

**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING**

IN RE:	)	
Toni Roberge	)	Docket No. 2021-6
License No. 075.0017093	)	

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Traci Leibowitz, and the respondent in this matter, Toni Roberge, who stipulate and agree as follows:

Board Authority

1. The Vermont State Board of Nursing (the "Board") has authority to issue warnings or reprimands; suspend, revoke, limit, or condition current licenses; or prevent the renewal of lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. § 129(a); 3 V.S.A. § 129a; 3 V.S.A. § 814(d); 26 V.S.A. Chapter 28; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation.

Stipulated Facts

2. Toni Marie Roberge ("Respondent") of Newport Center, Vermont is licensed by the State of Vermont as a Licensed Nursing Assistant ("LNA") under license number 075.0017093. This license was originally issued September 21, 2007, and expires on November 30, 2022.
3. Respondent was employed by Bayada Home Health Care ("Bayada") and had been working regularly as a home health care attendant since April 2020. Additionally, Respondent was previously employed by Bayada on two prior occasions.
4. Respondent was scheduled to perform multiple home health patient visits for the week of August 3 – 9, 2020.
5. Respondent knew, or should have known, that she was scheduled to work the week of August 3 – 9, 2020.
6. On Monday, August 3rd, Respondent failed to show for her scheduled visit with a patient. The patient was an at-risk adult and did not receive care that day.

7. On Tuesday, August 4th, Respondent failed to show for her scheduled visit with a second patient. The second patient was an at-risk adult and did not receive care that day.
8. Respondent failed to give adequate notice that she would miss the scheduled visits on August 3rd and August 4th of 2020.
9. Respondent's employers tried to contact her numerous times from August 4th through August 10th.
10. Respondent did not reply to her employers' numerous attempts to contact her.
11. On August 10, 2020, notice of termination was sent to Respondent via email and Respondent's employment with Bayada was terminated.
12. On August 11th, Respondent finally responded to her employer's attempts to contact her acknowledging receipt of the termination notice.

Violation One: 3 V.S.A §129a(b)(1) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care.

13. The State re-alleges and incorporates Paragraphs 2 through 12 above.
14. As an LNA, Respondent has an obligation to provide safe and acceptable patient care.
15. Respondent provided unsafe and unacceptable patient care by engaging in the conduct described in Paragraphs 2 through 12 above.
16. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(1).

Violation Two: 3 V.S.A §129a(b)(2) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (2) failure to conform to the essential standards of acceptable and prevailing practice.

17. The State re-alleges and incorporates Paragraphs 2 through 12 above.
18. All nurses, including LNAs, must not "[disengage] from the nurse-patient or caregiver-patient relationship without properly notifying appropriate personnel (for example, supervisor or employer) and/or making reasonable arrangements for continuation of care." *Vermont State Board of Nursing "Abandonment Position Statement."*

19. Respondent's conduct in paragraphs 2 through 12 above demonstrate that Respondent failed to conform with this essential standard of acceptable and prevailing practice.
20. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of 3 V.S.A. §129a(b)(2).

Violation Three: 26 V.S.A. §1582(a)(3) Engaging in conduct of a character likely to deceive, defraud, or harm the public.

21. The State re-alleges and incorporates Paragraphs 2 through 12 above.
22. As an LNA, Respondent is prohibited from engaging in conduct likely to cause harm to any member of the public.
23. Respondent's conduct in paragraphs 2 through 12 above demonstrate that Respondent failed to comply with this requirement.
24. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of 26 V.S.A. §1582(a)(3).

Understandings

25. Respondent admits that the facts above are true and that the conditions below are necessary to protect the public.
26. 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.
27. 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.
28. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
29. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
30. 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.

31. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
32. Respondent agrees that the Order set forth below may be entered by the Board.

ORDER

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

- A. The Board of Nursing hereby places a **WARNING** on Respondent's license.
- B. Respondent's license is hereby **CONDITIONED** as follows:
 - a. Respondent shall, within ninety (90) days of this Order, at her own expense, successfully complete the following pre-approved courses:
 - i. Righting a Wrong: Ethics & Professionalism in Nursing, and any accompanying workbook, through the National Council of State Boards of Nursing Learning Extension
- C. Notwithstanding any provision above, the Respondent must continue to meet all requirements for maintaining a license, license renewal, and license reinstatement.
- D. 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).
- E. 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:

STATE OF VERMONT
SECRETARY OF STATE

Dated: April 20, 2021

By:  E-SIGNED by Traci Leibowitz
on 2021-04-20 12:51:06 EDT
Traci Leibowitz
State Prosecuting Attorney

TONI ROBERGE
RESPONDENT

Dated: April 20, 2021

By:  E-SIGNED by Toni Roberge
on 2021-04-20 12:45:24 EDT
Toni Roberge

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

May 11, 2021
Dated: _____

 E-SIGNED by Ellen Watson
on 2021-05-11 20:21:27 EDT
By: _____
Chairperson

Date of Entry: 5/12/2021