

**STATE OF VERMONT
BOARD OF NURSING**

IN RE:	)	
Mary Jane Yanulavich	)	Docket No. NU56-0500
License No: 25-4985	)	

MODIFIED STIPULATION AND CONSENT ORDER

STIPULATION

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 Mary Jane Yanulavich, of Essex Junction, Vermont, is a licensed practical nurse holding license number 25-4985, originally issued by the State of Vermont approximately ten years ago.
3. At all times relevant, Respondent was employed by Starr Farm Nursing Center, of Burlington, Vermont.
4. By way of history, Respondent's license was previously sanctioned pursuant to a Specification of Charges, Stipulation and Consent Order entered on or about August 17, 2000, which is attached and incorporated.
5. Respondent admits the conclusions of unprofessional conduct as set forth below in the Board's Order.

6. 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.
7. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
8. 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 her rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
9. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
10. Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.
11. Respondent voluntarily waives her right to charges and a contested hearing before the Board of Nursing.
12. 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 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 VSA §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).

B. The Nursing Board, taking into consideration and incorporating the prior stipulation, and cognizant that Respondent's license has been **SUSPENDED** since about August 17, 2000, hereby reinstates Respondent's license, commencing on the date of entry, and **CONDITIONS** the Respondent's license to practice for **THIRTY-SIX (36) MONTHS**. The **CONDITIONS** on Respondent's licenses are as follows:

(1) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed **thirty six (36) months** of supervised nursing practice in which she works at least forty (40) hours every two (2) weeks in nursing [Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis].

(2) Administration of Medications.

For the first three (3) months of work as per paragraph B(1), Respondent is not permitted to administer any medications. Thereafter, the next three (3) months of work as per paragraph B(1), Respondent shall administer only non-controlled medications, and only under direct supervision. Thereafter, for the next three (3) months of work as per paragraph B(1), Respondent shall administer

controlled medications under direct supervision only. Thereafter, (that is, after nine months of work as per paragraph (B)1 above), Respondent shall administer medications under "supervision" as that term is defined by paragraph (B)16 herein.

Any or all medication prohibitions may be reinstated, pursuant to a complaint, employer report and/or charges filed against Respondent during the term of this Consent Order, at the sole discretion of the Board (or its designee).

(3) Completion of Counseling and Treatment Plan.

Respondent shall enter into and/or continue counseling with a treating professional approved by the Board's designee until the treating professional notifies the Board's designee in writing that such counseling is no longer necessary in her/his professional opinion and the Board (or its designee) agrees, in writing.

Respondent shall comply with a treatment plan approved by the professional and the Board (or its designee). This shall be done as soon as possible, and in any event, no later than 30 days after entry.

(4) Approval of Changes of Treating Professional.

Respondent shall obtain prior approval from the Board or its designee of all changes of treating professional. Failure to obtain prior approval of a change of treating professional may be grounds for a charge of violation of this Consent Order.

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

Respondent shall provide a copy of this Stipulation and Consent Order to her treating professional and cause her treating professional to inform the Board, in writing and on professional letterhead, of receipt of the Stipulation and

Consent Order and the treating professional's ability to comply with the conditions related to treatment and with all other terms of this Consent Order.

(6) Reports from Treating Professional.

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

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

(7) Random Drug Testing.

Respondent shall submit to random drug screening at the request of the Board. Respondent shall ensure an identified contact person, approved by the Board, shall administer random drug and alcohol tests. All screens shall be negative except for drugs prescribed for her under the care of a physician, dentist, or nurse practitioner. (See paragraph B(9) Drug Use Exception).

(8) Abstain from Drug Use.

Respondent shall abstain completely from the consumption or the use or possession of any drugs with the exception of prescribed medications as outlined in paragraph B(9).

(9) Drug Use Exception.

Respondent may take medications lawfully prescribed for a bona fide illness or condition by a physician, dentist, or nurse practitioner whose identity shall be made known to the Board in writing by Respondent within forty-eight (48) hours of the establishment of the practitioner/patient relationship. Respondent shall ensure that the physician, dentist or nurse practitioner informs the Board, in writing and on appropriate letterhead, of knowledge of Respondent's chemical dependency within one (1) week of entering into the practitioner/patient relationship. Respondent shall inform the Board in writing of all medications prescribed, including the name of the prescribing practitioner, within forty-eight (48) hours of receiving the prescription. The Board or its designee may request at any time that the practitioner document the continued need for prescribed medications. It is not anticipated that Respondent would be prescribed scheduled medication, during the term of this Consent Order, for a period greater than 14 days, but if so, then the prior suspension may be reinstated at the sole discretion of the Board (or its designee). Respondent shall keep a written record of medications taken, including over the counter drugs, and produce such record upon the request of the Board or its designee.

(10) Interview with the Board or its designee.

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

(11) Re-issue of License.

Within five (5) days of the date of entry of this Consent Order, Respondent shall submit her license to the Board of Nursing for a re-issued license labeled "conditioned".

(12) 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 notify the Board before beginning such practice. If Respondent fails to notify the Board before, none of the time spent in out-of-state practice will be credited toward the fulfillment of the terms and conditions of this Consent Order.

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

Within five (5) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of her current place of nursing employment (if she is employed as a nurse), personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in nursing employment, personal address, or telephone number.

(14) 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 she practices as a nurse and inform them of her conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any such subsequent employment, Respondent shall cause her immediate supervisor to write to the Board, on the employer's letterhead, acknowledging receipt of the Stipulation and Consent Order

and the ability to comply with the conditions in the Consent Order. In the event Respondent is attending a nursing program, Respondent 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 the conditions in the Consent Order during clinical experience.

(15) Reports from Employers/Nursing School

Within one (1) month of the date of entry of this Consent Order and every month thereafter, Respondent shall cause every employer for which she has been employed as a nurse during that month to submit to the Board an evaluation of Respondent's performance and attendance during that month. This report shall be submitted in writing on forms issued by the Board. In the event the Respondent attends nursing school, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Respondent's performance and attendance. This report shall be submitted in writing on forms issued by the Board. Reports must indicate, to the satisfaction of the Board, that Respondent can safely and competently administer medications.

Respondent shall authorize her employer and her nursing school administrator to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period the Consent Order is in effect.

(16) Practice Under Supervision.

Respondent shall practice only in a setting where she has on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing, or is in good standing in all states that nurse is licensed.

(17) Prohibited Duties.

Respondent shall not work as a Charge Nurse.

(18) Types of Employment Prohibited.

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 during the effective period of this Consent Order.

(19) Prohibited Hours of Work.

Respondent shall work only the day or evening shift during the effective period of this Consent Order. Respondent shall not work the night shift during the effective period of this Consent Order.

(20) License Renewal.

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

(21) Release of Information Forms.

Upon the establishment of all practitioner/patient relationships with (1) treating professionals for substance abuse treatment, and with (2) treating professionals who prescribe any medication to Respondent, Respondent shall

execute all release of information forms which are necessary to authorize those practitioners to release information described in this Consent Order to the Board of Nursing, its investigators, and the Attorney General's Office. All information disclosed to the Board shall be made available to its investigators and the Attorney General's Office. Respondent shall specifically execute a consent to disclosure form which meets the requirements of 42 C.F.R. §2.31 to permit disclosure of all information regarding respondent's substance abuse treatment to the Nursing Board, its investigators, and the Attorney General's Office. Any revocation by respondent of such a consent to disclosure during the term of this Consent Order shall be considered a violation of this Consent Order.

(22) Costs.

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

(23) Violation of the Consent Order.

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

(24) Reevaluation of Conditions.

In the event Respondent does not work in nursing within twenty-four (24) months of the date of entry of this Consent Order, Respondent may appear before the Board for reevaluation of the conditions of this Consent Order.

(25) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on her license and after formal review by the Board, Respondent's nursing license may be fully restored by appropriate Board action. Furthermore, Respondent must demonstrate, to the Board's satisfaction, that she can safely return to unrestricted practice, that she has safely and competently administered medications and that she has fully complied with all the terms of this Consent Order.

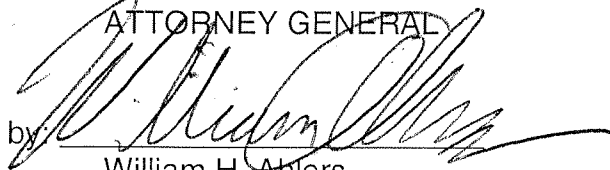
C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

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.

STATE OF VERMONT

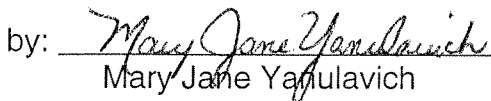
WILLIAM H. SORRELL
ATTORNEY GENERAL

Dated: 3/26/01

by: 
William H. Ahlers
Assistant Attorney General

RESPONDENT
MARY JANE YANULAVICH

Dated: 3/21/01

by: 
Mary Jane Yanulavich

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: April 9, 2001

by: Susan Farrell
Chairperson

Date of entry: 4-12-01

STATE OF VERMONT
BOARD OF NURSING

IN RE:
Mary Jane Yanulavich
License No: 25-4985

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Docket No. NU56-0500

SPECIFICATION OF CHARGES, STIPULATION AND CONSENT ORDER

SPECIFICATION OF CHARGES

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 Mary Jane Yanulavich, of Essex Junction, Vermont, is a licensed practical nurse holding license number 25-4985, issued by the State of Vermont.
3. At all times relevant, Respondent was employed by Starr Farm Nursing Center, of Burlington, Vermont.
4. On repeated occasions during about September 1999 to about May 2000, while in the course of her work, Respondent diverted, without authorization, regulated medication(s), including but not necessarily limited to, Oxycontin.
5. On repeated occasions between about September 1999 to about May 2000, Respondent falsely charted that said medication(s) had been wasted.
6. The above acts, omissions and/or circumstances violate: 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 VSA §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).

WHEREFORE, the license of Mary Jane Yanulavich should be revoked, suspended or otherwise disciplined.

STIPULATION

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 Mary Jane Yanulavich, of Essex Junction, Vermont, is a licensed practical nurse holding license number 25-4985, issued by the State of Vermont.
3. At all times relevant, Respondent was employed by Starr Farm Nursing Center, of Burlington, Vermont.
4. Respondent admits that on repeated occasions during about September 1999 to about May 2000, while in the course of her work, she diverted, without authorization, regulated medication(s), including but not necessarily limited to, Oxycontin.
5. Respondent admits that on repeated occasions between about September 1999 to about May 2000, she falsely charted that said medication(s) had been wasted.

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ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

6. Respondent admits the conclusions of unprofessional conduct as set forth below in the Board's Order.
7. 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.
8. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
9. 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 her rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
10. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
11. Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.
12. Respondent voluntarily waives her right to charges and a contested hearing before the Board of Nursing.
13. Respondent agrees that the Board may set forth the order below.

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

ORDER

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

A. By engaging in the conduct 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 VSA §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).

B. The Nursing Board **SUSPENDS** the Respondent's license, commencing on the date this order is entered, continuing until she demonstrates, to the satisfaction of the Board: possession of at least entry level qualifications; specific rehabilitation; good moral character and fitness; methods of assuring public safety, and; that reinstatement would not be detrimental to the integrity of the profession or subversive of the public interest.

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.

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

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

Dated: 8/10/00

by: [Signature]
William H. Ahlers
Assistant Attorney General

RESPONDENT
MARY JANE YANULAVICH

Dated: 8/9/00

by: [Signature]
Mary Jane Yanulavich

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 8/14/00

by: [Signature]
Chairperson

Date of entry: 8/17/00

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GENERAL
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05609