

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

In re Glenn Welker }
License No. 026-0023112 }
Docket No. NU15-0801 }

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

On Monday 9 June 2008, the Vermont Board of Nursing (Board) heard this contested case of alleged unprofessional conduct. The State of Vermont brought charges dated 28 June 2007 ("Charges") against Respondent Genn E. Welker.

Board members Jeanine Carr, Ellen W. Leff, Donarae Metcalf, Sandra J. Norton, Linda M. Y. Rice (Chairperson), Deborah Robinson, Alan H. Weiss and William White were present and participated in the hearing. Board member Ken Bush recused himself from the proceedings.

The Respondent, who was served with notice of the hearing did not appear. Edward G. Adrian represented the State of Vermont. Board counsel Kevin F. Leahy presided.

Summary:

This matter is the result of allegations of continued, and a history of, substance abuse. After a full review of the record, the Board voted to suspend indefinitely the Respondent's nursing license.

Findings of Fact &
Conclusions of Law:

1. The Board licenses the Respondent and may exercise its disciplinary authority if the Board finds that the State has proven allegations of licensee unprofessional conduct. 26 V.S.A. Chapter 28; 3 V.S.A. § 129(a); the Admin. Rules for the Bd. of Nursing and the Admin. Rules for the Office of Prof. Reg.
2. Respondent holds a Board issued State of Vermont registered nursing license. The license was previously suspended and conditioned for unprofessional conduct related to the use of substances.
3. The Respondent admits the operative factual allegations set forth in the Charges filed by the State of Vermont.
4. The primary factual allegation contained in the State's Charges are that:

- (a) at the time the Charges were filed, the Respondent was incarcerated related to the use of a substance (alcohol) which violates his parole agreement.
- (b) as a result of a relapse, the Respondent was referred to an intensive program for substance abuse due to a relapse.
- (c) the Respondent admitted that his relapse was alcohol related.

See Charges at ¶ 4-6.

5. In a disciplinary hearing, the state has the burden of proof. To satisfy its evidentiary burden, it must "show by a preponderance of the evidence that [a licensee] has engaged in unprofessional conduct." 3 V.S.A. § 129a (c).

6. The Respondent has admitted the material allegations of substance abuse and relapse related to his misuse of alcohol.

7. Based on the Respondent's admissions, the State meets its burden of proof.

8. The State's Specification of Charges contains three (3) individual charges based on its allegations against the Respondent. The three individual statutory unprofessional conduct charges are:¹

(i) 26 V.S.A. § 1582(a)(5) (habitual intemperance)

(ii) 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause);

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

Charges at ¶ 7 (i) - (iii).

9. The facts of this case demonstrate a lack of temperance by the Respondent.

10. In light of the fact that he was on parole when he relapsed and consumed alcohol and is currently on conditions related to a substance abuse history, the Board has no difficulty finding that this is unprofessional conduct and that Respondent poses a risk to the public.

¹ The Specification of Charges does not allege that the Respondent violated a board order. See 3 V.S.A. § 129a (a)(4) (violation of a Board of Nursing order is unprofessional conduct). The Respondent's conditional license status includes a provision that he abstain completely from the consumption or possession of "drugs" with the exception of those legally prescribed. The conditions, although they may imply a prohibition against the consumption of alcohol, do not appear to contain an express prohibition.

11. The Board therefore finds that the State met its burden of proof relative to the charge that Respondent's conduct violated 26 V.S.A. § 1582(a)(5). The Respondents' violation constitutes unprofessional conduct.
12. The Board received no evidence related to the Respondent's "competence" as a nurse. The State has therefore not met its burden relative to 26 V.S.A. § 1582(a)(3) and the Board's order will dismiss this charge.
13. Relative to 3 V.S.A. § 129a (3), the Charges did not identify a law "governing the practice of the [nursing] profession" that the Respondent allegedly violated or which could serve as a basis for a 3 V.S.A. § 129a (3) prosecution. This charge was not an issue at the hearing and the Board will, likewise, dismiss this particular charge as well.
14. Based on the Board's findings of intemperance and the violation of § 1582(a)(5), the Board's order shall suspend the Respondent's license to practice nursing in order to protect the public health, safety and welfare.
15. The Board also finds that public safety necessarily requires an affirmative showing, by the Respondent, that he is once again safe to practice prior to considering a petition for reinstatement.

ORDER

Based on the findings of fact set forth above, the Board of Nursing therefore **SUSPENDS INDEFINITELY** the Respondent's license to practice for engaging in unprofessional conduct in violation of 26 V.S.A. § 1582(a)(5); and

The Board further **ORDERS** that the Respondent may **NOT SEEK REINSTATEMENT** for a minimum of six (6) months from the entry of this order; and

The Board further **ORDERS** that Respondent shall make an affirmative showing that he is safe to practice prior to this Board considering a petition for reinstatement; and

The Board **DISMISSES** the charges of violating 3 V.S.A. § 129a (3) and 26 V.S.A. § 1582(a)(3).

- END -

(signature page to follow)

Vermont Board of Nursing:

By: Linda Rice APRN
Linda M. Y. Rice, APRN
Board Chairperson

Date: 10-32-06

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 10/31/04

APPEAL RIGHTS

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

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

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

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

Bare

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

IN RE:)
GLENN E. WELKER) Docket No: NU 15-0801
License No. 026-0023112)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Angela B. Stanski, and the Respondent, Glenn E. Welker, R.N., who stipulate and agree as follows:

Board Authority

1. The Vermont State Board of Nursing ("the Board") has authority to issue warnings or reprimands, suspend, revoke, limit, condition current licenses, or prevent the renewal of lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. §129(a)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a); the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.

Facts

2. The Respondent, Glenn E. Welker, is licensed in the State of Vermont as a registered nurse under license number 026-0023112. The Respondent's license was originally issued on September 6, 1996.

3. The Respondent's license was summarily suspended on August 14, 2001 pursuant to a Stipulation for Summary Suspension entered by the Board of Nursing. This discipline was imposed due to the Respondent on forty-three occasions, without authorization, having diverted regulated medications by using false signatures on prescription slips to obtain and ingest prescription drugs, including ultram (also known as tramadol).

4. The Respondent's license was revoked on October 17, 2002 based upon the above facts pursuant to a Stipulation and Consent Order entered by the Board.

5. The Respondent, by letter dated November 18, 2003, requested to the Board that his nursing license be reviewed for reinstatement.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

6. The Respondent's Probation and Parole Officer, J. Paul Coates, M.A., L.A.D.C., submitted a letter dated October 27, 2003, supporting reinstatement of the Respondent's nursing license.

7. The Respondent's drug treatment counselor, Thomas E. Dunn, L.A.D.C., submitted a letter dated November 12, 2003. Mr. Dunn has counseled the Respondent from July 2002 through October 2002 and from June 2003 to the present time. He states in the letter that the Respondent's "progress in recovery has been remarkable" and he supports reinstatement of the Respondent's nursing license.

8. The Respondent agrees that the conditions below are necessary for his to return to the practice.

Charges

9. The above acts, omissions and/or circumstances described above, constitute grounds for discipline because Respondent violated:

- i. 26 V.S.A. §1582(a)(3) (Inability to practice nursing competently by reason of any cause). Any cause includes, but is not limited to, use of drugs, narcotics, chemicals or any other type of materials pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(C); and
- ii. 3 V.S.A. §129a(a)(3) (Failure to comply with the provisions of state statutes or rules governing the practice of the profession).

Understandings

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

11. Respondent understands that the Nursing Board must review and accept the terms of the Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.

12. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.

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

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

15. Respondent voluntarily enters into this agreement after the opportunity to consult

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with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.

16. Respondent voluntarily waives his right to charges and a contested hearing before the Board of Nursing.

17. Respondent agrees that the order set forth below may be entered by the Board.

ORDER

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

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

(1) Re-issue of License.

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

(2) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent completes three (3) years of supervised nursing practice in which he works forty (40) hours every two (2) weeks as a nurse. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis. Respondent shall be prohibited from working more than forty (40) hours per week. Respondent's license is additionally conditioned as follows.

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

Respondent shall enter into and continue drug abuse counseling with a treating professional approved by the Board until the treating professional shall certify in writing to the Nursing Board that such counseling is no longer necessary. Respondent shall enter into and comply with the drug abuse treatment plan approved by the Board and the treating professional.

(4) Notification to Treating Professional.

Respondent shall provide a copy of this Stipulation and Consent Order to 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.

(5) 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

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period of this Consent Order. These reports shall be submitted in writing on forms issued by the Board. The first report is due commencing the month after the date of the commencement of the conditions and subsequent reports are due every month thereafter.

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

(6) Notification to Employers/Nursing School.

Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting during the conditioned period in which Respondent practices as a nurse and inform them of Respondent's conditional license status.

Within ten (10) days of the date of entry of this Consent Order or of any subsequent nursing employment, Respondent shall cause Respondent's immediate supervisor to write to the Board, on the employer's letterhead, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

In the event Respondent is attending a nursing program which has a clinical portion which involves actual patient care, he shall provide a copy of the Stipulation and Consent Order to the Program Director. Respondent shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Stipulation and Consent Order and ability of the program to comply with its conditions during clinical experience.

(7) Reports from Employers.

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

In the event the Respondent is attending a nursing program, Respondent shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Consent Order and ability of the program to comply with the conditions in the Consent Order during clinical experience.

(8) Administration of Medications.

Respondent's license is conditioned to prohibit him from administering any medications for a minimum period of three (3) months. This condition may be removed only by Respondent petitioning the Board for its removal no sooner than three (3) months during which time he works at least 40 hours every two weeks in nursing from the date of the imposition of these conditions or the date he returns to work as a nurse, whichever is later. In petitioning the Board, Respondent agrees that he must demonstrate, to the satisfaction of the Nursing Board, that he can safely and

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competently administer medications. Such proof shall include appropriate support from his treating professional and employer or nursing school administrator.

The removal of the prohibition against administering medications shall not result in automatic reinstatement of all medication privileges. Rather, the Board may gradually restore those privileges through the following intermediary steps: (1) permission to administer non-narcotic medications under supervision; and (2) full permission to administer non-narcotic medications. The Respondent shall not administer any narcotic medications during the conditioned period.

(9) Practice Under Supervision.

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

(10) Participation in Recovery Group.

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

(11) Random Drug and Alcohol Testing.

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

(12) Abstain from Drug Use.

Respondent shall abstain completely from the consumption or possession of drugs with the exception of prescribed medications as outlined in paragraph A.(13) for the period of time described in paragraph A.(2).

(13) Drug Use Exception.

Respondent shall not take controlled substances unless necessary. Respondent may take scheduled/controlled medications lawfully prescribed for a bona fide illness or condition by a physician, dentist, or nurse practitioner whose identity shall be made known to the Board in writing by Respondent within forty-eight (48) hours of the establishment of the practitioner/patient relationship. Respondent shall ensure that the physician, dentist or nurse practitioner informs the Board, in writing and on appropriate letterhead, of knowledge of Respondent's substance abuse issue(s) within one (1) week of entering into the practitioner/patient relationship. Respondent shall inform the Board in writing of all scheduled/controlled medications prescribed, including the name of the prescribing practitioner, within forty-eight (48) hours of receiving the prescription.

The Board or its designee may request at any time that the practitioner document the continued necessity for the prescribed scheduled/controlled medications if the term exceeds 14 days. This includes medications to be administered as necessary. It

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is not anticipated that Respondent would be prescribed scheduled/controlled medication, during the term of this Consent Order, for a period greater than 14 days, but if so, then the conditions herein may be revoked by the Board.

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

(14) Interview with the Board or its Designee.

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

(15) Types of Employment Prohibited.

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

(16) Out of State Practice/Residence.

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

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

Within five (5) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of his current place of employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in employment, personal address, or telephone number.

(18) 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.

(19) 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, 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. Any

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revocation by the Respondent of such consent to disclosure during the term of this Order shall be considered a violation of this Order.

(20) Costs.

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

(21) Violation of this Order.

If the Respondent violates the terms of this Order in any respect, the Board, after giving the Respondent notice and an opportunity to be heard, may rescind or modify this Order and impose additional appropriate disciplinary actions. If a complaint of unprofessional conduct is made against the Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

(22) 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 has fully complied with the terms of this Order. The Respondent must also present proof of successful drug 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.

B. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.

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

D. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Dated: 6/8/04

By: Angela B. Stanski
Angela B. Stanski
State Prosecuting Attorney

GLENN E. WELKER
RESPONDENT

Dated: 6-6-04

By: Glenn E. Welker
Glenn E. Welker

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: June 14, 2004

By: Susan Farrell
Chairperson

Date of Entry: 6/16/04

nu.welker.stip

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

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STATE OF VERMONT
BOARD OF NURSING

IN RE:)
Glenn E. Welker) Docket No. NU15-0801
License No: 26-23112)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, through its Attorney General William H. Sorrell, and Respondent Glenn E. Welker, and stipulate and agree as follows:

1. The Vermont Board of Nursing has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses and nursing assistants pursuant to 3 V.S.A. §§129, 129a and 814; 26 V.S.A. §§1574, 1582, 1595 and 1598; the Board of Nursing's Rules and the Office of Professional Regulation's Rules.
2. Respondent Glenn E. Welker, of Randolph, Vermont, is a registered nurse holding license number 26-23112, issued by the State of Vermont. This license was originally issued on about September 6, 1996, and it was summarily and indefinitely suspended pursuant to a stipulation and consent order entered on about August 14, 2001 (attached and incorporated).
3. Respondent admits that on about 43 occasions, during about March 9, 2000 to about July 26, 2001, without authorization, he diverted regulated medications by using false signatures on prescription slips to obtain and ingest prescription drugs, including ultram (also known as tramadol). Further, he was employed by Central Vermont Hospital at all times relevant to this paragraph.

4. Respondent admits that on about May 20, 2002, he was convicted of violating 13 V.S.A. 2002 (False Pretenses, a felony) in Vermont District Court (Docket No. 1220-9-01 Wncr).
5. Respondent admits that on about May 20, 2002, he was convicted of violating 18 V.S.A. 4223(e) (Prescription Fraud, a felony), in Vermont District Court (Docket No. 1220-9-01 Wncr).
6. Respondent admits that he is habitually intemperate and is addicted to the use of habit forming substances.
7. Respondent admits the conclusions of unprofessional conduct as set forth below in the Board's Order.
8. Respondent understands that the Nursing Board must review and accept the terms of the Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.
9. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
10. Respondent waives any notification period and agrees to have this document reviewed by the Board during the next available meeting. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
11. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.

12. Respondent voluntarily enters this agreement after the opportunity to consult w.
legal counsel and is not being coerced by anyone into signing this Stipulation and
Consent Order.
13. Respondent voluntarily waives his right to charges and a contested hearing
before the Board of Nursing.
14. Respondent agrees that the Board may set forth the order below.

ORDER

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

A. By engaging in the conduct described in the paragraphs above,

Respondent acted unprofessionally pursuant to, and in violation of:

Nursing Board Rules: Chapter 4, Rule IV, B.4.d (diverting supplies, equipment, or drugs for personal use or other unauthorized use) and Chapter 4, Rule IV, B.4.c (falsifying or altering clinical records or making inaccurate or misleading entries), which constitutes unprofessional conduct within the meaning of, and also further violates: 26 V.S.A. §1582(a)(7) (engages in conduct of a character likely to deceive, defraud or harm the public) and 3 VSA § 129a(a)(3) (failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession).

3 V.S.A. §129a(a)(9) (Conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession) and 26 V.S.A. §1582(a)(2) (Whether or not committed in this state, has been convicted of a crime related to the practice of nursing or a felony which evinces an unfitness to practice nursing).

26 V.S.A. §1582(a)(5) (Is habitually intemperate or is addicted to the use of habit-forming drugs).

B. The Nursing Board **REVOKES** Respondent's license.

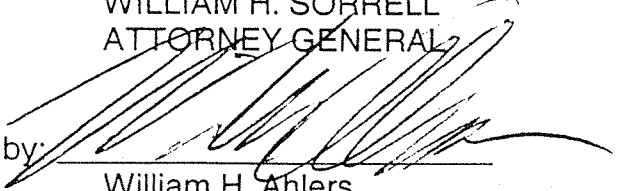
C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a)(7).

D. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

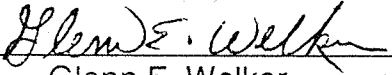
Dated: 9/26/02

by: 

William H. Ahlers
Assistant Attorney General

RESPONDENT
GLENN E. WELKER

Dated: 9-16-02

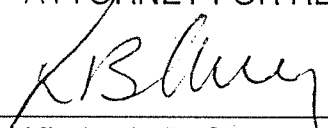
by: 

Glenn E. Welker

KIMBERLY B. CHENEY, ESQ.
CHENEY, BROCK & SAUDEK
ATTORNEY FOR RESPONDENT

Approved As to Form:

Dated: 9/26/02

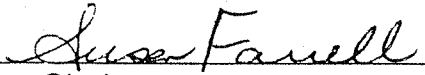
by: 

Kimberly B. Cheney, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 10.14.02

by: 

Chairperson

Date of entry: 10/17/02

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

IN RE:

GLENN E. WELKER, RN
License No. 026-0023112

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)
)
Docket No: NU 15-0801

REQUEST FOR SUMMARY SUSPENSION

NOW COMES the State of Vermont and requests the summary suspension of the nursing license of the Respondent, Glenn E. Welker, on the basis of the following:

Board Authority

1. The Vermont State Board of Nursing ["the Board"] has authority to summarily suspend licenses in cases requiring emergency action. 3 V.S.A. §129(a)(5).
2. The Board may order summary suspension, pending proceedings for revocation or other action, if the Board finds that public health, safety, or welfare imperatively requires emergency action, and if the Board incorporates a finding to that effect in its order. 3 V.S.A. §814(c).
3. 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 impose disciplinary action, including a summary suspension. Board of Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(4)(d); 26 V.S.A. §1582(a)(7).

Facts

4. The Respondent (whose address is listed in the database of the Office of Professional Regulation as Lincoln Ave., Randolph, VT 05060) is licensed as a Registered Nurse under License Number 026 – 0023112.
5. Respondent's license was originally issued on September 6, 1996 and it currently expires on March 31, 2003.
6. The Respondent worked at Central Vermont Hospital at all times relevant.
7. From March 9, 2000 through July 26, 2001, a preponderance of the evidence shows Respondent presented forty- three (43) forged prescriptions for controlled substances, specifically Ultram (also known as tramadol) an analgesic drug.

Claims

8. The Respondent has recently diverted drugs for unauthorized use and that is conduct that is likely to deceive, defraud or harm the public and is also conduct sufficient to support disciplinary action, including a summary suspension. BNAR Chapter 4, Rule IV (B)(4)(d); 26 V.S.A. §1582(a)(7); 3 V.S.A. §129a(a)(3); 3 V.S.A. §814(c).

Relief Requested

Wherefore, the State of Vermont requests that:

A. Findings be made :

- 1) That the Respondent has recently diverted drugs for unauthorized use; and
- 2) That the public health, safety, or welfare imperatively requires emergency action.

- B. The Respondent's license, number 026-0023112, should be **SUMMARILY SUSPENDED** until unprofessional conduct charges are filed and there is a final determination on any needed disciplinary action.

Dated at Montpelier, Vermont this 10th day of August 2001.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 

George C. Haegele IV
Assistant Attorney General

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:	)	
GLENN E. WELKER, RN	)	Docket No: NU 15-0801
License No. 026-0023112	)	
	)	

STIPULATION FOR SUMMARY SUSPENSION

The Respondent, Glenn E. Welker, RN, and the State of Vermont, by its Attorney General, William H. Sorrell, stipulate to the statements of Board Authority, Facts and Understandings set forth below and agree to the entry of the following Consent Order by the Vermont State Board of Nursing as a final order solely for the purposes of the summary suspension in this matter.

Board Authority

1. The Vermont State Board of Nursing ["the Board"] has authority to summarily suspend licenses in cases requiring emergency action. 3 V.S.A. §129(a)(5).
2. The Board may order summary suspension, pending proceedings for revocation or other action, if the Board finds that public health, safety, or welfare imperatively requires emergency action, and if the Board incorporates a finding to that effect in its order. 3 V.S.A. §814(c).
3. 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 impose disciplinary action, including a summary suspension. Board of

Nursing Administrative Rules ["BNAR"] Chapter 4, Rule IV (B)(4)(d); 26 V.S.A. §1582(a)(7).

Facts

4. The Respondent (whose address is listed in the database of the Office of Professional Regulation as Lincoln Ave., Randolph, VT 05060) is licensed as a Registered Nurse under License Number 026 – 0023112.
5. Respondent's license was originally issued on September 6, 1996 and it currently expires on March 31, 2003.
6. The Respondent worked at Central Vermont Hospital at all times relevant.
7. From March 9, 2000 through July 26, 2001, a preponderance of the evidence shows Respondent presented forty-three (43) forged prescriptions for controlled substances, specifically Ultram (also known as tramadol) an analgesic drug.

Claims

8. The Respondent has recently diverted drugs for unauthorized use and that is conduct that is likely to deceive, defraud or harm the public and is also conduct sufficient to support disciplinary action, including a summary suspension. BNAR Chapter 4, Rule IV (B)(4)(d); 26 V.S.A. §1582(a)(7); 3 V.S.A. §129a(a)(3); 3 V.S.A. §814(c).

Relief Requested

Wherefore, the State of Vermont requests that:

A. Findings be made :

- 1) That the Respondent has recently diverted drugs for unauthorized use; and

- 2) That the public health, safety, or welfare imperatively requires emergency action.
- B. The Respondent's license, number 026-0023112, should be **SUMMARILY SUSPENDED** until unprofessional conduct charges are filed and there is a final determination on any needed disciplinary action.

Understanding

- C. Respondent neither admits nor denies the facts above but agrees that the Board may accept as true the above facts and the conclusions of unprofessional conduct as set forth below in the Board's Order to resolve the pending summary suspension.
- D. Respondent understands that the Nursing Board must review and accept the terms of the Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.
- E. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
- F. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- G. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
- H. Respondent voluntarily enters into this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.

- I. Respondent voluntarily waives his right to summary suspension charges and a contested hearing before the Board of Nursing. However, Respondent does not waive the formal hearing subsequent to this summary suspension action.
- J. Respondent agrees that the order set forth below may be entered by the Board.

ORDER

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

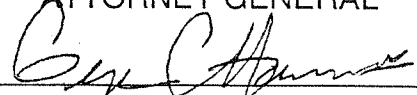
- K. By engaging in the conduct described above, the Board concludes that the Respondent committed unprofessional conduct in that Respondent violated:
 - a) BNAR Chapter 4, Rule IV (B)(4)(d); 26 V.S.A. §1582(a)(7) (diverted drugs for unauthorized use and that is conduct that is likely to deceive, defraud or harm the public); and
 - b) That the public health, safety, or welfare imperatively requires emergency action.
- L. The Nursing Board Commencing on the date this order is entered **SUMMARILY AND INDEFINITELY SUSPENDS** Respondent for his unprofessional conduct pending a formal resolution of the above matter(s).
- M. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- N. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

STATE OF VERMONT

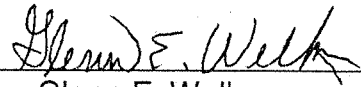
WILLIAM H. SORRELL
ATTORNEY GENERAL

Dated: 8/10/01

By: 
George C. Haegel IV
Assistant Attorney General

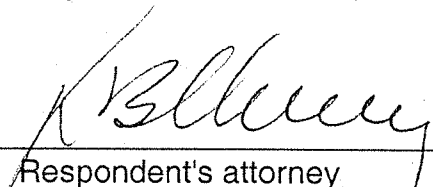
GLENN E. WELKER
RESPONDENT

Dated: 8/10/01

By: 
Glenn E. Welker

approved as to form:

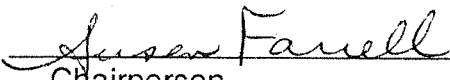
8/10/01

By: 
Respondent's attorney

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 8/13/01

By: 
Chairperson

Date of Entry: 8-14-01

Redstone Building
26 Terrace Street
Drawer 09
Montpelier, VT 05609-1101

Tel: (802) 828-2363
<http://www.sec.state.vt.us>



State of Vermont
Office of the Secretary of State
Office of Professional Regulation
802-828-2367

Deborah L. Markowitz
Secretary of State

William A. Dalton
Deputy Secretary

Jessica G. Porter
Director, Professional Regulation

CASE: Glen Welker

Docket No. NU15-0801

} NOTICE
}
} OF
} STIPULATION

The Attorney General's Office has presented the enclosed Request for Summary Suspension with a Stipulation and Consent Order to the Office of Professional Regulation. If you wish to attend, the *Board of Nursing* will be reviewing and discussing the Orders at the meeting scheduled for:

Date: August 13, 2001
Time: 10:15 a.m.
Location: Secretary of State's Office
Heritage Building
81 River Street
Montpelier, Vermont

The purpose of this review and discussion is for the Board to consider approval, not to take evidence. The Board may, however, ask questions of you or the Assistant Attorney General. You would be free to choose whether or not to answer.

DATED: August 10, 2001

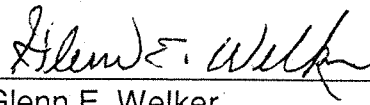
A handwritten signature in cursive script that reads "Jessica G. Porter".

Jessica G. Porter, Esq.
Director

cc: George Haegele, Esq.

ACCEPTANCE OF SERVICE

I, Glenn E. Welker, hereby accept service of a Request for Summary Suspension (dated August 10, 2001), requesting my attendance and testimony at a hearing before the Vermont Board of Nursing on Monday, August 13, 2001, at the Vermont Board of Nursing, Heritage St., Montpelier, VT. The Request was served upon me in person.



Glenn E. Welker

08-10-01

Date