STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF HEALTHCARE SYSTEMS

In Re: Judy Follert, R.N. Petition No.: 2003-1202-010-098

CONSENT ORDER

WHEREAS, Judy Follert (hereinafter "respondent") of Torrington, Connecticut has been issued license number E56705 to practice as a registered nurse by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 378 of the General Statutes of Connecticut, as amended; and,

WHEREAS, respondent hereby admits and acknowledges that:

1. During 2003, while working as a registered nurse at Haven Healthcare, Torrington, CT, respondent diverted controlled substances; and falsified one or more controlled substance records.
2. During 2003, respondent abused or utilized to excess Oxycodone and Percocet.
3. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, 20-99(b), including but not limited to:
   a. 20-99(b)(2); and/or,
   b. 20-99(b)(5).

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest the above allegations at a hearing in front of the Board of Examiners for Nursing (hereinafter "the Board"). Respondent further agrees that this Consent Order shall have the same effect as if ordered after a full hearing pursuant to §§19a-9, 19a-10, and 20-99(a) of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §19a-17 and §20-99(a) of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives her right to a hearing on the merits of this matter.
2. Respondent shall comply with all federal and state statutes and regulations applicable to her profession.
3. Respondent's license number E56705 to practice as a registered nurse in the State of Connecticut is hereby placed on probation for four (4) years, subject to the following terms and conditions:

   A. At her own expense, she shall engage in therapy and counseling with a Connecticut licensed or certified therapist (hereinafter "therapist") approved by the Board and the Department for the entire probationary period.

      (1) She shall provide a copy of this Consent Order to her therapist.

      (2) Her therapist shall furnish written confirmation to the Board and the Department of his or her engagement in that capacity and receipt of a copy of this Consent Order within fifteen (15) days of the effective date of this Consent Order.

      (3) If respondent's therapist determines that therapy is no longer necessary, that a reduction in frequency of therapy is warranted, or that respondent should be transferred to another therapist, he or she shall advise the Board and the Department. Said termination of therapy, reduction in frequency of therapy, and/or respondent's transfer to another therapist shall not occur until approved by the Board after consultation with the Department. However, if therapy is terminated with approval of the Board, respondent's therapist shall continue to

monitor her alcohol and drug free status by monitoring and reviewing the observed random urine screens for drugs and alcohol as described in paragraph 3B below, and by providing the reports described in paragraph 3C below.

(4) The therapist shall immediately notify the Board and the Department in writing if respondent discontinues therapy and/or terminates her services.

B. Respondent shall not obtain or use controlled substances, legend drugs or alcohol in any form unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications.

(1) At her own expense, she shall submit to observed random urine screens for drugs and alcohol, in accordance with Department Requirements for Drug and Alcohol Screens, attached hereto marked as ('Attachment A: Department Requirements for Drug and Alcohol Screens') at a testing facility approved by the Board, after consultation with the Department, as ordered by her therapist and/or personal physician. Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department by respondent's therapist or personal physician or by the testing laboratory. All such observed random drug and alcohol screens shall be legally defensible in that the specimen donor and chain of custody can be identified throughout the screening process. All laboratory reports shall indicate that the chain of custody procedure has been followed.

(2) Respondent shall be responsible for notifying the laboratory, her therapist, the Board, the Department and her prescribing practitioner of any drug(s) she is taking. For the prescription of a controlled substance(s) for more than two

consecutive weeks, the respondent shall cause the provider prescribing the controlled substance(s) to submit quarterly reports until such time as the controlled substance(s) are not prescribed by the provider to the Board and the Department, documenting the following:

1. A list of controlled substances prescribed by this provider for the respondent;
2. A list of controlled substance(s) prescribed by other providers;
3. An evaluation of the respondent's need for the controlled substance;
4. An assessment of the respondent's continued need for the controlled substance(s).

(3) There must be at least one such observed random alcohol/drug screen and accompanying laboratory report every week for the first two years of probation; and, at least two such screens and reports every month for the remainder of the probationary period.

(4) All screens shall be negative for the presence of drugs and alcohol.

(5) All positive screen results shall be confirmed by gas chromatograph/mass spectrometer (GC/MS) testing.

(6) Respondent is hereby advised that the ingestion of poppy seeds and mouthwash has, from time to time, been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, respondent agrees to refrain from ingesting poppy seeds in any food substances or mouthwash during the term of this Consent Order. In the event respondent has a positive screen for morphine,

opiates and/or alcohol, respondent agrees that the ingestion of poppy seeds and/or mouthwash shall not constitute a defense to such a screen.

C. Respondent shall be responsible for the provision of written reports from her therapist directly to the Board and the Department monthly for the first and fourth years of probation and quarterly for the second and third years of probation. Such reports shall include documentation of dates of treatment, an evaluation of respondent's progress in treatment and of her drug and alcohol free status as established by the observed random urine screens for drugs and alcohol, an evaluation of her ability to safely and competently practice nursing, and copies of all laboratory reports.

D. Notwithstanding the foregoing, respondent's therapist shall immediately report to the Board and the Department any confirmed positive alcohol/drug screen and any conduct or condition on respondent's part which does or may violate any federal or state statute or regulation applicable to her profession.

E. Respondent shall provide a copy of this Consent Order to all current and future employers for the duration of her probation.

F. Respondent shall not be employed as a nurse for a personnel provider service, assisted living services agency, homemaker - home health aide agency, or home health care agency, and shall not be self-employed as a nurse for the period of her probation.

G. Respondent shall not administer, count, or have access to narcotics or other controlled substances, or have responsibility for such activities in the course of her nursing duties for the first year after returning to work as a nurse.

H. Respondent shall be responsible for the provision of written reports directly to the Board and the Department from her nursing supervisor (i.e., Director of Nursing) monthly for

the first and fourth years of probation and quarterly for the second and third years of her probation period. (Respondent shall provide a copy of this Consent Order to any and all employers if employed as a nurse during the probationary period. The Board and the Department shall be notified in writing by any employer(s) within fifteen (15) days of the commencement of employment as to the receipt of a copy of this Consent Order.) Employer reports shall include documentation of respondent's ability to safely and competently practice nursing, and shall be issued to the Board and the Department at the address cited in paragraph 3M below.

I. Respondent shall notify the Board and the Department in writing of any change of employment within fifteen (15) days of such change.

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

K. If respondent pursues further training or is engaged at the time of the implementation of the Consent Order, in an educational program in any subject area that is regulated by the Department, respondent shall provide a copy of this Consent Order to the educational institution or, if not an institution, to respondent's instructor. Such institution or instructor shall notify the Department of receipt of the Consent Order within fifteen (15) days of receipt.

L. All reports required by the terms of this Consent Order shall be due according to a schedule to be established by the Department of Public Health.

M. All correspondence and reports shall be addressed to:

Bonnie Pinkerton
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR

P.O. Box 340308
Hartford, CT 06134-0308

4. Any violation of the terms of this Consent Order without prior written approval by the Board shall constitute grounds for the Department to seek revocation of respondent's nursing license following notice and an opportunity to be heard.

5. Any extension of time or grace period for reporting granted by the Board shall not be a waiver or preclude the Board's right to take action at a later time. The Board shall not be required to grant future extensions of time or grace periods.

6. Legal notice of any action shall be deemed 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.

7. This Consent Order is effective on the first day of the month immediately following the month in which this Consent Order is approved and accepted by the Board.

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

9. Respondent understands this Consent Order may be considered as evidence of the above admitted violations in any proceeding before the Board in which (1) her compliance with this same Consent Order is at issue, or (2) her compliance with §20-99(b) of the General Statutes of Connecticut, as amended, is at issue.

10. In the event respondent violates a term of this Consent Order, respondent agrees immediately to refrain from practicing as a registered nurse, upon request by the Department, with notice to the Board, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation, and to submit to and complete a medical, psychiatric or psychological evaluation, if requested to do so by the Department; and, that the results of the evaluation shall be submitted directly to the

Department and the Respondent. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that failure to cooperate with the Department's investigation shall be considered by the Board and shall be given due weight by the Board in determining whether respondent's conduct constitutes a clear and immediate danger as required pursuant to Connecticut General Statutes, sections 4-182(c) and 19a-17(c). The Department and respondent understand that the Board has complete and final discretion as to whether a summary suspension is ordered.

11. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of respondent's license before the Board.

12. This 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 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 respondent may have under the laws of the State of Connecticut or of the United States.

13. Respondent permits a representative of the Department and my attorney to present this Consent Order and the factual basis for this Consent Order to the Board. The Department and respondent understand that the Board has complete and final discretion as to whether an executed Consent Order is approved or accepted.

14. Respondent has had the opportunity to consult with an attorney prior to signing this document.

15. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau.

I, Judy Follert, R.N., have read the above Consent Order, and I agree to the terms set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Judy Follert, R.N.

Subscribed and sworn to before me this 24th day of April, 2004.

~~Notary Public~~ or person authorized
by law to administer an oath or affirmation

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 28th day of April, 2004 it is hereby accepted.

Marianne Horn, Director, Division of Health Systems Regulation
Bureau of Healthcare Systems

The above Consent Order having been presented to the duly appointed agent of the Connecticut Board of Examiners for Nursing on the 19 day of May, 2004, it is hereby ordered and accepted.

BY:
Connecticut Board of Examiners for Nursing

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

Attachment "A "

DEPARTMENT REQUIREMENTS FOR DRUG AND ALCOHOL SCREENS

Respondent: Judy Follert, R.N. _____ **Petition No.** 2003-1202-010-098

Screening Monitor Information:

Name: _____

Address: _____

_____

_____

Phone: _____ FAX: _____

1. Each screen must test for the following substances: alcohol (breathalyzer tests are not acceptable), amphetamines, barbiturates, benzodiazepines, cannabinoids (THC metabolites), cocaine, meperidine, opiates, methadone, phencyclidine (PCP), propoxyphene, Stadol, hydrocodone, hydromorphone, and oxycodone. Additional substances such as Fentanyl and Sufentanil may also be required. Partial screens will not be accepted.

2. **Urine collections must be directly observed.** The urine monitor must be in the room with the respondent and directly observe the collection of the specimen by the respondent.

3. The frequency of screens is as follows: _____

4. Collections must be **random.** There must be no pre-arrangement between the respondent's therapist, the respondent, the urine monitor, and/or the lab in scheduling drug and alcohol screens. There must be no pattern of times, dates, or identifiable sequence (i.e. every Monday or alternating Wednesdays). The specimen collection shall not be done on the same day as a therapy session. Screening will be done on weekends and holidays if possible and/or if required. Special arrangements will be made for periods of vacation (see #6, below).

Phone: (860) 509-7400
Telephone Device for the Deaf (860) 509-7191
410 Capitol Avenue - MS # 12HSR
P.O. Box 340308 Hartford, CT 06134
An Equal Opportunity Employer

5. Specimens will be collected as follows: the screening monitor (pre-approved by the Department) will call the respondent for collections. The respondent shall provide the monitor with her home and business phone numbers and carry a beeper if necessary. The monitor must speak directly with the respondent; the monitor may not leave a message on an answering machine. **The respondent must appear for specimen collections within 2 - 5 hours of the screening monitor's call. In the event the respondent does not show up for a collection, or arrives late, the urine monitor is to notify this Department immediately. A MISSED SCREEN IS CONSIDERED A POSITIVE SCREEN.**

6. Respondent will notify the screening monitor and the Department at least two weeks prior to scheduled vacations. Screens will be collected prior to and following periods of vacation.

7. Specimens are to be handled in such a manner as to maintain Chain of Custody. Chain of Custody documentation must accompany all laboratory reports and/or the laboratory reports shall indicate that the Chain of Custody procedure has been followed. Respondent must document all medications s/he is taking on each Chain of Custody form. **The *respondent* is responsible for Chain of Custody documentation being completed properly. In the event Chain of Custody is incomplete, the respondent may be called for a repeat screen.**

   PLEASE MAKE CERTAIN TO WRITE YOUR NAME ON EACH CHAIN OF CUSTODY FORM. SOCIAL SECURITY NUMBERS ALONE ARE NOT SUFFICIENT.

8. All positive results shall be confirmed by gas chromatograph/mass spectrometer (GC/MS) testing method.

9. Screens shall be conducted at:

   Bendiner & Schlesinger, Inc.
   Attn: Mr. Francis Hartigan
   47 Third Avenue at 10 Street
   New York, N.Y. 10003-5590
   (212) 353-5108
   fhartigan@bendinerlab.com

   Respondent must obtain Department-approval for any lab s/he chooses to use other than Bendiner & Schlesinger. The proposed lab must be capable of conducting forensic screens and testing for each of the substances set forth in paragraph 1 of these Guidelines.

10. **POSITIVE SCREENS MUST BE REPORTED TO THE DEPARTMENT IMMEDIATELY,** by calling Bonnie Pinkerton at (860) 509-7651, and by fax sent to (860) 509-8368. Written documentation/confirmation of any positive screen must be received by the Department within 3 days of the screening monitor's notification of such.

11. Correspondence and lab reports should be sent to the attention of:

Bonnie Pinkerton
Department of Public Health
410 Capitol Avenue, #12 H.S.R.
P.O. Box 340308
Hartford, Connecticut 06134

ALCOHOL/DRUG SCREENS AND REPORTS NOT CONFORMING TO THESE GUIDELINES WILL NOT BE CONSIDERED ACCEPTABLE FOR PROBATIONARY/REHABILITATION PURPOSES.

All screening monitors and alternates must sign below acknowledging their receipt of these Guidelines and indicating their agreement to conduct screens accordingly.

Signature:_____ Signature:_____

Print name:_____ Print name:_____

Date:_____ Date:_____

Signature:_____ Signature:_____

Print name:_____ Print name:_____

Date:_____ Date:_____

Please fax the signed signature page to (860) 509-8368.

Department Requirements for Drug and Alcohol Screens

Re: _____

Pet. No._____