

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

IN RE:

JENNIFER CHRISTINE WHITNEY)

License No. 026-0037454)

Docket No. NU10-0707

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Jennifer Christine Whitney, who stipulate and agree as follows:

Board Authority

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

Statement of Facts

2. Jennifer Christine Whitney (the "Respondent") of Quechee, Vermont is a registered nurse holding license number 026-0037454, issued by the State of Vermont. This license was originally issued on or about May 10, 2007 and is set to expire on March 31, 2009.

3. During all relevant times the Respondent was practicing as a Registered Nurse at the Gifford Medical Center (the "Facility") in Randolph, Vermont.

4. In July of 2007 it became evident that the Respondent had been accessing Morphine for patients without orders; over a fifteen day period had taken out and not accounted for 383 mg of Morphine from the Pyxis machine; documented administering Morphine to patients that did not report pain; overrode the Pyxis machine without orders to access Morphine; and did not appropriately waste leftover Morphine. The Facility records also indicate that the Respondent was responsible for unaccounted for quantities of Percocet, Viocodin, Darvocet, Meperidine and Hydromorphone.

5. On or about August 6, 2007 Investigator Pamela Barney-Hango met with the Respondent at the Respondent's residence. The Respondent initially denied any diversion. After these initial remarks the Respondent explained to the Investigator that she had originally been prescribed Percocet in June, 2003 for surgery complications. The Respondent advised in Septemebr, 2003 she realized she was addicted to the Percocet.

6. The Respondent also admitted to diverting drugs from a medical facility in California for

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Prosecuting Attorney
Office of
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a one and a half year period, but because she agreed to go to a rehabilitation facility her diversion was not reported.

7. The Respondent admitted to diverting Morphine as soon as she began working at the Facility. She also admitted to diverting Percocet, Viocodin, Darvocet, Meperidine and Hydromorphone from the Facility.

8. The Respondent also prepared a sworn statement indicating she had diverted the Morphine, admitting to a drug addiction and indicating a willingness to surrender her license while in recovery.

9. The Respondent's license was summarily suspended on or about September 10, 2007.

Charges

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

- i. 3 V.S.A. § 129a(a) (3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession);
- ii. 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession);
- iii. 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause);
- iv. Vermont Board of Nursing Administrative Rules Chapter 4, Rule IV, II, C ("Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs, narcotics, chemicals or any other type of materials);
- v. 26 V.S.A. § 1582(a)(5) (is habitually intemperate or is addicted to the use of habit forming drugs);
- vi. 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public); and
- vii. 3 V.S.A. § 129a(b)(2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes failure to conform to the essential standards of acceptable and prevailing practice).

Understandings

11. Respondent agrees that the Order below is necessary to protect the public.

12. 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.

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

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

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

16. 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.

17. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.

18. 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 **INDEFINITELY SUSPENDS** Respondent's license to practice nursing. Before applying for reinstatement, Respondent must obtain (1) an independent evaluation report by a licensed professional specializing in drug and alcohol abuse pre-approved by the Board; and (2) the drug and alcohol abuse counselor's evaluation must indicate that the Respondent does not present a risk to the safety, health or welfare of her potential patients. If the Respondent applies for reinstatement in the future, and if the Board decides to reinstate her license, the license will be conditioned and limited pursuant to the Laws of the State of Vermont and the Rules of this Board.

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:

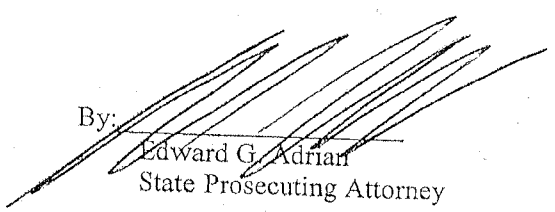
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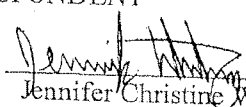
Dated: 11/19/07

By: 

Edward G. Adrian
State Prosecuting Attorney

JENNIFER CHRISTINE WHITNEY
RESPONDENT

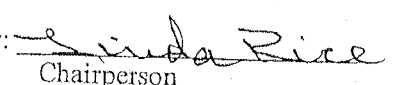
Dated: 11/13/07

By: 

Jennifer Christine Whitney

APPROVED AND SO ORDERED:
VERMONT BOARD OF NURSING

Dated: 12-10-07

By: 

Chairperson

Date of Entry: 12/13/07

nu.whitney.stip

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

IN RE:)
JENNIFER CHRISTINE WHITNEY) Docket No. NU10-0707
License No. 026-0037454)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Jennifer Christine Whitney, R.N.:

Board Authority

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

Statement of Facts

2. Jennifer Christine Whitney (the "Respondent") of Quechee, Vermont is a registered nurse holding license number 026-0037454, issued by the State of Vermont. This license was originally issued on or about May 10, 2007 and is set to expire on March 31, 2009.

3. During all relevant times the Respondent was practicing as a Registered Nurse at the Gifford Medical Center (the "Facility") in Randolph, Vermont.

4. In July of 2007 it became evident that the Respondent had been accessing Morphine for patients without orders; over a fifteen day period had taken out and not accounted for 383 mg of Morphine from the Pyxis machine; documented administering Morphine to patients that did not report pain; overrode the Pyxis machine without orders to access Morphine; and did not appropriately waste leftover Morphine. The Facility records also indicate that the Respondent was responsible for unaccounted for quantities of Percocet, Viocodin, Darvocet, Meperidine and Hydromorphone.

5. On or about August 6, 2007 Investigator Pamela Barney-Hango met with the Respondent at the Respondent's residence. The Respondent initially denied any diversion. After these initial remarks the Respondent explained to the Investigator that she had originally been prescribed Percocet in June, 2003 for surgery complications. The Respondent advised in Septemebr, 2003 she realized she was addicted to the Percocet.

6. The Respondent also admitted to diverting drugs from a medical facility in California for a one and a half year period, but because she agreed to go to a rehabilitation facility her diversion was not reported.

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7. The Respondent admitted to diverting Morphine as soon as she began working at the Facility. She also admitted to diverting Percocet, Viocodin, Darvocet, Meperidine and Hydromorphone from the Facility.
8. The Respondent also prepared a sworn statement indicating she had diverted the Morphine, admitting to a drug addiction and indicating a willingness to surrender her license while in recovery.
9. The Respondent's license was summarily suspended on or about September 10, 2007.

Charges

10. The acts, omissions and/or circumstances described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:
- i. 3 V.S.A. § 129a(a) (3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession);
 - ii. 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession);
 - iii. 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause);
 - iv. Vermont Board of Nursing Administrative Rules Chapter 4, Rule IV, II, C ("Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs, narcotics, chemicals or any other type of materials);
 - v. 26 V.S.A. § 1582(a)(5) (is habitually intemperate or is addicted to the use of habit forming drugs);
 - vi. 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public); and
 - vii. 3 V.S.A. § 129a(b)(2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes failure to conform to the essential standards of acceptable and prevailing practice).

Relief Requested

WHEREFORE, the license of Jennifer Christine Whitney should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 17th day of September, 2007.

STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

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June 12, 2007

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

In re: Jennifer Whitney }
License No. 026-0037454 }
Docket No. NU10-0707 }

SUMMARY SUSPENSION ORDER

On Monday 10 September 2007, this matter came before the Vermont State Board of Nursing by petition of the State of Vermont seeking a summary suspension pursuant to 3 V.S.A. § 814(c). The hearing took place at the Secretary of State's Office of Professional Regulation, Montpelier, Vermont.

The Board has authority to suspend summarily a license pending further proceedings if it determines that public health, safety or welfare imperatively require emergency action.

**Findings of Fact &
Conclusions of Law:**

Based on a review of the evidence presented at the hearing of this matter, the Board finds:

1. The Respondent is licensed by and subject to the disciplinary authority of this Board. 26 V.S.A. Chapter 28, 3 V.S.A. § 129(a)(3); and the Administrative Rules of the Office of Professional Regulation.
2. The State filed a "Request for Summary Suspension" dated 29 August 2007, alleging that Respondent diverting opioids from her place of employment, Gifford Medical Center in Randolph, Vermont, over an extended period.
3. The State argues that public health, safety or welfare imperatively requires emergency action, and the state asks this Board to suspend summarily the Respondent's license prior to a full hearing on the merits.
4. The Board has considered the evidence related to the allegations in the State's Request for Summary Suspension.
5. The Board finds that the State has, in its presentation of evidence, met its burden to the necessary degree of showing an imperative need for emergency action to protect the public health, safety and welfare.
6. Pursuant to 3 V.S.A. § 814(c), the Board issues the following temporary order, which shall remain in effect until further action by this Board.

ORDER

The Board of Nursing GRANTS the State of Vermont's Request for Summary Suspension.

The Respondent's license is SUMMARILY SUSPENDED pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

- END -

Vermont Board of Nursing

By: Sandra Rice APRN Dated at Montpelier: 10 September 2007
Presiding Board Member

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 9/13/07

APPEAL RIGHTS

This is a final administrative determination. 3 V.S.A. § 812.

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, National Life Building, North, FL 2, Montpelier, Vermont 05620-3402 within 30 days of the entry of the order.

If a party appeals, the Director of the Office of Professional Regulation assigns the case to an appellate officer. The Appellate Officer shall decide the appeal based on the record of evidence created before the board. In cases of alleged procedural mistakes or irregularities before the board, which the record does not show, the Appellate Officer may take proof on that issue. *See* 3 V.S.A. §§ 129(d) and 130a.

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BOARD OF NURSING

IN RE: JENNIFER CHRISTINE WHITNEY)
License No. 026-0037454)

DOCKET No. NU10-0707

REQUEST FOR SUMMARY SUSPENSION

Board Authority

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

Statement of Facts

3. Jennifer Christine Whitney (the "Respondent") of Quechee, Vermont is a registered nurse holding license number 026-0037454, issued by the State of Vermont. This license was originally issued on or about May 10, 2007 and is set to expire on March 31, 2009.
4. During all relevant times the Respondent was practicing as a Registered Nurse at the Gifford Medical Center (the "Facility") in Randolph, Vermont.
5. In July of 2007 it became evident that the Respondent had been accessing Morphine for patients without orders; over a fifteen day period had taken out and not accounted for 383 mg of Morphine from the Pyxis machine; documented administering Morphine to patients that did not report pain; overrode the Pyxis machine without orders to access Morphine; and did not appropriately waste leftover Morphine. The facility records also indicate that the Respondent was responsible for unaccounted for quantities of Percocet, Viocodin, Darvocet, Meperidine and Hydromorphone.
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9. The Respondent also prepared a sworn statement indicating she had diverted the Morphine, admitting to a drug addiction and indicating a willingness to surrender her license while in recovery.

Relief Requested

10. The facts as set out above establish that in order to protect the public health, safety or welfare of the people of the State of Vermont emergency action is imperative.
11. The above acts and circumstances, alone or in combination, violate: 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); 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession). 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any cause); Vermont Board of Nursing Administrative Rules Chapter 4, Rule IV, II, C ("Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs; narcotics, chemicals or any other type of materials); 26 V.S.A. § 1582(a)(5) (is habitually intemperate or is addicted to the use of habit forming drugs); and 26 V.S.A. § 1582(a)(7)(engages in conduct of a character likely to deceive, defraud or harm the public).

WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. § 814(c), the Respondent's nursing license number 026-0037454 be summarily suspended, pending a hearing on the merits.

DATED at Montpelier, Vermont this 29th day of August, 2007.

STATE OF VERMONT
SECRETARY OF STATE

By _____

Edward G. Adrian
State Prosecuting Attorney

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