

Burlington

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

IN RE:
BRENDA BEAN
License No. 026.0015515

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Docket No. 2010-530

STIPULATION AND CONSENT ORDER

Stipulation

NOW COME the State of Vermont, by and through State Prosecuting Attorney Gabriel M. Gilman, and the respondent, Brenda Bean, who stipulate and agree as follows:

Board Authority

1. The Vermont State Board of Nursing ("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 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 ("ARBN"); and the Rules of the Office of Professional Regulation.

Stipulated Facts

2. Brenda Bean ("Respondent") of Burlington, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0015515. This license was originally issued on or about March 27, 1984 and expires on March 31, 2013.
3. At all times relevant, Respondent was employed as a Registered Nurse at Fletcher Allen Health Care (the "Facility") in Burlington, Vermont.
4. Respondent began work at the Facility in 1986 and worked there continuously for 24 years, four of which were in the Surgical Intensive Care Unit. Between 1990 and her decision to leave her work at the Facility in August 2010, Respondent worked on the Oncology Hematology Unit ("the Unit").
5. In 2010, nursing practice at the Unit changed abruptly. The Unit undertook a system of digitization of recordkeeping and required that nurses adopt 'present time' recording in electronic medical records. Respondent was challenged in meeting the requirements of the new system, having had no prior work experience in the use of computer technology.
6. In the period between February 2010 and April 2010, Facility management alleged the following:

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- a) On February 2, 2010, at 8:35 a.m. Respondent acknowledged an order for two units of platelets from patient J.L., who had a critical platelet level. Respondent did not release the first unit of platelets until 1:37 p.m. and they were not started until about 2:00 p.m.
 - b) On February 27, 2010, at 7:35, stat medications were ordered for patient L.L.S.. Respondent gave morning medications to three other patients before seeing L.L.S. and gave L.L.S. her routine morning medications at 10:00. The stat medications were not given to L.L.S. until the charge nurse administered them after a concerned pharmacist questioned whether Respondent had given the medication.
 - c) During the weekend of February 27, 2010, Respondent's documentation, including hourly observations, was completed between 3:00 p.m. and 5:00 p.m. although her shift ended at approximately 3:30 p.m. Documentation was supposed to be completed in real time.
 - d) On April 13, 2010, Respondent entered incorrect volume, rate, and time into an infusion pump, resulting in chemotherapy being administered for patient D.P. over two hours, instead of one hour, as ordered.
 - e) On April 13, 2010, Respondent administered insulin to patient J.M. without rechecking the patient's finger stick. Patient J.M.'s care plan required insulin administration 3 times daily based upon blood glucose levels.
 - f) On April 14, 2010, patient J.M. revealed that she did not feel safe in Respondent's care. J.M. questioned Respondent's lack of confidence in administering her insulin and chemotherapy. Specifically, Respondent administered Danuorubicin 5 minute push and stopped in the middle of the five minute administration to document in the computer. J.M. had to ask Respondent to complete administration because the medications were still attached to her. J.M. was also concerned about Respondent's lack of communication with her.
 - g) During the week of April 11, 2010, 6 patients requested Respondent no longer be assigned as their nurse. The patients were concerned about Respondent's lack of meaningful conversation or dialogue during care, Respondent's total focus on tasks and documentation, and Respondent's acting unsure of herself and disorganized in her care.
7. Respondent perceived that she received little support with new electronic systems. Enhanced scrutiny of Respondent's work tended to distract Respondent at a point where she was already under a great deal of stress and struggling to focus on new documentation methods.
 8. Respondent neither admits nor denies the accuracy of the matters alleged in §§6(a)-(g), *supra*, but does acknowledge that she became overwhelmed in the hospital environment prevailing between February and April 2010, such that she was at points unable to meet minimum standards of nursing practice.



9. While Respondent attributes many of her difficulties in 2010 to aspects of her employment environment, and particularly to the Facility's scrutiny by 'present time' electronics recording, Respondent also acknowledges that A.R.B.N. 14.1 requires "each licensee to assume *individual* responsibility for maintaining and improving competencies in current knowledge, skills, and abilities relevant to the individual's area of practice," notwithstanding systemic or institutional issues.
10. Respondent has changed her employment to a slower-paced practice, has found this transition satisfying, and has received favorable and supportive feedback concerning her work performance.
11. The parties agree that the public health, safety, and welfare can be reasonably protected by conditional licensure calculated to improve electronic documentation skills, together with voluntary agreement not to practice in a hospital setting.

Basis for Discipline

12. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because Respondent has committed unprofessional conduct in violation of 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

13. 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 the 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.
14. 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.
15. 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.
16. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
17. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.

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18. 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.
19. 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.
20. Respondent agrees that the Order set forth below may be entered by the Board.

CONSENT ORDER

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

- A. The Board of Nursing hereby **WARNS** Respondent's license.
- B. The Board of Nursing hereby **CONDITIONS** Respondent's license to practice nursing for at least **ONE (1) YEAR** from the date of entry below, pursuant to the conditions enumerated below:

(1) 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 conditioned nursing in which she 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.

(2) Notification to Employers.

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 shall inform them of Respondent's conditional license status.

(3) Employment Restriction.

Respondent shall practice nursing only in a physician's-office setting. Respondent shall not work in a hospital setting. 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.

(4) Interview with the Board or its Designee.

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

(5) 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

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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 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.

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

(7) Notification to Other States.

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

(8) License Renewal.

If 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 as a nurse, Respondent must timely apply for renewal, pay the applicable fee and demonstrate that she has otherwise complied with the requirements for license renewal.

(9) Completion of Continuing-Education Coursework.

Respondent shall, at her own expense, and within 90 days of this Order, complete a course pre-approved by the Board as reasonably related to electronic medical documentation or the use of technology in emerging nursing practice. Respondent shall furnish the Board proof of completion within the 90-day period.

(10) Violation of this Order.

If Respondent violates the terms of this Order in any respect, 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 automatically be extended until the unprofessional conduct matter is concluded.

(11) Completion of Conditional License Period.

After the conditional license period, Respondent may petition the Board to remove any and all conditions on her license. Respondent must demonstrate that she has fully complied with the terms of this Order, has remedied the practice deficiencies noted, and can safely and competently perform the duties of a licensed nurse.

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- C. Notwithstanding any provision above, 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.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated:

11/4/12

By:



Gabriel M. Gilman
State Prosecuting Attorney

BRENDA BEAN
RESPONDENT

Dated:

11/3/2012

By:

Brenda M. Bean

Brenda Bean

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated:

11/4/2012

By:



Judy Barone, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated:

11/5/12

By:

Jeanine Carr

Chairperson

Date of Entry:

11/6/12

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