

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

IN RE:)
JACQUELINE BATTOE) **Docket No. 2013-247**
License No. 026.0019058)

STIPULATION AND CONSENT ORDER

NOW COME the State of Vermont, by and through State Prosecuting Attorney Annika Green, and the Respondent, Jacqueline Battoe, by and through her attorney Jason Sawyer, Esq., 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.

Stipulated Facts

2. Jacqueline Battoe ("Respondent") of Cambridge, VT is licensed by the State of Vermont as a Registered Nurse under license number 026.0019058. This license is active and currently set to expire on or about March 31, 2017. This license was first issued on or about August 23, 1989.
3. At all times relevant, Respondent was employed as a registered nurse at Starr Farm Nursing Center in Burlington, VT.
4. On or about April 8, 2013, Respondent was hired by Starr Farm Nursing Center and began an orientation period under the supervision of a nurse.
5. During the course of her orientation, Respondent made the following medication administration errors:
 - a. Patient G.B.
 - i. On or about April 16, 2013, Respondent was passing medications with an orienting nurse. She gave the prescribed medications to patient G.B.

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- ii. Respondent was then instructed to prepare the medications for the next patient, M.L., who was legally blind and needed her medications administered in a specific pattern.
- iii. Respondent mistakenly administered all of M.L.s medication to G.B., thereby giving G.B. approximately 15 medications that were not prescribed to her.
- iv. Due to the above error, G.B.'s physician was contacted and she was monitored every 15 minutes for 8 hours in case of an adverse reaction.

b. Medication Error: 4/22/13

- i. Respondent missed a poured medication on 4/22/13.
- ii. Respondent gave a patient 650 mg of Tylenol when the patient was supposed to receive 1000 mg.
- iii. When Respondent was approached by a supervisor about the error, she gave the patient a 325 mg tablet of Tylenol, knowing it was still not the correct dose of 1000 mg.

c. Patient R.C.

- i. On or about April 23, 2013, Respondent gave patient R.C. a 10 mg dose of Zyrtec 7 hours before it was prescribed to be given.

6. On or about March 27, 2014, Office of Professional Regulation Investigator Dennis Menard interviewed Respondent. During that taped interview, Respondent stated the following:

- d. Regarding the 4/16/13 medication error allegation, Respondent stated she knew she had given several medications to the wrong patient. She stated, "I take responsibility." She stated she thought she had extreme anxiety or a memory lapse that caused her to make the error and that "there was nothing intentional, no mal-intent" and she felt she should have had more support on that day from supervisory staff.
- e. Regarding the 4/22/13 error, Respondent stated there were two patients in the same room that needed Tylenol; one needed 650 mg and one needed 1000 mg. She stated she gave both patients 650 mg, then realized her error and gave the second patient a 325 mg tablet, which was still incorrect.
- f. Regarding the 4/23/13 error, Respondent stated she became confused because the medication was originally scheduled to be administered at 8:00AM, but 8:00AM had a line through it and 1700 was written in as the administration time.

Violations

- 7. The above acts and circumstances, alone or in combination, violate:
 - g. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause); incorporating ARBN Part 11.2(b) ("Inability to practice nursing competently" includes: (1) performance of unsafe or unacceptable patient care;

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and (2) failure to conform to the essential standards of acceptable and prevailing nursing practice) and ARBN Part 11.2(c) ("Any cause" includes, but is not limited to, reasons of physical or mental disability or use of drugs, narcotics, chemicals, or any other type of materials);

- h. 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).

Understandings

7. Respondent acknowledges that the facts above are true and that the conditions set out in the Consent Order below are appropriate and necessary to protect the public.
8. 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.
9. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced Respondent's rights to a fair and impartial hearing if this agreement is not accepted by the Board and proceeds to a contested hearing.
10. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
11. Respondent is not under the influence of any drugs or alcohol at the time Respondent signs this Stipulation and Consent Order.
12. 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.
13. Respondent voluntarily waives Respondent's right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
14. Respondent agrees that the Order set forth below may be entered by the Board.

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ORDER

- A. Based on the Stipulation above, it is **ORDERED AND ADJUDGED** as follows:.
The Board of Nursing hereby **CONDITIONS** the Respondent's license to practice nursing **a minimum of one (1) year**. The conditions are as follows:

1) Term of Conditions:

Upon the imposition of these conditions, Respondent shall be issued a license labeled "conditioned." Respondent shall be subject to the conditions until Respondent completes **a minimum of 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.

2) Required Course Work:

Respondent must successfully complete (i.e., receive a passing grade, if applicable) a course in Medication Administration that has prior approval by the Board or its designee, and then submit written documentation of completion.

This course must be completed within ninety (90) days of the date of entry of this Stipulation and Consent Order.

3) Notification to Employers/Nursing School and Required Reports:

Within ten (10) days of the date of entry of this Order, Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current employment or in the event of future practice, within ten (10) days, and inform them of Respondent's conditional license status. Respondent's immediate supervisor shall submit to the Board an employer agreement on the Board approved form. If the Respondent is in a nursing program that has a clinical portion involving patient care, Respondent shall give Stipulation and Consent Order to the Program Director. The Director shall submit to the Board a nursing program agreement on a Board approved form.

Within one (1) month of receipt of the agreement form every nursing employer or program director shall submit to the Board an evaluation of Respondent's work performance and attendance on a monthly basis. These reports shall be submitted in writing on forms issued by the Board. All reports shall be satisfactory.

4) Practice Under Supervision.

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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.

5) Types of Employment Prohibited.

Respondent shall not work in a supervisory role in which she directly supervises the administration of medication. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care, 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.

6) Out-of-State Practice and Licensing.

Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board. Failure to seek approval shall result in out-of-state practice not being credited toward the fulfillment of the terms and conditions of this Consent Order.

If the Respondent receives discipline on a nursing license held in another state during the conditioned period, the Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.

7) Notification 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 (including resignation or termination), personal address, or telephone number.

8) Notification to Other States:

In the event that the Respondent is licensed in nursing in any other state(s), she must inform the other nursing licensing boards of the conditional status of her Vermont nursing license within thirty (30) days of the date of entry.

9) License Renewal and Costs:

If the Respondent's license expires while this Order is still in effect, this Order does not automatically extend the license. Respondent must timely apply for renewal and pay the applicable fee.

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

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10) 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.

11) 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. Respondent shall have the burden of proof.

- 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: 6.5.15

STATE OF VERMONT
SECRETARY OF STATE

By: Annika Green
Annika Green
State Prosecuting Attorney

JACQUELINE BATTOE
RESPONDENT

Dated: 6/2/15

By: Jacqueline Y. Battoe
Jacqueline Battoe

JASON SAWYER
RESPONDENT'S ATTORNEY

Dated: 6/2/15

By: Jason Sawyer, Esq.
Jason Sawyer, Esq.

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APPROVED AND SO ORDERED:

Dated: 6/8/15

Date of Entry: 6/9/15

VERMONT BOARD OF NURSING

By: *Robine Carr*
Chairperson

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