a copy of this Order and shall inform them of his conditional license status.
 - (2) Within ten (10) days of the date of entry of this Stipulation and Order and prior to any future employment or attendance at a Nursing School, the Applicant shall take all reasonable steps to ensure that his immediate employment supervisor, and, if applicable, the Program Director of a Nursing School, write to the Board, on appropriate letterhead, acknowledging receipt of the Stipulation and Order and indicating a willingness to comply with the conditions in paragraphs M(3) and (4) below.
 - (3) The Applicant shall authorize, and shall take all reasonable steps to ensure that, the each employer of the Applicant as a nurse and any Nursing School that the Applicant attended to submit to the Board monthly reports, submitted by the end of the subsequent month on forms available

from the Board, regarding the Applicant's performance, attendance, and the existence of any indications of drug use during the previous month. In the event that the Applicant is not employed as a nurse or is not attending a nursing school during any month or portion thereof, the Applicant shall submit to the Board, in writing, a self-report describing other employment, activities, and drug use during that period.

- (4) The Applicant authorize, and shall take all reasonable steps to ensure that, each employer and, if applicable, the Program Director at a nursing school, responds to all requests of the Board, or its designee, to discuss and document the Applicant's performance, attendance, the existence of any indications of drug use and, in general, the Applicant's compliance with this Order.

N. Limitations on Practice

- (1) The Applicant shall practice only in a setting where he has on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing.
- (2) The Applicant shall not work as a Charge Nurse.
- (3) The Applicant shall not work for a nurse registry, travelling nurse agency, float-pool, home health care agency, temporary employment agency or as a personal care provider.
- (4) The Applicant shall not work night shifts.

O. License Renewal If the Applicant'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 nursing, the Applicant must timely apply for renewal, pay the applicable fee and demonstrate that he has otherwise complied with the requirements for license renewal.

P. Release of Information Forms In fulfilling the conditions of this Order which require the Applicant to authorize various persons to report information or to discuss the Applicant with the board or its designee, the Applicant must execute a consent to disclose form which meets the requirements of 42 C.F.R. §2.31. The authorization must allow the information to also be provided to the Office of Professional Regulation investigators and to the the Attorney General's Office. Any revocation by The Applicant of such a consent to disclosure during the term of this Order shall be considered a violation of this Order.

Q. Costs The Applicant shall bear all costs of complying with this Consent Order.

R. Violation of this Order If the Applicant violates the terms of this Order in any respect, the Board, after giving the Applicant 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

from the Board, regarding the Applicant's performance, attendance, and the existence of any indications of drug use during the previous month. In the event that the Applicant is not employed as a nurse or is not attending a nursing school during any month or portion thereof, the Applicant shall submit to the Board, in writing, a self-report describing other employment, activities, and drug use during that period.

- (4) The Applicant authorize, and shall take all reasonable steps to ensure that, each employer and, if applicable, the Program Director at a nursing school, responds to all requests of the Board, or its designee, to discuss and document the Applicant's performance, attendance, the existence of any indications of drug use and, in general, the Applicant's compliance with this Order.

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- (1) The Applicant shall practice only in a setting where he has on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing.
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- (3) The Applicant shall not work for a nurse registry, travelling nurse agency, float-pool, home health care agency, temporary employment agency or as a personal care provider.
- (4) The Applicant shall not work night shifts.

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Q. Costs The Applicant shall bear all costs of complying with this Consent Order.

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

- S. Reevaluation of Conditions In the event that the Applicant does not work in nursing during the three (3) years following the date of entry of this Order, the Applicant may petition the Board for reevaluation of the conditions of this Order.
- T. Completion of Conditional License Period After the conditional license period, the Applicant may petition the Board to remove any and all conditions on his license. The Applicant must present proof that he fully complied with the terms of this Order. The Applicant must also present proof of successful substance abuse rehabilitation and he must demonstrate, to the satisfaction of the Nursing Board, that he poses no danger to the public or the practice of nursing and that he can safely and competently perform the duties of a registered nurse.
- U. Notwithstanding any provision above, The Applicant must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- V. This Stipulation and Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a)(7).
- W. This Stipulation and Order will remain part of the Applicant's licensing file and may be used in determining sanctions in any future disciplinary matter.

AGREED TO:

BY: BERNARD WALZAK
THE APPLICANT

Date: July 8/99

Bernard Walzak
Bernard Walzak

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

Date:

July 9, 1999

Conrad W. Smith
Conrad W. Smith
Assistant Attorney General

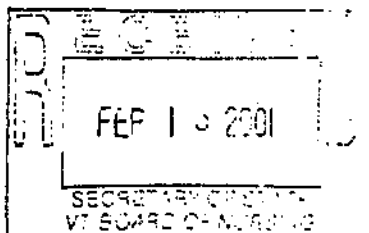
ACCEPTED AND SO ORDERED:

BOARD OF NURSING

Date: 7/12/99

Janie Sorigiewicz
Chairperson

Dated entered: 7-19-99



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

IN RE:

Bernard D. Walzak
License No: 026-0024882

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)
)
Docket No: APP-NU 50 -0299

MODIFIED STIPULATION AND ORDER

STIPULATION

NOW COME the Respondent, Bernard Walzak, and the State of Vermont, by its Attorney General, William H. Sorrell, and stipulate to the following:

Board Authority

1. The Vermont State Board of Nursing ["the Board"] has authority revoke, suspend or otherwise condition the practice of a licensee for certain conduct. 26 V.S.A. §§1582.
2. The Board has authority to adopt consent orders approving a settlement which has been agreed to and submitted by a respondent and the investigating committee. 3 V.S.A. §129(a)(3).
3. Being addicted to the use of habit-forming drugs is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(5).
4. Use of drugs, narcotics, chemicals or other materials is conduct showing that the Respondent is unable to practice nursing competently is unprofessional conduct upon which the Board can base disciplinary action. Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(3); 26 V.S.A. §1582(a)(3).
5. Violating any term or condition of a license restricted by the Board is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(4).

Facts

6. By way of history, in January, 1999, the Respondent applied for registration and licensure as a Registered Nurse by endorsement based on his previous licensure in Mississippi, License Number R851716.

Office of the
ATTORNEY
GENERAL
9 State Street
Montpelier, VT
05609

7. The Respondent's Mississippi license was restricted and several conditions imposed for a minimum of three (3) years based on a Program Participation Affidavit which he had signed on November 16, 1998.
8. In 1998, the Respondent was addicted to Lorcet (Hydrocodone) and had diverted some of this drug for his personal use from the hospital in which he was working.
9. On November 12, 1998, the Respondent was discharged from a rehabilitation center and returned to work at the hospital at which he had been working.
10. On July 14, 1999 the Vermont Board of Nursing approved a Stipulation and Consent Order granting the Respondent a Conditioned License (In Re: Bernard Walzack, Doc. No. App-NU 50-0299, attached and incorporated by reference)(hereinafter the "1999 order").
11. Respondent is required to submit to random urinalysis test(s) as one of the conditions from the 1999 order.
12. Respondent is required to completely abstain from ingesting drugs and alcohol as one of the conditions from the 1999 order, with exceptions not relevant here.
13. On or about December 11, 2000, Respondent submitted a urinalysis test which subsequent analysis showed contained opiates, specifically codeine.
14. Respondent subsequently admitted that he had taken approximately forty (40) Tylenol number one (1) in violation of the 1999 order.

Understandings

15. The Respondent understands that the Nursing Board 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.
16. The Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
17. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.
18. The Respondent agrees that he has had sufficient opportunity to consult with legal counsel before signing this document.
19. The Respondent is voluntarily waiving his right to a contested hearing before the Board.

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11. Respondent is required to submit to random urinalysis test(s) as one of the conditions from the 1999 order.
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13. On or about December 11, 2000, Respondent submitted a urinalysis test which subsequent analysis showed contained opiates, specifically codeine.
14. Respondent subsequently admitted that he had taken approximately forty (40) Tylenol number one (1) in violation of the 1999 order.

Understandings

15. The Respondent understands that the Nursing Board 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.
16. The Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
17. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.
18. The Respondent agrees that he has had sufficient opportunity to consult with legal counsel before signing this document.
19. The Respondent is voluntarily waiving his right to a contested hearing before the Board.

20. The Respondent agrees that the Order set forth immediately below may be entered by the Board.
21. The Respondent understands that this entire document is a public record and that it may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
22. The Respondent understands that this Stipulation and Order will remain part of the Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

ORDER

Findings and Conclusions

Based on the above stipulation it is **ADJUDGED** as follows:

- A. The "Facts" listed above are taken as true.
- B. The Respondent has violated the conditions imposed under the 1999 order;
- C. The Conditions established under the 1999 Order remain necessary.
- D. The Conditions from the date of entry of this Order, are as follows:

Conditions

- E. Based on the above Findings and Conclusions of this Board, it is **ORDERED** that **CONDITIONS** shall be imposed on any license to practice nursing issued to Respondent and the conditions shall remain until the Respondent has completed at least three (3) years, or one hundred and fifty (150) weeks, of supervised nursing practice during which he works as a nurse at least forty (40) hours every two (2) weeks from the date of entry of this order:
- F. License to be labeled "Conditioned" Any license issued to the Respondent by this board shall be labeled "Conditioned".
- G. Completion of Counseling and Treatment Plan. Respondent shall enter into and continue counseling with the treating professional approved by the Board until the Board and treating professional agree that such counseling is no longer necessary. Respondent shall submit to the Board a treatment plan within 14 days of the entry of this order. Respondent shall comply with the treatment plan approved by the Board.
- If the Board (1) does not approve the treating professional presented to the Board for approval or (2) does not approve the treatment plan presented to the Board for review and approval, Respondent must submit another treating

professional and/or treatment plan for the Board's approval prior to the next regularly scheduled monthly meeting of the Board. If Respondent fails to comply with this paragraph or the Board should again reject the proposed treating professional or treatment plan, Respondent shall be deemed to have violated this Consent Order.

H. Substance Abuse Therapy and Notification to Treating Professional.

Respondent shall provide a copy of this Stipulation and Consent Order to his treating professional and cause his 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.

I. Reports from Treating Professional. Respondent shall authorize and cause his 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 professional 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 his 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.

J. Abstention from Drug Use The Respondent shall abstain completely from the use or possession of any drugs with the only exception being lawfully prescribed drugs for a bona fide illness or condition if prescribed by a physician, dentist, or nurse practitioner whose identity has been made known to the Board in writing by the Respondent.

(1) Within forty-eight (48) hours of the establishment of a practitioner/patient relationship and, for all such relationships established at the time this Order takes effect, prior to working as a nurse, the Respondent shall provide the Board with the name, business address and telephone number of each physician, dentist or nurse practitioner with whom he has or establishes a practitioner/patient relationship.

(2) The 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 and, for all valid prescriptions within the Respondent's possession at the time of this Order, prior to working as a nurse.

(3) The Respondent shall authorize, and shall take all reasonable steps to, ensure that each physician, dentist or nurse practitioner with whom he has, or in the future establishes, a practitioner/patient responds to all

professional and/or treatment plan for the Board's approval prior to the next regularly scheduled monthly meeting of the Board. If Respondent fails to comply with this paragraph or the Board should again reject the proposed treating professional or treatment plan, Respondent shall be deemed to have violated this Consent Order.

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(2) The 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 and, for all valid prescriptions within the Respondent's possession at the time of this Order, prior to working as a nurse.

(3) The Respondent shall authorize, and shall take all reasonable steps to, ensure that each physician, dentist or nurse practitioner with whom he has, or in the future establishes, a practitioner/patient responds to all

requests of the Board, or its designee, to discuss or document the need for medications prescribed by that practitioner.

- (4) The Respondent shall keep a written record of all medications taken, including over-the-counter drugs, and shall provide the record to the Board within three (3) days of a request from the Board or its designee.

K. Participation in Substance Abuse Support Group The Respondent shall participate in one or more substance abuse support group programs such as Alcoholics Anonymous, Narcotics Anonymous, or other program approved by the Board, at least three times weekly unless less frequent participation is recommended by a treating professional familiar with the Respondent's history and that recommendation is accepted by the Board or its designee.

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

M. Administration of Medications. The Applicant is prohibited from administering any controlled substances.

- (1) This condition may be removed only by the Applicant filing a petition with the Board after he has worked as nurse for twelve (12) weeks or at least 40 hours work every two weeks (or the part time equivalent) after the entry date of this Order.
- (2) In any such petition, the Applicant must demonstrate, to the satisfaction of the Nursing Board, that he can safely and competently administer such medications.
- (3) In any such petition, the applicant must include appropriate support from his treating professional and employer or nursing school administrator and [a description of the documentation and inventory control procedures in place]
- (4) The removal of this prohibition shall not automatically result in the reinstatement of all medication privileges. The Board may gradually restore those privileges through whatever intermediary steps in determines are appropriate.

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

O. Employment and Personal Information Within five (5) days of the date of entry of this Order, and within forty-eight (48) hours of obtaining employment as a nurse or of any change in employers, the Respondent shall notify the Board, in writing, of his current place of nursing employment, personal address, and telephone number.

P. Employers and Nursing Schools Regarding any employer who employs the Respondent as a nurse and any Nursing School that the Respondent is attending or may in the future attend:

- (1) Within ten (10) days of the date of entry of this Order and prior to any future employment or attendance at a Nursing School, the Respondent shall provide the employer or the School's Program Director with a copy of this Order and shall inform them of his conditional license status.
- (2) Within ten (10) days of the date of entry of this Stipulation and Order and prior to any future employment or attendance at a Nursing School, the Respondent shall take all reasonable steps to ensure that his immediate employment supervisor, and, if applicable, the Program Director of a Nursing School, write to the Board, on appropriate letterhead, acknowledging receipt of the Stipulation and Order and indicating a willingness to comply with the conditions in paragraphs (3) and (4) below.
- (3) The Respondent shall authorize, and shall take all reasonable steps to ensure that, the each employer of the Respondent as a nurse and any Nursing School that the Respondent attended to submit to the Board monthly reports, submitted by the end of the subsequent month on forms available from the Board, regarding the Respondent's performance, attendance, and the existence of any indications of drug use during the previous month. In the event that the Respondent is not employed as a nurse or is not attending a nursing school during any month or portion thereof, the Respondent shall submit to the Board, in writing, a self-report describing other employment, activities, and drug use during that period.
- (4) The Respondent authorize, and shall take all reasonable steps to ensure that, each employer and, if applicable, the Program Director at a nursing school, responds to all requests of the Board, or its designee, to discuss and document the Respondent's performance, attendance, the existence of any indications of drug use and, in general, the Respondent's compliance with this Order.

Q. Limitations on Practice

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

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Q. Limitations on Practice

- (1) The Respondent shall practice only in a setting where he has on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing.
- (2) The Respondent shall not work as a Charge Nurse.
- (3) The Respondent shall not work for a nurse registry, travelling nurse agency, float-pool, home health care agency, temporary employment agency or as a personal care provider.
- (4) The Respondent shall not work the night shift.

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

S. Release of Information Forms In fulfilling the conditions of this Order which require the Respondent to authorize various persons to report information or to discuss the Respondent with the board or its designee, the Respondent must execute a consent to disclose form which meets the requirements of 42 C.F.R. §2.31. The authorization must allow the information to also be provided to the Office of Professional Regulation investigators and to the Attorney General's Office. Any revocation by The Respondent of such a consent to disclosure during the term of this Order shall be considered a violation of this Order.

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

U. 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 the unprofessional conduct matter is concluded.

V. Reevaluation of Conditions In the event that the Respondent does not work in nursing during the three (3) years following the date of entry of this Order, the Respondent may petition the Board for reevaluation of the conditions of this Order.

W. Completion of Conditional License Period After the conditional license period, the Respondent may petition the Board to remove any and all conditions on his license. The Respondent must present proof that he fully complied with the

terms of this Order. The Respondent must also present proof of successful substance abuse rehabilitation and he must demonstrate, to the satisfaction of the Nursing Board, that he poses no danger to the public or the practice of nursing and that he can safely and competently perform the duties of a registered nurse.

- X. Notwithstanding any provision above, The Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- Y. This Stipulation and Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- Z. This Stipulation and Order will remain part of the Respondent's licensing file and may be used in determining sanctions in any future disciplinary matter.

AGREED TO:

Date: 2/2/01

BY: BERNARD WALZAK
THE RESPONDENT

Bernard Walzak
Bernard Walzak

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

Date: 2/6/01

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

ACCEPTED AND SO ORDERED:

Date: 2/12/01

BOARD OF NURSING

Susan Farrell
Chairperson

Dated entered: 2.14-01

Office of the
ATTORNEY
GENERAL
State Street
Montpelier, VT
05609

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AGREED TO:

Date: 2/2/01

BY: BERNARD WALZAK
THE RESPONDENT

Bernard Walzak
Bernard Walzak

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

Date: 2/6/01

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

ACCEPTED AND SO ORDERED:

Date: 2/12/01

BOARD OF NURSING

Sharon Farrell
Chairperson

Dated entered: 2-14-01

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