

**STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
HEALTHCARE QUALITY AND SAFETY BRANCH**

In Re: Scott M. Vogel, R.N.

Petition No. 2012-91

**REINSTATEMENT CONSENT ORDER**

WHEREAS, Scott M. Vogel (hereinafter "respondent") of Berlin, Connecticut has been issued license number E59912 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's license expired on January 16, 2001, and respondent has now applied to have said license reinstated by the Department pursuant to Chapter 368a of the General Statutes of Connecticut, as amended; and,

WHEREAS, respondent admits that:

1. Respondent's license was placed on probation for four years as part of a Consent Order dated June 17, 1998. Said Consent Order resulted from respondent's admission he diverted Demerol for personal use. Respondent voluntarily surrendered his registered nursing license effective January 16, 2001.
2. That the conduct described above constitutes grounds for denial of respondent's application for reinstatement pursuant to §19a-14(a)(6) of the General Statutes of Connecticut.

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

1. He waives his right to a hearing on the merits of this matter.
2. Respondent's license to practice as a registered nurse shall be reinstated when he satisfies the requirements for reinstatement of his license, as set forth in §§19a-14-1 through 19a-14-5, inclusive, of the Regulations of Connecticut State Agencies and when this Reinstatement Consent Order becomes effective.
3. Respondent shall comply with all federal and state statutes and regulations applicable to his profession.
4. Immediately upon issuance, respondent's license number E59912 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 his own expense, he 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) He shall provide a copy of this Reinstatement Consent Order to his therapist.
    - (2) His 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 Reinstatement Consent Order within fifteen (15) days of the effective date of this Reinstatement 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 his alcohol and drug free status by monitoring and reviewing the observed random urine screens for drugs and alcohol as described in paragraph 4B below, and by providing the reports described in paragraph 4C below.

- (4) The therapist shall immediately notify the Board and the Department in writing if respondent discontinues therapy and/or terminates his/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. Respondent shall inform said health care professional of respondent's substance abuse history.
- (1) At his own expense, he 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 his therapist and/or personal physician. Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department 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, his therapist, the Board, the Department and his prescribing practitioner of any drug(s) he 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 to the Board and the Department, until such time as the controlled substance(s) are not prescribed by the provider, 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 (1) such observed random alcohol/drug screen and accompanying laboratory report every week for the first and fourth years of probation; at least two (2) such screens and reports every month for the second and third years 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, mouthwash and over the counter cough or cold medicines or remedies 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, mouthwash and over the counter cough or cold medicines or remedies during the term of this Reinstatement 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 and/or over the counter cough or cold medicines or remedies shall not constitute a defense to such a screen.

- C. Respondent shall be responsible for the provision of written reports from his therapist directly to the Board and the Department for the entire probationary period; monthly for the first and fourth years of probation; and, quarterly reports 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 his drug and alcohol free status as established by the observed random urine screens for drugs and alcohol, an evaluation of his 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 his profession.
- E. Respondent shall provide a copy of this Reinstatement Consent Order to all current and future employers for the duration of his 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 his 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 his 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 his nursing supervisor (i.e., Director of Nursing) monthly for the first and fourth years of his probation; and quarterly for the second and third years of probation. Respondent shall provide a copy of this Reinstatement 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 Reinstatement 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 4M 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 his 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 Reinstatement Consent Order, in an educational program in any subject area that is regulated by the Department, respondent shall provide a copy of this Reinstatement

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 Reinstatement Consent Order within fifteen (15) days of receipt.

- L. All reports required by the terms of this Reinstatement 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  
Practitioner Licensing and Investigations  
410 Capitol Avenue, MS #12HSR  
P.O. Box 340308  
Hartford, CT 06134-0308

- 5. Any violation of the terms of this Reinstatement Consent Order without prior written approval by the Board shall constitute grounds for the Department to seek revocation of respondent's registered nursing license following notice and an opportunity to be heard. Respondent shall pay all costs necessary to comply with this Reinstatement Consent Order.
- 6. 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.
- 7. Legal notice of any action shall be deemed sufficient if sent to respondent's last known address of record reported to the Practitioner Licensing and Investigations Section of the Healthcare Quality and Safety Branch of the Department.
- 8. This Reinstatement Consent Order is effective on the first day of the month immediately following the month in which this Reinstatement Consent Order is approved and accepted by the Board.
- 9. Respondent understands this Reinstatement Consent Order is a matter of public record.

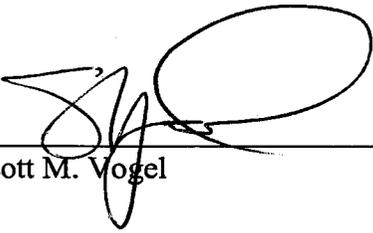
10. The Department's allegations as contained in this Reinstatement Consent Order shall be deemed true in any subsequent proceeding before the Board in which (1) his compliance with this same order is at issue, or (2) his compliance with §20-99(b) of the General Statutes of Connecticut, as amended, is at issue. Further, respondent understands that any discipline imposed by this Reinstatement Consent Order shall be reported to the National Practitioner Data Bank and the Healthcare Integrity and Practitioner Data Bank maintained by the United States Department of Health and Human Services.
11. In the event respondent violates a term of this Reinstatement Consent Order, respondent agrees immediately to refrain from practicing as a registered nurse, upon request by the Department, 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. 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.

12. In the event respondent violates any term of this Reinstatement Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of respondent's license before the Board.
13. This Reinstatement Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Respondent understands that this Reinstatement Consent Order shall not be subject to modification as a result of any claim that the terms contained herein may result in action by third parties, including, but not limited to, healthcare facilities and/or credentialing or licensure boards. Respondent assumes all responsibility for assessing such actions prior to the execution of this document. Further, this Reinstatement 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.
14. Respondent permits a representative of the Department to present this Reinstatement Consent Order and the factual basis for this Reinstatement Consent Order to the Board. The Department and respondent understand that the Board has complete and final discretion as to whether an executed Reinstatement Consent Order is approved or accepted.
15. This Reinstatement 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.
16. Respondent has had the opportunity to consult with an attorney prior to signing this document.
17. 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 State's Attorney's Office

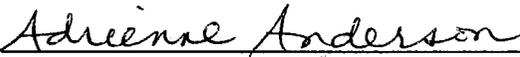
where the allegation occurred or Bureau Chief of the applicable unit in the Chief State's Attorney's Office. The purpose of this Consent Order is to resolve the pending administrative license disciplinary petition only, and is not intended to affect any civil or criminal liability or defense.

18. This Reinstatement Consent Order embodies the entire agreement of the parties with respect to this case. All previous communications or agreements regarding the subject matter of this Reinstatement Consent Order, whether oral or written, between the parties are superseded unless expressly incorporated herein or made a part hereof.

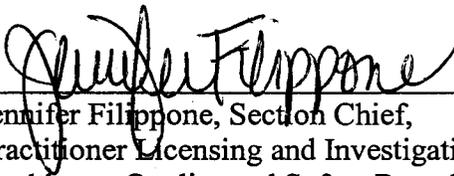
I, Scott M. Vogel, have read the above Reinstatement Consent Order, and I agree to the terms set forth therein. I further declare the execution of this Reinstatement Consent Order to be my free act and deed.

  
\_\_\_\_\_  
Scott M. Vogel

Subscribed and sworn to before me this 1st day of November, 2012.

  
\_\_\_\_\_  
Notary Public or person authorized  
by law to administer an oath or affirmation  
my commission expires 2/28/2015.

The above Reinstatement Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 5th day of November, 2012, it is hereby accepted.

  
\_\_\_\_\_  
Jennifer Filippone, Section Chief,  
Practitioner Licensing and Investigations  
Healthcare Quality and Safety Branch

The above Reinstatement Consent Order having been presented to the duly appointed agent of the Connecticut State Board of Examiners for Nursing on the 5th day of December, 2012, it is hereby ordered and accepted.

BY: Patricia C. Buffalano, D.N.S.  
\_\_\_\_\_  
Connecticut State Board of Examiners for Nursing



# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

Attachment "A"

## REQUIREMENTS FOR DRUG AND ALCOHOL SCREENS

Respondent: Scott M. Vogel, R.N.

Petition No. 2012-91

Screening Monitor Information (Name, Address, Phone and Fax):

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### **SCREENING MONITORS: PLEASE READ THE FOLLOWING CAREFULLY AND CONDUCT SCREENS ACCORDINGLY:**

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, Tramadol, hydrocodone, hydromorphone, and oxycodone. Screens for additional substances, such as Fentanyl, may also be required if so requested by the Department. Partial screens will not be accepted. When indicated in the Consent Order, random EtG tests will be performed.
2. Urine collections must be directly observed. The urine monitor must be in the room with the respondent and directly observe the donor providing the urine specimen into the cup.
3. The frequency of screens is as follows: weekly for the first and fourth years of probation; twice monthly for the second and third years of the probationary period.
4. Collections must be random. There must be no pre-arrangement between respondent and his or her employer, supervisor, therapist, screening 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). If a respondent's therapist is also serving as screening monitor, the specimen collection may not occur on the same day as a therapy session. Screening will be done on weekends and holidays if ordered by the Board.



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 (CHECK ONE):

- The screening monitor (pre-approved by the Department) will call the respondent for collections. The respondent shall provide the monitor with ONE telephone number where s/he may be reliably reached. Respondent shall check messages frequently.

OR

- Respondent shall phone the screening monitor (pre-approved by the Department) every day, Monday through Friday, before 9 a.m., without exception, at which time s/he shall be advised of whether s/he must appear for a screen.

Respondent must appear for specimen collections within 2 - 5 hours of being notified.

The screening monitor must provide immediate notice to the Department if respondent: fails to phone the screening monitor before 9 a.m. (if applicable); does not present himself or herself for screening; or, arrives at the collection site more than 5 hours after speaking with the screening monitor.

A MISSED OR LATE SCREEN IS CONSIDERED A POSITIVE SCREEN.

6. Respondent will notify the screening monitor and the Department in writing at least two weeks prior to scheduled vacations. Screens will be collected prior to and following periods of vacation at the Department's discretion. Respondent will give the screening monitor a minimum of seventy-two hours' prior notice if s/he will be unavailable for a screen on a certain day. Absent notice, a missed screen will be considered to be a positive screen.
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 (just find a blank space on the form).** 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.
8. All positive results shall be confirmed by gas chromatograph/mass spectrometer (GC/MS) testing method.
9. Lab analysis of urine specimens must be conducted at: Bendiner & Schlesinger, Inc., 140 58<sup>th</sup> Street, Brooklyn, NY 11220. Contact: Mr. Francis Hartigan, at [fhartigan@bendinerlab.com](mailto:fhartigan@bendinerlab.com), or at (212) 353-5108.

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. If problems/questions, call Bonnie Pinkerton at (860) 509-7651, or Olive Tronchin at (860) 509-7644.

**All screening monitors and back-up screening monitors must sign below acknowledging receipt and review of this protocol and indicating agreement to conduct screens accordingly.**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Print name: \_\_\_\_\_

Print name: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Print name: \_\_\_\_\_

Print name: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Complete page 1, sign page 3, and fax all three pages to Bonnie Pinkerton at (860) 509-8368.

Re: Scott M. Vogel, R.N.

Pet. No. 2012-91