STIPULATION AND CONSENT ORDER

STIPULATION

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

Board Authority

1) The Administrative Law Officer ("ALO") has jurisdiction to adjudicate cases of unprofessional conduct committed by respiratory care applicants pursuant to 3 V.S.A. §§127, 129, 129a; 26 V.S.A. §§4701 to 4715; and the Administrative Rules of the Office of Professional Regulation ("OPR").

2) Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is unprofessional conduct and grounds upon which the Administrative Law Officer may deny licensure. 3 V.S.A. §129a(a)(3).

3) The ALO may discipline any licensee or refuse to license any person who has had a license revoked, suspended, limited, conditioned or otherwise disciplined by a licensing agency in another jurisdiction for an offense which would constitute unprofessional conduct in this state, or has surrendered a license while under investigation for unprofessional conduct. 3 V.S.A. §129a(a)(6).

Facts

4) The Respondent applied for licensure with the OPR through an application received on January 3, 2005.

5) Attached to the application was a "Prelicensure Consent Order" from the State of Connecticut dated June 29, 2004. Attachment A.

6) As a result of the Prelicensure Consent Order the Respondent was placed on a conditioned Respiratory Care Practitioner license in Connecticut for a period of one year as a result of previously being placed on the Connecticut Nurse Aide Abuse Registry on April 26, 1995. Attachment A.
Charges

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

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

ii. 3 V.S.A. §129(a)(6) (the ALO may discipline any licensee or refuse to license any person who has had a license revoked, suspended, limited, conditioned or otherwise disciplined by a licensing agency in another jurisdiction for an offense which would constitute unprofessional conduct in this state, or has surrendered a license while under investigation of unprofessional conduct).

Understandings

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

10) Respondent specifically waives any claims that any disclosures made to the ALO during his or her 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.

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

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

13) 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.

14) Respondent voluntarily waives her right to a contested hearing before the ALO.

15) Respondent agrees that the order set forth below may be entered by the ALO

ORDER

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

A. The ALO hereby CONDITIONS Respondent's license for A MINIMUM PERIOD OF SIX (6) MONTHS commencing with the date of entry of this Order. The CONDITIONS are as follows:
(1) Issuance of License.
Upon the imposition 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 a total of six (6) months of supervised respiratory care practice in which she works at least forty (40) hours every two (2) weeks as a respiratory care practitioner. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis.

(3) Notification to Employers
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 respiratory care practitioner 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 employment, Respondent shall cause Respondent’s immediate supervisor to write to the OPR, 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.

(4) Reports from Employers.
Within one (1) month of the date of entry of this Stipulation and Consent Order or within one (1) month of the subsequent commencement of employment, and monthly thereafter for the period the conditions are in place, Respondent shall cause every employer Respondent has worked for during the month to submit to the OPR an evaluation of Respondent’s performance and attendance during that month. This report shall be submitted in writing on forms issued by the OPR. At the discretion of the Director or her designee, the OPR may accept the same reports being provided to the State of Connecticut to fulfill the obligations of this condition.

(5) Practice Under Supervision.
Respondent shall practice only in a setting where Respondent has on-site supervision for the entire shift by a respiratory care practitioner that is licensed and in good standing.

(6) 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 OPR, in writing, of her current place of employment, personal address, and telephone number. Respondent shall further notify the OPR, in writing, within forty-eight (48) hours of any change in Respondent’s employment, personal address, or telephone number.

(7) Notification to Other States.
In the event that the Respondent is licensed as a respiratory care practitioner in any other state(s), she must inform the licensing authority of the state(s) in which the Respondent is licensed of the conditional status of her Vermont license within thirty (30) days of the date of entry of this Order or within thirty (30) days of becoming licensed in another state. If the Respondent fails to provide such notification, it will be considered a violation of this Order.

(8) **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 respiratory care, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that she has otherwise complied with the requirements for license renewal.

(9) **Costs.**

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

(10) **Violation of this Order.**

If the Respondent violates the terms of this Order in any respect, the ALO, 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.

(11) **Completion of Conditional License Period.**

After the conditional license period, the Respondent may petition the ALO to remove any and all conditions on her license. The Respondent must present proof that she has fully complied with the terms of this Order.

B. Notwithstanding any provision above, the Respondent must continue to meet all Respiratory Care Practitioner 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:
Dated: 4/4/05

STATE OF VERMONT
SECRETARY OF STATE
By: Edward G. Adrian
State Prosecuting Attorney

GINA FAMA
RESPONDENT
Dated: 4/4/05
By: Gina Fama

APPROVED AND SO ORDERED:
Dated: 4/13/05

ADMINISTRATIVE LAW OFFICER
By: Michael H. Ripson
Administrative Law Offices

Date of Entry: 4/15/05

RTP.Fama.stip
**PRELICENSURE CONSENT ORDER**

WHEREAS, Gina Fama of Vermont (hereinafter "respondent") has applied for a license to practice as a Respiratory Care Practitioner issued by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 381a of the General Statutes of Connecticut, as amended; and,

WHEREAS, respondent agrees that:

1. The Department has at no time issued respondent a license to practice as a Respiratory Care Practitioner under the General Statutes of Connecticut, Chapter 381a.

2. Pursuant to a Memorandum of Decision dated April 26, 1995, respondent was placed on the Connecticut Nurse Aide Registry with a finding of resident abuse.

3. The conduct described above constitutes grounds for the denial of respondent’s application for licensure pursuant to §19a-14 of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §19a-14 of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives the right to a hearing on the merits of her application for licensure.

2. After satisfying the requirements for a license as a Respiratory Care Practitioner as set forth in Chapter 381a of the General Statutes of Connecticut, respondent's license as a Respiratory Care Practitioner will be issued.
3. Respondent’s license as a Respiratory Care Practitioner in the State of Connecticut shall, immediately upon issuance, be placed on probation for one (1) year under the following terms and conditions:

   a. Respondent shall provide her employer at each place where she practices as a Respiratory Care Practitioner throughout the probationary period with a copy of this Prelicensure Consent Order within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of employment at a new facility. Respondent agrees to provide monthly reports from such employer for the entire duration of probation stating that she is practicing with reasonable skill and safety. Respondent shall not be employed at a chronic and convalescent nursing home and/or rest home with nursing supervision for the period of her probation.

4. Respondent shall comply with all state and federal statutes and regulations applicable to her license.

5. Respondent shall notify the Department of any change(s) in her employment within fifteen (15) days of such change.

6. Respondent shall notify the Department of any change(s) in her home and/or business address within fifteen (15) days of such change.

7. Any deviation from the term(s) of this Prelicensure Consent Order without prior written approval of the Department shall constitute a violation. A violation of any term(s) of this Prelicensure Consent Order shall result in the right of the Department in its discretion to immediately deem respondent's Respiratory Care Practitioner license rescinded. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department's right to take action at a later time. The Department shall not be required to grant future extensions of time or grace periods. Notice of the rescission of the license shall be sent by the Department to respondent's address of record.
Respondent waives any right to a hearing on the issue of violation of the terms of this Prelicensure Consent Order.

8. Correspondence and reports required by the terms of this Prelicensure Consent Order are to be addressed to:

Bonnie Pinkerton, Nurse Consultant  
Department of Public Health  
Division of Health Systems Regulation  
410 Capitol Avenue, MS #12HSR  
P.O. Box 340308  
Hartford, Connecticut 06134-0308

9. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Office of Practitioner Licensing and Certification of the Bureau of Healthcare Systems of the Department.

10. Respondent understands that this Prelicensure Consent Order may be considered as evidence of the above-admitted violations in any proceeding before the Department in which (1) her compliance with this Prelicensure Consent Order is at issue, or (2) her compliance with §20-162p of the Connecticut General Statutes, as amended, is at issue.

11. This Prelicensure Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Prelicensure Consent Order is not subject to appeal or review under the provisions of Chapters 54 and 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any other rights that she may have under the laws of the State of Connecticut or of the United States.

12. This Prelicensure Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
13. This Prelicensure Consent Order is effective when accepted and approved by a duly appointed agent of the Department.

14. Respondent understands this Prelicensure Consent Order is a matter of public record.

15. Respondent understands she has the right to consult with an attorney prior to signing this Prelicensure Consent Order.
I, Gina Fama, have read the above Prelicensure Consent Order, and I agree to the terms and allegations set forth therein. I further declare the execution of this Prelicensure Consent Order to be my free act and deed.

[Signature]
Gina Fama

Subscribed and sworn to before me this 22nd day of June 2003.

[Signature]
Notary Public or person authorized by law to administer an oath or affirmation

The above Prelicensure Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 29th day of June 2004, it is hereby ordered and accepted.

[Signature]
Jennifer L. Flippone
Public Health Services Manager
Office of Practitioner Licensing and Certification
Bureau of Healthcare Systems