

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

IN RE:
GERALD GENE BAILLY
License No. 025-0008316

Docket No: NU 12-0803

CW
4/26/04

SPECIFICATION OF CHARGES

**STIPULATION AND
CONSENT ORDER**

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Gerald Gene Bailly, L.P.N.:

Board Authority

1. The Vermont State Board of Nursing ("the Board") has authority to approve consent orders, 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) and 129a; 3 V.S.A. §814(d); 26 V.S.A. §1582(a); Administrative Rules of the Board of Nursing; Rules of the Office of Professional Regulation.

Facts

2. The Respondent is licensed in the State of Vermont as a Licensed Practical Nurse under License Number 025-0008316.

3. The Respondent's license was originally issued on May 12, 2003 and the Respondent's license lapsed on January 31, 2004.

4. At all times relevant, the Respondent was employed as an L.P.N. by the Thompson House Nursing Home in Brattleboro, Vermont.

5. On or about July 18, 2003, the Respondent incorrectly gave Resident H.G. a dosage of 2 mg of Ativan, when 1.5 mg had been prescribed for H.G.

6. On or about July 20, 2003, the Respondent failed to give the prescribed 9:00 p.m. Tylenol with codeine pill to Resident A.S.

7. On each of the three days; on or about July 21, July 22 and July 23, 2003, the Respondent failed to give Resident A.C. the prescribed order of 1 mg of Ativan daily.

8. On or about July 22, 2003, the Respondent failed to give to Resident A.H. the prescribed 8:00 a.m. and 12:00 p.m. doses of Provigil.

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Office of
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Montpelier, VT 05602

9. On or about July 23, 2003, the Respondent failed to give to Resident A.H. the prescribed 12:00 p.m. dose of Provigil.

10. The Respondent admitted to his supervisor, D.R., that he had committed the medication errors.

Charges

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

(i) 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 the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(2); and

(ii) 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

12. 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.

13. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

14. Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.

15. Respondent voluntarily waives his right to a contested hearing before the Board of Nursing.

16. Respondent agrees that the Order set forth below may be entered by the Board.

ORDER

Based upon the stipulation above, it is **ORDERED AND ADJUDGED** as follows:

A. Respondent's actions described above demonstrate grounds for discipline because Respondent violated:

(i) 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 the Administrative Rules of the Board of Nursing, Chapter 4, Rule

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IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(2); and

(ii) 3 V.S.A. §129a(a)(3) (failing to comply with the provisions of state statutes or rules governing the practice of the profession).

B. The Board of Nursing hereby **CONDITIONS** the Respondent's license to practice nursing for a minimum period of **TWO (2) YEARS** commencing with the date of entry of this Stipulation and Consent Order. The conditions are as follows:

(1) Length of Time Conditions Imposed.

These conditions shall remain in place until Respondent has completed **two (2) years** of supervised nursing practice in which Respondent works at least forty (40) hours every two (2) weeks in nursing. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis.

(2) Medication Administration Course.

Respondent shall, at his own expense, complete one (1) course focusing on medication administration. This course must be pre-approved by the Board. Respondent must submit written documentation (certificate of completion, etc.) to verify same to the satisfaction of the Board or its designee.

(3) Notification to Employers/Nursing School.

During the conditioned period, 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 nurse and inform them of Respondent's conditional license status.

Within ten (10) days of the date of commencement of these conditions or of any subsequent 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, he 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/Nursing School.

Within one (1) month of the date of commencement of these conditions or within one (1) month of the commencement of nursing employment, and **monthly** thereafter for the period the conditions are in place, Respondent shall cause every nursing employer Respondent has worked for during the month to submit to the Board an evaluation of Respondent's performance and attendance during that

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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 his 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 direct supervision for the entire shift by a registered nurse that is licensed and in good standing with the Board.

(6) Types of Employment Prohibited.

Respondent shall not work as a supervising nurse. 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.

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

Within five (5) days of the date of the commencement of these conditions, Respondent shall notify the Board, in writing, of his 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.

(8) Violation of the Consent Order.

If Respondent violates the terms of this Stipulation and Consent Order in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke the terms of the conditional license and take further disciplinary action. If a complaint or charges are filed against Respondent during the term of this Consent Order, the conditional license period shall be extended until the matter is final.

(9) Out of State Practice/Residence.

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

(10) Completion of Conditional License Period.

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on his license. The Respondent must present proof

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that he has full complied with the terms of this Order.

C. Notwithstanding any provision above, Respondent must meet all Nursing Board requirements for license renewal and license reinstatement.

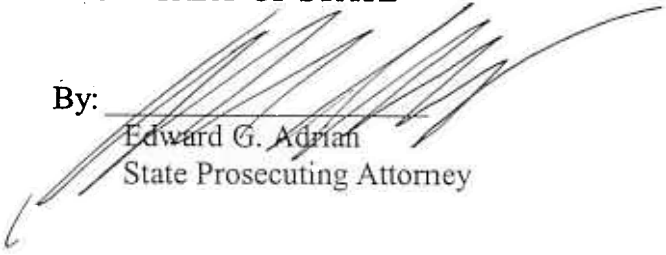
D. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

E. This Stipulation and Consent Order will remain part of the 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

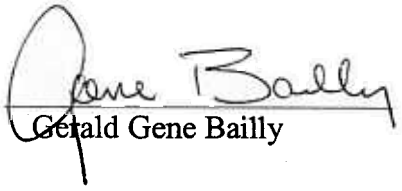
Dated: 7/15/04

By: 

Edward G. Adrian
State Prosecuting Attorney

GERALD GENE BAILLY
RESPONDENT

Dated: 4/2/04

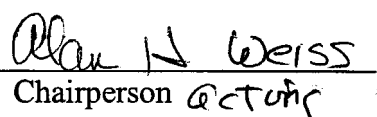
By: 

Gerald Gene Bailly

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 4/26/04

By: 

Chairperson @ctofr

Date of Entry: 5/3/04

nu.bailly.stip

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IN RE:)
GERALD GENE BAILLY) **Docket No: NU 12-0803**
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2. Failure 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).
3. The inability to practice nursing by reason of any cause is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(3).
4. The inability to practice nursing competently includes the performance of unsafe or unacceptable patient care pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(2).

Facts

5. The Respondent is licensed in the State of Vermont as a Licensed Practical Nurse under License Number 025-0008316.
6. The Respondent's license was originally issued on May 12, 2003 and the Respondent's license is currently set to expire on January 31, 2004.
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A. The above acts, omissions and/or circumstances described above, constitute grounds for discipline because Respondent violated:

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(ii) 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 Gerald Gene Bailly should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 20th day of January 2004.

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