

IN RE:

Case File No. NU45-0199

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Introduction

Findings of Fact

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6. The Respondent was not familiar with the procedure.
7. Respondent inserted, or caused to be inserted, the wrong trach tube, one that was the wrong size and was without fenestration, which prohibited the patient from being able to speak.
8. The doctor's order for this patient called for only the inner canula to be changed and not the entire apparatus.
9. The facility policy prohibits nurses from changing trach tubes and calls for a physician to perform such procedures.
10. Respondent did not document that she had performed the change of trach or caused it to be performed.
11. The error was finally discovered when, after family and other staff grew concerned over patient B.W.'s inability to speak, a thorough evaluation was done by a speech therapist and an ear, nose and throat specialist several days later.
12. Respondent did not change the trach tube, or cause it to be changed, on subsequent shifts she worked, and therefore must have known of her error.
13. Respondent did not report the error to the facility administration.
14. When confronted, Respondent denied changing the trach tube, but did not deny that the change took place.

Conclusions of Law

- A. The Board of Nursing may revoke, suspend, discipline or otherwise condition the license of a nurse who engages in unprofessional conduct as defined by 26 V.S.A. §1582.
- B. Respondent, by engaging in the conduct described above, has exhibited an inability to practice nursing competently by reason of any cause pursuant to 26 V.S.A. §1582(a)(3). Such behavior constitutes unacceptable patient care and a failure to conform to the essential standards of acceptable and prevailing nursing practice in violation of Board Administrative Rule (IV)(B)(2)(a) and (b).
- C. Respondent, by engaging in the conduct described above, has also engaged in conduct likely to harm the public in violation of 26 V.S.A. §1582(a)(7).

Order

A. In light of the above findings and conclusions, the Board hereby CONDITIONS the Respondent's license as follows, effective as of the date of entry of this Order, below:

(1) Length of Time Conditions Imposed

The conditions shall remain in place until Respondent has completed three (2) years of supervised nursing practice in which she works at least forty (40) hours every two (2) weeks in nursing. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis

(2) Reports from Employers

Within one (1) month of the date of entry of this 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.

Respondent shall 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 Order is in effect.

(3) 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. The persons who will be supervising Respondent shall be given a copy of this Order by Respondent.

(4) Prohibited Duties

Respondent shall not work as a Charge Nurse until further order of the Board.

(5) Types of Employment Prohibited

Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary employment agency or as a personal care provider during the effective period of this Order.

(6) Prohibited Hours of Work

Respondent shall work only the day or evening shift during the effective period of this Order. Respondent shall not work the night shift during the effective period of this Order.

(7) License Renewal

In the event Respondent's license is scheduled to expire during the period this 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.

(8) Violation of Conditions

If Respondent violates the terms of this 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 Order, the conditional license period shall be extended until the matter is final.

(9) Reevaluation of Conditions

In the event Respondent does not work in nursing within three (3) years of the date of entry of this Order, Respondent may appear before the Board for reevaluation of the conditions of this Order.

(10) 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 must demonstrate, to the satisfaction of 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 registered nurse. Furthermore, Respondent shall demonstrate, to the Board's satisfaction, that she fully complied with all the terms of this Order.

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

C. This Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a)(7).

D. This Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

Appeal Rights

This is a final administrative determination by the Vermont Board of Nursing. You may appeal by sending a notice of appeal in writing to the Director of the Office of Professional Regulation within 30 days of the date of entry of this order. If you wish to request a stay of the Board's decision, please refer to the attached stay instructions.

By: Susan Farrell
Susan Farrell
Chair

Date: Jan 12 2001

OFFICE OF PROFESSIONAL REGULATION

Date of entry: 1-23-01