STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF REGULATORY SERVICES

In Re: Donna DeBerti, L.P.N. Petition No. 980326-011-007

CONSENT ORDER

WHEREAS, Donna DeBerti, L.P.N. (hereinafter "respondent") of White Plains, New York, has been issued license number 018203 to practice as a licensed practical nurse by the Connecticut 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. Her license was suspended for fifteen (15) months in May of 1983 for diversion and abuse of Demerol.
2. Her license was suspended for two (2) years in October of 1987 for diversion and abuse of Demerol.
3. Between March and June of 1997, respondent diverted and abused Roxanol.
4. 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(b) 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 018203 to practice as a licensed practical nurse in the State of Connecticut is hereby placed on probation for four (4) years, beginning when respondent obtains employment as a licensed practical nurse, subject to the following terms and conditions:

   A. At her own expense, she shall engage in therapy and counseling with a 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 his/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 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) She shall be responsible for notifying the laboratory, her therapist, the Board, and the Department of any drug(s) she is taking.

(3) There must be at least one (1) such observed random alcohol/drug screen and accompanying laboratory report every week for the entire period of probation.

(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 monthly written reports from her therapist directly to the Board and the Department for the entire probationary period. 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 accept employment 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 eighteen (18) months of the probationary period.

H. Respondent shall be responsible for the provision of monthly written reports directly to the Board and the Department from her nursing supervisor (i.e., Director of Nursing) for the period of her probation. 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 3L 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 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 in paragraphs 3C and 3H are due on the tenth business day of every month commencing with the reports due February, 1999.

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 the 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 Licensure and Registration Section of the Division of Health Systems Regulation 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 licensed practical 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. 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 her 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 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.

I, Donna DeBerti, L.P.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.

Donna DeBerti, L.P.N.

Subscribed and sworn to before me this 1 day of December, 1998.

Notary Public
Qualified in New Haven
Commission Expires 2000

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 4th day of December, 1998, it is hereby accepted.

Cynthia Denne, Director
Division of Health Systems Regulation

The above Consent Order having been presented to the duly appointed agent of the Connecticut Board of Examiners for Nursing on the 16th day of December, 1998, it is hereby ordered and accepted.

BY: _____
Connecticut Board of Examiners for Nursing