



State of Vermont
Office of the Secretary of State

Sarah Copeland Hanzas, Secretary of State
S. Lauren Hibbert, Deputy Secretary

Office of Professional Regulation
89 Main Street, 3rd Floor
Montpelier, VT 05620-3402
sos.vermont.gov

January 10, 2023

Attorney Nicole Andreson
P.O. Box 988
Burlington, VT 05402

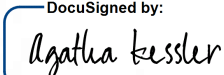
Case: Timothy Ferguson
Docket No.: 2022-187

Dear Attorney Andreson:

Enclosed please find a copy of the approved *Stipulation and Consent Order*

For questions about complying with this Order, please contact the Case Manager at 802-828-2875

Sincerely,

DocuSigned by:

74418E28DA26447...
Agatha Kessler
Deputy Director

Enc: *Stipulation and Consent Order*

cc: Ultan Doyle, Esq., Prosecuting Attorney
Kristin Donnelly, Case Manager

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

IN RE:**Timothy Ferguson****License No. 026.0096164**

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Docket No. 2022-187

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through Prosecuting Attorney Ulan Doyle, and Respondent Timothy Ferguson, by and through his counsel Nicole Andreson, Esq., who hereby 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; 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 ("OPR").

Stipulated Facts

2. Timothy Ferguson ("Respondent") of White River Junction, Vermont is licensed by the State of Vermont as a Registered Nurse ("RN") under license number 026.0096164. This license was originally issued on June 7, 2013 and expires on March 31, 2023.
3. During the relevant time period, Respondent was employed as an RN by The Village ("the Facility"), an assisted living facility located in White River Junction, Vermont.
4. On December 23, 2021, Respondent was charged with providing care for patient, C.L. (the "Patient") from 11:00 pm until 7:30 the following morning.
5. At approximately 4:00 am on December 24, 2021, M.R., a Quality-of-Life Specialist ("QLS") who worked at the Facility, was called to the Patient's room by her husband, who was also a resident.
6. The QLS reported that the Patient's husband told her that he was trying to help the Patient up, but she would not stand for him.

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7. The QLS tried three times to help the Patient stand up, but was unable to do so. The QLS noticed that the Patient's right leg was dragging and that she had no strength in her right side.
8. The QLS called for assistance and Respondent, who was the charge nurse that night, came to the Patient's room. The QLS reported that she explained to him that the Patient had no strength on her right-hand side. Respondent does not recall hearing this information.
9. The QLS reported that Respondent picked the Patient up and put her in a wheelchair and took her to the bathroom, where he again had to pick her up to put her on the toilet. Respondent then put the Patient back in the wheelchair and brought her back to her bed.
10. The QLS reported that she pointed out again that the Patient's right leg was dragging. Respondent does not recall hearing this information.
11. At no time did Respondent take the Patient's vital signs or perform any kind of evaluation or assessment of the Patient.
12. Respondent did not follow up with the Patient that night to see how she was doing or to assess if she needed further assistance.
13. At approximately 6:50 am, J.K., an LNA who worked at the Facility, responded to the Patient's "pendant call."
14. When J.K. entered the room, he discovered the Patient with vomit on her and her husband standing next to her. J.K. called for assistance and Respondent came to the room.
15. Respondent wiped the vomit off the Patient and assessed whether he should try to pick the Patient up off the floor, given that the facility does not have mechanical lifts on site. J.K. suggested that they get the Patient's vital signs first and a few minutes later he returned with a vitals machine.
16. J.K. reported that before he could take the Patient's vital signs, Respondent picked her up and placed her on the bed. Respondent then left the room to call 911 for emergency assistance and to obtain necessary paperwork in preparation for emergency transport.
17. Approximately 10 minutes later, Respondent returned and J.K. handed him the Patient's vital signs. Respondent then flexed the Patient's arms and legs and asked if she was in any pain. During this time, Patient did not respond and was mumbling incoherently.

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18. Respondent then advised the Patient's husband that she was having a stroke. .
19. The Facility was subsequently notified by the hospital that the Patient was admitted to End-of-Life Care and passed away the following day.
20. N.D., C.L.'s treating physician at the hospital, reported that C.L. suffered a massive hemorrhagic stroke and there was no evidence that had medical intervention occurred when Respondent first examined C.L., it would have changed the outcome.
21. On April 29, 2022, Respondent told an OPR investigator that on the night in question, he responded to a call from the QLS asking for assistance with bringing the Patient to the bathroom, and that he smelled alcohol upon walking into the Patient's room.
22. Respondent reported that as he was assisting the Patient with using the toilet, he thought that she was drunk. Respondent noted that in retrospect, he realized that the Patient was having symptoms of an early stroke that he had not recognized at the time.
23. Respondent also told investigators that he later learned the QLS had reported seeing one-sided weakness to investigators. However, Respondent said he did not see it. Respondent said that if the QLS told him about the one-sided weakness, he did not recall it.
24. Respondent did not smell alcohol on the Patient, but because he smelled it in her room, he assumed that she was drunk.

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.

25. Paragraphs 2 through 24 above are incorporated herein.
26. Vermont law requires RNs to practice competently by providing safe and acceptable patient care.
27. Paragraphs 2 through 24 above demonstrate that Respondent failed to provide safe and acceptable patient care when he failed to conduct an assessment to determine the cause of the Patient's sudden right-sided weakness and inability to stand-up.
28. 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)(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

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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.

29. Paragraphs 2 through 24 above are incorporated herein.
30. The essential standards of acceptable and prevailing practice require that an RN conduct an assessment of a patient presenting with sudden right-sided weakness and inability to stand up.
31. Paragraphs 2 through 24 above demonstrate that Respondent failed to conform to essential standards of acceptable and prevailing practice when he failed to conduct an assessment to determine the cause of the Patient's sudden right-sided weakness and inability to stand-up.
32. 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).

Understandings

33. Respondent admits that the facts above are true and that the conditions below are necessary to protect the public.
34. 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.
35. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
36. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
37. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
38. 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.
39. Respondent voluntarily waives the right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
40. Respondent agrees that the Order set forth below may be entered by the Board.

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ORDER

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

- A. The Board of Nursing hereby **REPRIMANDS** Respondent's license.
- B. The Board of Nursing hereby **CONDITIONS** Respondent's license **FOR A MINIMUM OF ONE (1) YEAR**. The conditions will be as follows:

1. Re-issuance of License: Upon the commencement of these conditions and the renewal of Respondent's license, Respondent shall be issued a license labeled "conditioned."
2. Length of Time of 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 minimum of one (1) year of supervised practice in which Respondent works at least eighty (80) hours every calendar month as a nurse. Part time hours of fewer than eighty (80) hours every calendar month shall be credited on a prorated basis. Respondent shall be prohibited from working more than forty (40) hours per week.
3. Monitoring: The Office of Professional Regulation, through the Enforcement Case Manager, shall be responsible for monitoring Respondent's compliance with these Conditions. All reports or correspondence regarding compliance with these conditions shall be submitted to the Case Manager in accordance with the Conditions listed below.
4. Required Coursework: Respondent shall, at his own expense and within ninety (90) days of the date of entry of this Stipulation and Consent Order, successfully complete (i.e., receive a passing score, if applicable) the following pre-approved online courses from the National Council of States Boards of Nursing (NCSBN) (or equivalent that are pre-approved by the Enforcement Case Manager) and submit test results, completed workbooks and certificates of completion to the Office of Professional Regulation:

- a. Sharpening Critical Thinking Skills (3.0 hours).

Failure to satisfactorily complete the coursework within the prescribed timeframe shall constitute a violation of this Order. The coursework may not be counted toward any continuing education requirement of licensure.

5. Notification to Employers/Nursing School: Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which Respondent practices as a licensed nursing assistant or nurse 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 nursing employment, Respondent shall cause Respondent's immediate supervisor to submit to the Board an employer agreement

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form approved by the Board, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

In the event Respondent is attending a nursing program which has a clinical portion that involves actual patient care, Respondent shall provide a copy of the Stipulation and Consent Order to the Program Director. Respondent shall cause the Program Director to submit to the Board a nursing program agreement form approved by the Board, acknowledging receipt of the Stipulation and Consent Order and the ability of the program to comply with the conditions in the Consent Order during clinical experience.

6. Reports from Employers/Program Director. Within one (1) month of the date of this order or within one (1) month of the commencement of nursing employment and monthly thereafter, Respondent shall cause every nursing employer Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. In the event Respondent is attending a nursing program, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Respondent's performance and attendance. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance (i.e. consistently meeting all standards of nursing practice) and attendance.
7. Practice Under Supervision. Respondent shall practice as a registered nurse only in a setting where Respondent has on-site or telephone supervision for the entire shift by a registered nurse that is in good standing with the Board. Respondent intends to work four eight-hour shifts per week. Two of those shifts will be on weekdays. There will be core hours of overlap with another registered nurse who will be on site during at least two shifts per week. For the remainder of the four shifts, telephone supervision will be available.
8. Types of Employment Prohibited. Respondent shall not work in a supervisory role. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency, or as a private duty nurse or personal care provider requiring a nursing or nursing assistant license during the effective period of this Consent Order.
9. Interview with the Board or its Designee. Respondent shall appear in person for interviews with the Board or its designee upon request.
10. Out-of-State Practice. Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board. The Board will approve out-of-state nursing practice so long as Respondent can still comply with the provisions of this Consent Order. If Respondent receives discipline on a nursing license held in another state during the conditioned period, Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.

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11. Notification of Place of Employment/Personal Address/Telephone Number. Within ten (10) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of Respondent's current place of employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in employment (including resignation or termination), personal address, or telephone number.
 12. Notification to Other States. In the event that Respondent is licensed in nursing in any other state(s), Respondent must inform the nursing licensing board of the state(s) in which Respondent is licensed of the conditional status of Respondent's Vermont nursing license within thirty (30) days of the date of entry of this Order.
 13. License Renewal. This Order does not automatically extend the license and Respondent must comply with the Board of Nursing requirements for license renewal and/or reinstatement.
 14. Costs. Respondent shall bear all costs of complying with this Consent Order.
 15. Violation of this Order. If Respondent violates this Order the Board, after giving 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 Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.
 16. Completion of Conditioned License Period. After the conditioned license period, the Respondent may petition the Board to remove any and all conditions on his license. Respondent shall have the burden of proof to demonstrate successful completion of the above-stated conditions.
- C. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board 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.

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AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 1/3/2023

By: Ullian Doyle
Ullian Doyle, Esq.
State Prosecuting Attorney

TIMOTHY FERGUSON
RESPONDENT

Dated: 1/3/2023

By: Timothy Ferguson
Timothy Ferguson

APPROVED AS TO FORM

NICOLE ANDRESON
ATTORNEY FOR RESPONDENT

Dated: 1/3/2023

By: Nicole Anderson
Nicole Anderson, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 1/10/2023

DocuSigned by:
By: Janet Laurent
Chairperson

Date of Entry: 1/10/2023

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