

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

IN RE:

KATE BARANY

License No. 026.0023696

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Docket No. 2009-265

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney Betsy Ann Wrask, and the Respondent, Kate Barany, RN, 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. § 1582; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Kate Barany (the "Respondent") of Barre, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0023696. This license was originally issued on or about October 29, 1997 and is currently set to expire on or about March 31, 2011.
3. At all times relevant, Respondent was employed as a Registered Nurse at the Vermont State Hospital (the "Facility"), located in Waterbury, Vermont.
4. On or about June 9, 2009 at 16:30, Patient E.H. was not administered Byetta, which he was ordered to receive ½ hour before dinner. Respondent failed to follow Facility policy because after she called E.H.'s doctor regarding this missed administration, she failed to document the doctor's order to hold this medication.
5. On or about June 16, 2009, Respondent propped open her medication cart drawer with a plastic bag so it would not lock, then left the medication room door unlocked as she went outside in the hallway.

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6. On or about June 16, 2009, Respondent was found to have pre-poured her patients' medications – including controlled substances – at 15:00 for 21:00 administration, and kept them in individual patients' medication drawers.
7. On or about June 16, 2009 at 15:30, Respondent was found to have pre-documented in the Daily Substances Disposition Record that she administered medications at 21:00 on this date.
8. On or about January 4, 2010 in an interview with State Investigator Karl Packer, Respondent admitted that she failed to write the doctor's order referenced above in ¶4.
9. In this same interview, in regard to ¶5, Respondent admitted that she propped open her medication cart drawer so that it would not lock, and then left the medication room door unlocked when she went to the file cabinet in the hallway outside this door.
10. In this same interview, in regard to ¶6, Respondent admitted that she pre-poured her medications. Respondent stated that she has always pre-poured at the Facility in order to get things done.
11. In this same interview, in regard to ¶7, Respondent admitted that she pre-documented the administration of her medications in the Daily Substances Disposition Record. Respondent stated she has been filling out this form this way for over four (4) years.
12. On or about June 12, 2010 in her Answer to the Charges filed in this matter, Respondent indicated that due to her current health status, she no longer intends to practice as a nurse.

Charges

13. The State contends that 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:
 - a. 3 V.S.A. § 129a(b)(1) and (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: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and
 - b. 3 V.S.A. § 129a(a)(3) (Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession).

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Understandings

14. This Stipulation is neither an admission of liability by the Respondent nor a concession by the State of Vermont that its charges are not well founded. To avoid delay, uncertainty, inconvenience, and expense of protracted litigation of the charges above, the Parties reach a full and final Stipulation pursuant to these Understandings and the Order below. The Respondent does not dispute that the State could prove these charges by a preponderance of the evidence if this matter went to a hearing and agrees that the conditions below are necessary to protect the public.
15. 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.
16. 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.
17. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
18. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
19. 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.
20. 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.
21. 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 changes Respondent's registered nursing license status to **INACTIVE-CONDITIONED, commencing with the date of entry below**. If, in the future, Respondent requests and is granted reinstatement of her registered nursing license, her license will be **CONDITIONED FOR A MINIMUM OF ONE (1) YEAR commencing with the date of reinstatement**. The conditions will be as follows:
 - (1) Re-issue of License.

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Upon the imposition of these conditions, 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 one (1) year of supervised nursing practice in which she works at least 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. The Respondent shall be prohibited from working more than forty (40) hours per week during the conditioned period.

(3) Documentation Course.

Respondent must successfully complete (i.e., receive a passing grade, if applicable) a documentation course focusing on documentation with prior approval by the Board or its designee, and then submit written documentation of completion (certificate of completion, etc.) to verify the same to the satisfaction of the Board or its designee. This course must be completed within ninety (90) days of the date of license reinstatement.

(4) Medication Administration Course.

Respondent must successfully complete (i.e., receive a passing grade, if applicable) a medication administration course focusing on medication administration with prior approval by the Board or its designee, and then submit written documentation of completion (certificate of completion, etc.) to verify the same to the satisfaction of the Board or its designee. This course must be completed within ninety (90) days of the date of license reinstatement.

(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 nurse and inform them of Respondent's conditional license status.

Within ten (10) days of the date of license reinstatement or of any subsequent nursing employment, Respondent shall cause Respondent's immediate supervisor to submit to the Board an employer agreement 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 the 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 Directors.

Within one (1) month of the date of reinstatement or within one (1) month of the commencement of nursing employment and **monthly** thereafter, Respondent shall cause every nursing employer the Respondent has worked for during the month to submit to the

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Board an evaluation of Respondent's work performance and attendance during that month. For at least the first three (3) months, these monthly reports shall include the results of the employer's medication and documentation audits of Respondent's charting; if these audit results are deemed satisfactory by the Board or its designee, then for the remainder of the conditioned period the results of such auditing shall be reported on a **quarterly** basis. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance.

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. These reports shall be submitted in writing on forms issued by the Board. All nursing program reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance.

(7) Practice Under Supervision.

Respondent shall practice nursing only in a setting where Respondent has direct supervision for the entire shift by a registered nurse that is licensed and in good standing with the Board.

(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) 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 prior to Respondent practicing nursing outside the State of Vermont. If Respondent fails to receive such approval before practicing nursing outside the State of Vermont, none of the time spent practicing nursing 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 nursing practice so long as the Respondent can still comply with the provisions of this Consent Order.

(10) 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 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.

(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.

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(12) Costs.

The Respondent shall bear all costs of complying with the educational requirements of 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 may extend, after hearing, 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 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.

AGREED TO:

Dated: 8-3-10

STATE OF VERMONT
SECRETARY OF STATE

By: [Signature]
BetsyAnn Wrask
State Prosecuting Attorney

KATE BARANY
RESPONDENT

Dated: 8/1/10

By: Kate Barany
Kate Barany

APPROVED AND SO ORDERED:

Dated: 8-9-10

VERMONT BOARD OF NURSING

By: [Signature]
Chairperson

Date of Entry: 8/10/10
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