

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

IN RE:)
MARI-JEAN ANDERSEN) Docket No. NU 69-0404
License No: 026-0027430)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Mari-Jean Andersen, R.N.:

Board Authority

1. The Vermont Board of Nursing ("the Board") has jurisdiction to investigate complaints of unprofessional conduct and discipline nurses pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §1582; the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.
2. Willfully making or filing false reports or records in the practice of the profession is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(7).
3. Failing to practice competently by reason of any cause on a single occasion or on multiple occasions is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. § 129a(b).
4. The inability to practice nursing competently by reason of any cause is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(3).
5. The inability to practice nursing competently includes the performance of unsafe or unacceptable patient care pursuant to ARBN, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN, Chapter 4, Rule IV(II)(B)(2).
6. Engaging in conduct of a character likely to deceive, defraud or harm the public is unprofessional conduct upon which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(7).
7. Conduct of a character likely to deceive, defraud, or harm the public includes falsifying or altering clinical records or making inaccurate or misleading entries. ARBN, Chapter 4, Rule IV(II)(D)(3).

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8. Failing to comply with the provisions of state statutes or rules governing the practice of the profession is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(3).

Facts

9. The Respondent, Mari-Jean Andersen, is licensed by the State of Vermont as a Registered Nurse under license number 026-0027430.

10. Respondent's license was originally issued on July 31, 2002 and Respondent's license is currently set to expire on March 31, 2005.

11. At all times relevant, the Respondent was employed as an R.N. by the Visiting Nurse Association ("VNA") located in Springfield, Vermont.

12. On January 15, 2004, the Respondent was scheduled to visit the home of VNA client, J.Y. The Respondent never went to J.Y.'s residence on January 15, 2004, however, the Respondent documented on the visiting form that she had been there from 2:25 p.m. to 2:40 pm. The Respondent also documented false information as to J.Y.'s vital information. The Respondent signed this form and forged J.Y.'s signature.

13. On January 16, 2004, the Respondent documented that she had been to the residences of three VNA clients; E.R., F.H., L.S., however, the Respondent never went to any of these three residences on January 16, 2004. The Respondent falsified on the visiting forms the times she had been there for the visits and the clients' vital information. The Respondent signed all three of these forms and forged both E.R.'s and F.H.'s signatures on their forms. The Respondent stated on L.S.'s form that he was unable to sign.

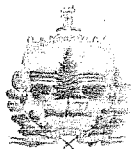
14. On or about January 17, 2004, the Respondent was scheduled to visit the home of VNA client, F.W., however the Respondent never went to F.W.'s residence on January 17, 2004. The Respondent falsified on the visiting form the time she had been there for the visit and F.W.'s vital information. The Respondent signed this form and forged F.W.'s signature.

15. The Respondent also completed an "OASIS Report" relating to the January 17, 2004 visit with F.W. which is used for Medicare billing purposes.

16. On or about May 27, 2004, the Respondent admitted to State Investigator Jackie Cholewa that she had not made the scheduled visits to the residences of the VNA clients named above on the dates described above and that she had completed false documentation relating to the visits.

Charges

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17. The acts, omissions and/or circumstances described above, constitute grounds for discipline because Respondent violated:

- i. 3 V.S.A. §129a(a)(7) (willfully making or filing false reports or records in the practice of the profession); and
- ii. 3 V.S.A. § 129a(b) (failing to practice competently by reason of any cause on a single occasion or on multiple occasions); and
- iii. 26 V.S.A. §1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes the performance of unsafe or unacceptable patient care pursuant to ARBN, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN, Chapter 4, Rule IV(II)(B)(2); and
- iv. 26 V.S.A. §1582(a)(7) (engaging in conduct of a character likely to deceive, defraud or harm the public), which includes falsifying or altering clinical records or making inaccurate or misleading entries pursuant to ARBN, Chapter 4, Rule IV(II)(D)(3); and
- v. 3 V.S.A. §129a(a)(3) (failing to comply with the provisions of state statutes or rules governing the practice of the profession).

Relief Requested

WHEREFORE, the license of Mari-Jean Andersen should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 5th day of September 2004.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

nu.andersen.soc

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**STATE OF VERMONT
SECRETARY OF STATE
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BOARD OF NURSING**

IN RE:)
MARI-JEAN ANDERSEN) Docket No. NU 69-0404
License No: 026-0027430)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Mari-Jean Andersen, R.N., 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, 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)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a); the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.

Facts

2. The Respondent, Mari-Jean Andersen, is licensed by the State of Vermont as a Registered Nurse under license number 026-0027430.
3. The Respondent's license was originally issued on July 31, 2002 and the Respondent's license is currently set to expire on March 31, 2005.
4. At all times relevant, the Respondent was employed as an R.N. by the Visiting Nurse Association ("VNA") located in Springfield, Vermont.
5. On January 15, 2004, the Respondent was scheduled to visit the home of VNA client, J.Y. The Respondent never went to J.Y.'s residence on January 15, 2004, however, the Respondent documented on the visiting form that she had been there from 2:25 p.m. to 2:40 pm. The Respondent also documented false information as to J.Y.'s vital information. The Respondent signed this form and forged J.Y.'s signature.
6. On January 16, 2004, the Respondent documented that she had been to the residences of three VNA clients; E.R., F.H., L.S., however, the Respondent never went to any of these three residences on January 16, 2004. The Respondent falsified

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on the visiting forms the times she had been there for the visits and the clients' vital information. The Respondent signed all three of these forms and forged both E.R.'s and F.H.'s signatures on their forms. The Respondent stated on L.S.'s form that he was unable to sign.

7. On or about January 17, 2004, the Respondent was scheduled to visit the home of VNA client, F.W., however the Respondent never went to F.W.'s residence on January 17, 2004. The Respondent falsified on the visiting form the time she had been there for the visit and F.W.'s vital information. The Respondent signed this form and forged F.W.'s signature.

8. The Respondent also completed an "OASIS Report" relating to the January 17, 2004 visit with F.W. which is used for Medicare billing purposes.

9. On or about May 27, 2004, the Respondent admitted to State Investigator Jackie Cholewa that she had not made the scheduled visits to the residences of the VNA clients named above on the dates described above and that she had completed false documentation relating to the visits.

Charges

10. The acts, omissions and/or circumstances described above constitute grounds for discipline because Respondent violated:

- i. 3 V.S.A. §129a(a)(7) (willfully making or filing false reports or records in the practice of the profession); and
- ii. 3 V.S.A. § 129a(b) (failing to practice competently by reason of any cause on a single occasion or on multiple occasions); and
- iii. 26 V.S.A. §1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes the performance of unsafe or unacceptable patient care pursuant to ARBN, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN, Chapter 4, Rule IV(II)(B)(2); and
- iv. 26 V.S.A. §1582(a)(7) (engaging in conduct of a character likely to deceive, defraud or harm the public), which includes falsifying or altering clinical records or making inaccurate or misleading entries pursuant to ARBN, Chapter 4, Rule IV(II)(D)(3); and
- v. 3 V.S.A. §129a(a)(3) (failing to comply with the provisions of state statutes or rules governing the practice of the profession).

Understandings

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11. 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.
12. 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.
13. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
14. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
15. 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.
16. Respondent voluntarily waives her right to charges and a contested hearing before the Board of Nursing.
17. 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 **SUSPENDS** the Respondent's license to practice nursing for a period of **THREE MONTHS**. **THE SUSPENSION SHALL COMMENCE ON FEBRUARY 1, 2005**. Once reinstated, the Respondent's license to practice nursing will be **CONDITIONED** for a minimum period of **TWO (2) YEARS** commencing with the date of reinstatement. The conditions are as follows:

(1) Re-issue of License.

Upon reinstatement of the Respondent's license by the Board, the Respondent shall be issued a license labeled "conditioned."

(2) Length of Time 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 two (2) years of supervised nursing practice in which she works forty (40) hours every two (2) weeks as a nurse. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis. Respondent shall be prohibited from working more than forty (40) hours per week. Respondent's license is additionally conditioned as follows.

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(3) 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 during the conditioned period in which Respondent practices as a nurse and inform them of Respondent's conditional license status.

Within ten (10) days of the date of reinstatement or of subsequent commencement of nursing employment, Respondent shall cause Respondent's immediate supervisor to write to the Board, on the employer's letterhead, 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 which involves actual patient care, she shall provide a copy of the Stipulation and Consent Order to the Program Director. Respondent shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Stipulation and Consent Order and ability of the program to comply with its conditions during clinical experience.

(4) Reports from Employers.

Within one (1) month of the date of reinstatement or 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. This report shall be submitted in writing on forms issued by the Board.

In the event the 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 her performance and attendance. This report shall be submitted in writing on forms issued by the Board and accompanied by a cover letter on the school's letterhead.

(5) Practice Under Supervision.

Respondent shall practice only in a nursing setting where Respondent has on-site supervision for the entire shift by a Registered Nurse that is licensed and in good standing with the Board.

(6) Interview with the Board or its Designee.

Respondent shall appear in person for interviews with the Board or its designee upon request.

(7) Types of Employment Prohibited.

Respondent shall not work as a supervising nurse, with the exception of supervising LNAs and other unlicensed assistive persons. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency or as a personal care provider during the effective period of this Consent Order.

(8) Out of State Practice/Residence.

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Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board prior to Respondent leaving the State of Vermont. If Respondent fails to receive such approval before leaving the State, none of the time spent out-of-state will be credited toward the fulfillment of the terms and conditions of this Consent Order. The Board will approve out of state practice so long as the Respondent can still comply with the provisions of this Consent Order.

(9) Notification of Place of Employment/Personal Address/Telephone Number.

Within five (5) days of the date of reinstatement, Respondent shall notify the Board, in writing, of her 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, personal address, or telephone number.

(10) Notification to Other States.

In the event that the Respondent is licensed as a nurse in any other state(s), she must inform the nurse licensing board of the state(s) in which the Respondent is licensed of the conditional status of her Vermont nursing license within thirty (30) days of the date of reinstatement. If the Respondent fails to provide such notification, it will be considered a violation of this Order.

(11) License Renewal.

If the Respondent's license expires while this Order is still in effect, this Order does not automatically extend the license. In that situation, in order to continue to practice nursing, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that she has otherwise complied with the requirements for license renewal.

(12) Costs.

The Respondent shall bear all costs of complying with this Consent Order.

(13) Violation of this Order.

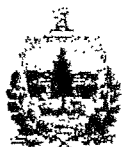
If the Respondent violates the terms of this Order in any respect, the Board, after giving the Respondent notice and an opportunity to be heard, may rescind or modify this Order and impose additional appropriate disciplinary actions. If a complaint of unprofessional conduct is made against the Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

(14) Completion of Conditional License Period.

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on her license. The Respondent must present proof that she has fully complied with the terms of this Order.

B. Notwithstanding any provision above, the Respondent must continue to meet all

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Nursing Board requirements for maintaining a license, license renewal and license reinstatement.

C. 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).

D. 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.

E. The Respondent may request a modification of this Order, from the Board, at any time.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 1/5/05

By: [Signature]

Edward G. Adrian
State Prosecuting Attorney

MARI-JEAN ANDERSEN
RESPONDENT

Dated: 1/5/05

By: [Signature]

Mari-Jean Andersen

Approved as to form:

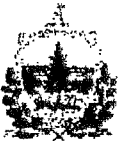
Attorney for Respondent

Dated: January 5, 2005

By: [Signature]

Frederick M. Glover, Esq.

STATE OF VERMONT



Prosecuting Attorney
Office of
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Montpelier, VT 05602

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: Jan 10, 2005

By: [Signature]

Chairperson

Date of Entry: 1/13/05

nu.andersen.stip