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

IN RE:	)	
Tonya J. Wilkinson	)	**Docket No. 2019-57**
License No. 026.0029537	)	

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through Prosecuting Attorney Jennifer B. Colin, and Respondent Tonya J. Wilkinson, by and through her counsel, Robert Backus, Esq., who hereby 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, or 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); 3 V.S.A. §129a; 3 V.S.A. §814(d); 26 V.S.A. Chapter 28; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation.

Stipulated Facts

2. Tonya J. Wilkinson (the "Respondent") of St. Albans, Vermont is licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0029537. This license was originally issued on May 12, 2004 and expires on March 31, 2021.

3. During the relevant time period, Respondent was employed by the State of Vermont Department of Health Access (the "Facility") as an RN Case Manager for the Vermont Chronic Care Initiative (VCCI).

4. In December 2016, Respondent was assigned to provide nurse case management services for Patient 1 after Patient 1 attempted suicide and required hospitalization and follow-up psychiatric care.

5. Respondent documented three in-person meetings with Patient 1 in January 2017. The first meeting occurred January 3, 2017 at the patient's home. The other two meetings took place at State agencies on January 11 and 17, 2017.

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6. Respondent did not document anything of substance about the meeting at Patient l's home on January 3, 2017.

7. Respondent's notes for January 11 and 17, 2017 indicate that she discussed available services with Patient 1 and assisted him with enrolling in State programs.

8. From late December 2016 to January 29, 2017, Respondent communicated with Patient 1 primarily through texting from both her work-issued cell phone and her personal cell phone, many times on weekends and/or outside of regular business hours.

9. Beginning in early January Respondent engaged in a pattern of inappropriate texting with Patient 1 which crossed professional boundaries. The texting was on both her work phone and her private phone.

10. Respondent also offered Patient 1 a loan for housing.

11. On January 18, 2017 and again on January 24, 2017, Respondent, via text, accused Patient 1 of being under the influence of marijuana.

12. In response to both accusations, Patient 1 denied being under the influence, expressed that he was offended by the accusation, and told Respondent he wanted a new case manager.

13. The second time Respondent accused Patient 1 of being under the influence, he told Respondent twice that he wanted a new case manager and that he wanted her supervisor's contact information. He also told Respondent she was not helping him.

14. In response, Respondent told Patient 1 she was going to close his case, which meant Patient l's VCCI services would be terminated.

15. On January 25, 2017, Respondent again initiated contact with Patient 1 attempting to explain her accusation. Patient 1 again told Respondent he wanted a new case manager, her supervisor's contact information, and asked her to stop texting him.

16. Respondent continued to send Patient 1 texts after Patient 1 asked her numerous times to stop and sent her last unsolicited text to Patient 1 on January 29, 2017.

17. Respondent attempted to close Patient l's case, which meant the discharge of Patient 1 from the VCCI program, rather than get him a new case manager as he requested.

18. In attempting to close Patient l's case, Respondent authored a letter to him on January 27, 2017 stating, "As previously discussed, your case will be closed

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due to voluntary withdrawal from services, and goals that have and have not been achieved."

19. On January 27, 2017, Respondent made a late entry note for January 24th justifying the accusation she made regarding Patient l's marijuana use.

20. On January 30 and 31, 2017, Respondent created numerous late entry notes and addenda notes to the notes she made on January 11, January 17 (which was a late note for January 13), and January 23 in order to retroactively support Patient l's discharge from the program.

21. After the situation with Respondent, Patient 1 remained in the VCCI program with a different case manager.

Violation One: 3 V.S.A. §129a(b)(1) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) Performance of unsafe or unacceptable patient or client care.

22. Paragraphs 2 through 21 above are incorporated herein.

23. Vermont law requires registered nurses to practice competently by providing safe and acceptable patient care.

24. Paragraphs 3 through 21 demonstrate that Respondent failed to practice competently by engaging in unacceptable patient care when she engaged in a course of inappropriate communications with Patient 1, accused Patient 1 of being under the influence, improperly attempted to close Patient 1's case after he requested a new case manager, and continued to initiate contact with Patient 1 after Patient 1 asked her to stop texting him.

25. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(1).

Violation Two: 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, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (2) failure to conform to the essential standards of acceptable and prevailing practice.

26. Paragraphs 2 through 21 above are incorporated herein.

27. The essential standards of acceptable and prevailing practice for registered nurses require nurses to care for patients in a respectful manner and with dignity and refrain from engaging in any form of harassment or power abuse.

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28. Paragraphs 3 through 21 demonstrate that Respondent failed to conform to the essential standards of acceptable and prevailing nursing practice when she accused Patient 1 of being under the influence, improperly attempting to close Patient l's case after he asked for a new case manager, and continuing to initiate contact with Patient 1 after he asked her to stop texting him.

29. The essential standards of acceptable and prevailing practice for registered nurses require nurses to enter accurate nursing notes in a timely manner contemporaneously with providing patient care, or as soon as practicable thereafter.

30. Paragraphs 17-20 demonstrate that Respondent failed to conform to the essential standards of acceptable and prevailing nursing practice when she made numerous late entry notes, from one week to several weeks after-the-fact, in order to retroactively support Patient l's discharge from the program.

31. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(2).

Violation Three: 3 V.S.A. §129a(a)(15) Failure to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.

32. Paragraphs 2 through 21 above are incorporated herein.

33. Vermont law requires registered nurses to exercise independent professional judgment in the performance of licensed activities when that judgment is necessary to avoid action repugnant to the obligations of the profession.

34. Paragraphs 3 through 21 above demonstrate that Respondent failed to exercise independent professional judgment when that judgment was necessary to avoid action repugnant to the obligations of the profession when she inappropriately communicated with Patient 1, accused Patient 1 of being under the influence, improperly attempted to close Patient 1's case after he asked for a new case manager, continued to initiate contact with Patient 1 after he asked her to stop texting him, and made late entry notes.

35. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(a)(15).

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Understandings

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

37. Respondent satisfactorily completed the following courses from NCSBN Learning Extension: Professional Boundaries in Nursing (completed 5/6/19); Righting a Wrong (completed 5/10/19); and Documentation: A Critical Aspect of Client Care (completed 6/5/19).

38. 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.

39. 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.

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

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

42. 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.

43. 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.

44. 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** Respondent's license **FOR A MINIMUM OF ONE (1) YEAR.** The conditions will be as follows:

1. Re-issuance of License. Upon the commencement of these conditions, Respondent shall be issued a license labeled "conditioned."

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2. Notification to Employers/Nursing School. Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which Respondent practices as a 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 submit to the Board an employer agreement form approved by the Board, 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 that involves actual patient care, Respondent shall provide a copy of the Stipulation and Consent Order to the Program Director. Respondent shall cause the Program Director to submit to the Board a nursing program agreement form approved by the Board, acknowledging receipt of the Stipulation and Consent Order and the ability of the program to comply with the conditions in the Consent Order during clinical experience.

3. Reports from Employers/Program Director. Within one (1) month of the date of this order 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 month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. In the event Respondent is attending a nursing program, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Respondent's performance and attendance. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance (i.e. consistently meeting all standards of nursing practice) and attendance.

4. Types of Employment Prohibited. Respondent shall not work in a supervisory role. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency, or as a private duty.

5. Completion or Conditioned License Period. After the conditioned license period, the Respondent may petition the Board to remove any and all conditions on her license. Respondent shall have the burden of proof to demonstrate successful completion of the above-stated conditions.

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

D. 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).

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

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 10/31/19 By: _____
Jennifer B. Colin
Prosecuting Attorney

RESPONDENT

Dated: 10/30/2019 By: _____
Tonya J. Wilkinson

APPROVED AS TO FORM:

COUNSEL FOR RESPONDENT

Dated: 10/24/2019 By: _____
Robert H. Backus, Esq.
Montroll, Backus & Oettinger, P.C.
Attorney for Respondent

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 11.4.19 By: _____
Chairperson

Date of Entry: 11/5/19

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