

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

|                                                          |             |                      |
|----------------------------------------------------------|-------------|----------------------|
| IN RE:<br>KAREN BOGERT, R.N.<br>License No.: 026-0016142 | )<br>)<br>) | Docket No: NU11-0702 |
|----------------------------------------------------------|-------------|----------------------|

**AMENDED STIPULATION AND CONSENT ORDER**

**STIPULATION**

NOW COME the State of Vermont, through its State Prosecuting Attorney Edward G. Adrian, and Respondent Karen Bogert, R.N. 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 026-0016142.
5. Respondent was originally licensed on August 26, 1985 and Respondent's license has a current expiration date of March 31, 2003.
6. At all times relevant to these Charges, the Respondent was employed by the Visiting Nurse Association of Chittenden and Grand Isle Counties.
7. On or about July 14, 2002 Respondent fell asleep while providing care to D.S..

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8. D.S.'s ventilator tube disconnected and D.S. was not able to wake Respondent.
9. D.S. reconnected her own ventilator tube.
10. D.S. was incontinent and had no assistance from Respondent.
11. D.S. changed her own clothing and provided her own incontinent care.

#### Charges

12. 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.

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### 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:

- (a) The Board hereby **SUSPENDS** Respondent's license to practice nursing for a period of ninety (90) days from the date of entry of this order.
- (b) Additionally, the Board hereby **CONDITIONS** Respondent's license to practice nursing for a minimum period of three (3) years. The **CONDITIONS** on Respondent's license would be as follows:

(1) 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 three (3) years 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 shall be prohibited from working more than forty-eight (48) hours per week. Respondent's license is additionally conditioned as follows.

(2) Interview with the Board or its designee.

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

(3) Re-issue of License.

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

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(4) 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.

(5) 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.

(6) 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.

(7) 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.

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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.

(8) 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.

(9) 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.

(10) 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 forty (40) hours per week nor shall Respondent work more than eight (8) hours in a twenty-four (24) hour period of time.

(11) 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.

(12) Costs.

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

(13) 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.

(14) 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

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formal review by the Board, Respondent's nursing license may be fully restored by appropriate Board action. Respondent, however, must satisfy the Nursing Board, that she poses no danger to the practice of nursing and 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: KAREN BOGERT  
RESPONDENT

Date: 9.16.03

Karen Bogert  
Karen Bogert

Approved to form:

[Signature]  
Respondent's Attorney

AND BY: STATE OF VERMONT  
SECRETARY OF STATE

Date: 9/19/03

[Signature]  
Edward G. Adrian  
State Prosecuting Attorney

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ACCEPTED AND SO ORDERED:

BOARD OF NURSING

Date: 9-22-03Susan Farrell  
ChairpersonDated entered: 9/23/03

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Bogert.amended.ega.stip

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