

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

IN RE:)
PATRICIA F. BERGERON, R.N.) Docket No: NU34-1001
License No.: 026-0026169)

STIPULATION AND CONSENT ORDER

NOW COMES the State of Vermont, through Attorney General William H. Sorrell, and Respondent, Patricia F. Bergeron, RN, who stipulate and agree as follows:

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 or prevent the renewal of current or 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).
2. Being unable 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)(7).
3. Inability to practice nursing competently includes performance of unsafe or unacceptable patient care and failure to conform to the essential standards of acceptable and prevailing nursing practice. Administrative Rules of the Board of Nursing ("ARBN") Chapter 4, Rule IV(B)(2).

Facts

4. The Respondent is a Registered Nurse under License Number 026-0026169.
5. Respondent was originally licensed on February 23, 2001 and Respondent is currently licensed.
6. At all times relevant to these Charges, the Respondent was employed by Fletcher Allen Health Care in Burlington, Vermont.
7. Respondent, subsequent to the allegations below, successfully completed approximately thirty hours of continuing education (attachment A).

IV Medication Error

8. Paragraphs 1-6 above are incorporated.

9. On or about June 14, 2001 while attempting to flush the pic line, Respondent severed the IV and disposed of a small amount, but no more than 10cc's, of medication into the trash receptacle. Respondent contests that any significant amount of medication was left in the 100 cc IV bag which was holding the medication when that bag was discarded, but agrees to the provisions of Paragraph 10 and 11 below.
10. Respondent should have wrapped the line and contacted the IV nurse.
11. As a result of the above the facility was unable to determine the exact amount of medication that was administered to the patient.

Insulin Medication Error

12. Paragraphs 1-6 above are incorporated.
13. On or about October 3, 2001 Respondent failed to administer insulin at the ordered time, but administered it approximately two hours later, after reporting the incident to her supervisor.
14. Upon such reporting to her supervisor, Respondent was told to perform a finger stick and to notify the M.D.
15. Respondent disputes that she failed to perform the finger stick procedure, but admits there is evidence from which the Board could find that she failed to perform the finger stick when and as ordered, but Respondent admits that she failed to promptly follow through with notification of the M.D. as instructed.

Unsafe or unacceptable patient care

16. Paragraphs 1-6 above are incorporated.
17. On or about October 9, 2001 Respondent was working with a Licensed Nursing Assistant ["L.N.A."] in inserting a catheter in a patient following a bilateral hip replacement. Respondent's supervisor was personally summoned by Respondent to assist the procedure, and upon entering the patient's room, the supervisor determined that the patient's leg was improperly positioned.
18. Respondent denies that she either failed to properly position the patient's leg when attempting to insert the catheter, or failed to adequately supervise the L.N.A. under Respondent's supervision, which L.N.A. assisted maintaining the position of the patient's leg, but admits there is evidence from which the Board could find that Respondent failed to adequately supervise the L.N.A. as to hip precautions before Respondent left the room to summon her supervisor.
19. The patient suffered pain as a result of leg positioning referred to above.

Charges

20. By committing the above act(s), circumstance(s) and/or omission(s), the Respondent has:

- a) shown she is unable to practice nursing competently by reason of any cause, in violation of 26 V.S.A. §1582(a)(3), specifically Respondent:
 - i) performed unsafe or unacceptable patient care; and
 - ii) failed to conform to the essential standards of acceptable and prevailing nursing practice.

Understandings

- A. The Respondent understands that the Board of Nursing must review and accept the terms of the Order set forth below and that if the Board rejects all or any portion of the Order, then this entire document shall be null and void.
- B. Respondent waives any notification period and requests that this be heard at the next available Board meeting. 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.
- C. The Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- D. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.
- E. The Respondent agrees that she has had sufficient opportunity to consult with legal counsel before signing this document.
- F. The Respondent is voluntarily waiving her right to a contested hearing before the Board of Nursing.
- G. The Respondent agrees that the Order set forth immediately below may be entered by the Board of Nursing.

Consent Order

H. Based on the above stipulations, it is **ADJUDGED** as follows:

- (1) The "Facts" listed above are true; and
- (2) The Respondent has engaged in unprofessional conduct in that the Respondent has:

b) shown she is unable to practice nursing competently by reason of any cause, in violation of 26 V.S.A. §1582(a)(3), specifically Respondent:

- i) performed unsafe or unacceptable patient care; and
- ii) failed to conform to the essential standards of acceptable and prevailing nursing practice.

I. Based on the above stipulation and on the above findings and conclusions of this Board, it is **ORDERED** follows:

(1) The Board hereby **CONDITIONS** Respondent's license to practice nursing for a minimum period of one (1) year. The **CONDITIONS** on Respondent's license would be as follows:

(a) Respondent shall complete the following education in addition to those conditions imposed below:

- i) Respondent shall successfully complete a Refresher/Reentry Course;
- ii) Respondent shall successfully complete a health assessment course; and
- iii) The educational course shall be completed no later than six (6) months following the entry of this Order.

Respondent shall get pre-approval from the Board before given credit for any of the courses above.

(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. Respondent's license is additionally conditioned as follows.

(3) Interview with the Board or its designee.

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

(4) Re-issue of License.

Upon the imposition of these conditions, Respondent shall be issued a license labeled "conditioned".

(5) 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.

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

Within five (5) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of her current place of nursing employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in nursing employment, personal address, or telephone number. Respondent shall provide a copy of this Consent Order to all employers, current and future, and shall inform them of the conditional status of her license.

(7) 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 she practices as a nurse and inform them of her conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any subsequent employment, Respondent shall cause her 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.

(8) Reports from Employers.

Within one (1) month of the date of entry of this Consent Order and every month thereafter, Respondent shall cause every employer she has worked for during the month to submit to the Board an evaluation of Respondent's performance and attendance during that month. This report shall be submitted in writing on forms issued by the Board. In the event Respondent is not employed in nursing during any month or portion thereof, Respondent shall submit to the Board, in writing, a self-report describing other employment or activities. In the event the Respondent is attending a nursing program, she shall provide a copy of the Consent Order to the Program Director. Respondent shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Consent Order and ability of the program to comply with the conditions in the Consent Order during clinical experience.

Respondent shall sign a consent, upon request of the Board, to authorize her employer to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period the Consent Order is in effect.

(9) Practice Under Supervision.

Respondent shall practice only in a setting where she has on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing. "On site supervision" means actual presence in the building and should not be construed to include "on-call" supervision.

(10) Types of Employment Prohibited.

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.

(11) Prohibited Duties.

Respondent shall be prohibited from being a Charge Nurse during the effective period of the Consent Order. Respondent shall be prohibited from working the night shift during the effective period of the Consent Order. Respondent shall not work more than 40 hours per week.

(12) License Renewal.

In the event Respondent's license is scheduled to expire during the period this Consent Order is in effect, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualifications to practice nursing in the State of Vermont.

(13) Costs.

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

(14) Violation of the Consent Order.

If Respondent violates the terms of this 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.

(15) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on her license and after formal review by the Board, Respondent's nursing license may be fully restored by appropriate Board action. Respondent, however, must demonstrate, to the satisfaction of the Nursing Board, that she can safely and competently perform the duties of a nurse. Such proof shall include appropriate support from her employer and/or nursing school administrator. Furthermore, Respondent shall demonstrate, to the Board's satisfaction, that she fully complied with all the terms of this Consent Order.

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

K. 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).

L. This Stipulation and Consent Order will remain part of the Respondent's licensing file and may be used in determining sanctions in future disciplinary matters.

AGREED TO:

BY: PATRICIA BERGERON
RESPONDENT

Date: 4/14/03

Patricia Bergeron
Patricia Bergeron

Approved to form:

Respondent's Attorney

AND BY: STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

Date: 4/14/03

George C. Haegle IV
George C. Haegle IV
Assistant Attorney General

ACCEPTED AND SO ORDERED:

BOARD OF NURSING

Date: 4-14-03

Sandra Rice APRN
Acting Chairperson

Dated entered: 4/15/03

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

IN RE:
PATRICIA F. BERGERON
License No. 026-0026169

Docket No: NU88-0606

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Edward G. Adrian, and the Respondent, Patricia F. Bergeron, 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); 3 V.S.A. 129a; 3 V.S.A. §874(d); 26 V.S.A. §1582; the Administrative Rules of the Board of Nursing ("ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Alleged Facts

2. The Respondent, Patricia F. Bergeron, is licensed in the State of Vermont as a registered nurse holding license number 026-0026169. This license was originally issued on or about February 23, 2001 and is currently set to expire on March 31, 2011.

3. At all times relevant, the Respondent was employed as a registered nurse at Wake Robin (the "Facility") located in Shelburne, Vermont.

4. During the Respondent's period of employment at the Facility, the Respondent received ongoing verbal and written counseling regarding practice issues. The issues the Respondent received counseling for include, but are not limited to the issues set out below.

5. On or around the week of June 5, 2006, the Respondent assessed a resident with a history of cardiac disease and increasing episodes of angina. The resident was experiencing arm tremors and based on the Respondent's assessment, the Respondent reported that the resident was experiencing seizure activity. After an evaluation by the nursing supervisor using information provided by the patient as well, the nursing supervisor determined the resident had experienced a vasovagal response and was not having a seizure. After a telephone conversation with a physician regarding the incident, the physician concurred with the nursing supervisor's determination. Despite the nursing

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
3 Baldwin Street
Montpelier, VT
05609-1107

supervisor and the physician's agreement that the resident experienced a vasovagal response, the Respondent reported to the oncoming shift that the resident had experienced a seizure.

6. On or about June 8, 2006, the Respondent removed a "Sarmiento" brace from resident M.S.'s arm in order to bathe it. Nursing staff had been instructed a number of times not to remove the brace for any reason. Although the nursing assistants whom were also caring for M.S. advised the Respondent that the brace should not be removed, the Respondent removed the brace without speaking to M.S.'s physical therapist to verify that it was safe for the patient. Additionally, Facility staff had previously cared for a patient who required the same kind of brace and it was well known that only physical therapists were competent to remove or apply the brace.

7. In an interview with the Respondent conducted by Clinical Coordinator K.L. on or about June 8, 2006, the Respondent advised that she did not "know much" about the brace, but assumed it was could be removed for bathing if the affected arm was properly supported.

8. On or about January 10, 2004, the Respondent poured Ultram 24mg to be administered to a patient. After it was poured, the Respondent discovered that medication had been discontinued. The Respondent charted that the medication was wasted and not given to the patient. However, instead of wasting the medication, the Respondent placed the medication on the counter with the other medications to be administered and a nursing assistant mistakenly administered the Ultram to the resident.

9. On or about October 13, 2006, the Respondent administered morphine 2mg to patient L.B. Instead of administering injectable liquid morphine subcutaneously as ordered, the Respondent administered concentrated oral morphine subcutaneously.

Charges

10. The acts, omissions and/or circumstances described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:

- i. 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes performing unsafe or unacceptable patient care pursuant to ARBN Chapter 4, Rule IV(II)(B)(1); failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(2); and
- ii. 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. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

Understandings

STATE OF VERMONT



Prosecuting Attorney
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3 North Main Street
Montpelier, VT
05607-1107

11. 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.
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 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.
14. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
15. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
16. 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.
17. 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.
18. Respondent agrees that the Order set forth below may be entered by the Board.

ORDER

- A. As of the date of entry of this Order the Respondent *will have* successfully completed an assessment course, with prior approval by the Board or its designee, and submitted written documentation of completion to verify the same to the satisfaction of the Board or its designee; and 2) successfully completed a documentation course, with prior approval by the Board or its designee, and submit written documentation of completion to verify the same to the satisfaction of the Board or its designee. Pursuant to this Stipulation and since the Respondent has successfully completed this course work, her license shall now be **CONDITIONED FOR A MINIMUM OF ONE (1) YEAR**. The conditions will be as follows:

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
802-224-1707

05/29/2009 14:28 FAX 802 775 8774

JUDY BARONE PC
LAWYER/PROVIDENCE FAX 8026547004

Jan 1 2006 02:25am PQ04/006

08/27/2008 12:03 FAX 802 775 8774

JUDY BARONE PC
SEC OF STATE OPR

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05/21/2009 16:20 802-828-2389

(1) Re-issue of License.

Upon the commencement of these conditions, Respondent shall be issued a license labeled "conditioned."

(2) 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 supervised nursing practice in which she works at least forty (40) hours every two (2) weeks as a registered 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.

(3) Notification to Employers/Program Director.

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

Within ten (10) days of the date of entry of this Consent Order or of any subsequent registered 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 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 write to the Board, on school letterhead, 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.

(4) Reports from Employers/Program Director.

Within one (1) month of the date of entry of this Order or within one (1) month of the commencement of registered nursing employment and monthly thereafter, Respondent shall cause every nursing employer the 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. All employer reports shall indicate satisfactory performance 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. This report shall be submitted in writing on forms issued by the Board and accompanied by a cover letter on the school's letterhead. All Program Director reports shall indicate satisfactory performance and attendance.

(5) Practice Under Supervision.

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

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Prosecuting Attorney
Office of
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05602-1207

(6) 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 during the effective period of this Consent Order.

(7) 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.

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

Within five (5) 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.

(9) Notification to Other States.

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

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

(11) Costs.

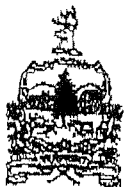
The Respondent shall bear all costs of complying with this Consent Order.

(12) 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.

(13) Completion of Conditional License Period.

STATE OF VERMONT



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After the minimum 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: 6/1/09

STATE OF VERMONT
SECRETARY OF STATE

By: [Signature]
Edward C. Adrian
State Prosecuting Attorney

PATRICIA F. BERGERON
RESPONDENT

Dated: 5-29-09

By: Patricia F. Bergeron
Patricia F. Bergeron

APPROVED AS TO FORM:

Dated: 5-29-09

ATTORNEY FOR RESPONDENT

By: [Signature]
Judy Barone, Esq.

APPROVED AND SO ORDERED:

Dated: 8-10-09

VERMONT BOARD OF NURSING

By: [Signature]
Chairperson

Date of Entry: 8/12/09
nll.bergeron.stip

STATE OF VERMONT



Prosecution Attorney
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9 Bankers Street
Montpelier, VT
802-255-1107