

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

In re: Theresa F. Bruno }
License No. 025-0004622 }
Docket No. NU 39-1105 }

**FINDINGS OF FACT
CONCLUSIONS OF LAW & ORDER**

Introduction:

On Monday 11 December 2006, the Board heard this contested case of alleged unprofessional conduct brought by the State of Vermont against Respondent Theresa Bruno. Board members Kenneth W. Bush, Donarae Metcalf, Sandra Norton, Linda M. Y. Rice (Vice Chairperson), Laurey M. Tyo, DeAnn Welch and Alan Weiss participated in the hearing of this matter. Board members Susan O. Farrell and Ellen Leff recused themselves from participation. The Respondent did not appear. Edward G. Adrian represented the State of Vermont. Board counsel Kevin F. Leahy presided.

The State brought a specification of charges (the "Charges," attached) dated 3 May 2006 alleging the Respondent engaged in unprofessional conduct for failure to provide adequate care for a patient. At the time of the alleged incident, October 2005, the Respondent worked at Green Mountain nursing Home, in Colchester, Vermont.

The State alleges that a patient was suffering from cardiac distress and that the Respondent failed to act. In pertinent part, the State alleges that on October 30-31 2005, a resident in Respondent's care:

began experience heart related pain, which continued through the next morning. . . . [the State goes on to note several interventions performed by the Respondent] . . .

[However] The Respondent failed to notify the on-call doctor or the nurse of [the resident's] condition, even though [the resident] was exhibiting clear signs of cardiac distress with no improvement during the six hours she was in the Respondent's care.

See Charges at ¶¶ 4-6 (attached).

Based on these allegations, the State makes three individual charges of unprofessional conduct against the Respondent claiming she violated:

- (i) 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause);

(ii) (3 V.S.A. § 129a(b) 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 . . . failure to conform to the essential standards of acceptable and prevailing practice); and

(iv) (3 V.S.A. § 129a(a)(3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession).

Charges at ¶8 (i) - (iii).

Appearing as witnesses before the Board in addition to the Respondent was Sonja Molyneux, the complaining witness, of Green Mountain Nursing Home. Ms. Molyneux testified by phone.

The Board accepted into evidence:

State's Exhibit 1. Patient "Nurse's Notes" for 28 Oct. 2005 through 31 Oct. 2005.

Findings of Fact &
Conclusions of Law:

1. The Respondent's Answer either denies the substance, or qualifies the context, of many of the State's factual allegations.
2. However, the Respondent did not appear, did not testify under oath and did not present evidence in her own defense.
3. The evidence before the Board showed that the resident under the patient's care was suffering from symptoms of a cardiac arrest and the Respondent could have done more under the circumstances to assist the resident.
4. The State's evidence supported the allegations that the resident was exhibiting symptoms of cardiac arrest that the Board would normally expect a nurse to recognize.
5. The Board finds that the Respondent is not qualified to continue nursing until she successfully completes a remedial course in cardiac care.
6. In light of its findings, Board rules as follows on the individual charges brought by the State in ¶8 (i-iii) of its Specification of Charges:

(i) 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause); The Board concludes that the State met its burden of proof. The Board finds, absent a remedial course in cardiac care, the evidence shows Respondent should not be engaged in the practice of nursing. For this reason, the Board will enter an order suspending the Respondent's license pending successful completion of this type of course.

(ii) (3 V.S.A. § 129a(b)) (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 . . . failure to conform to the essential standards of acceptable and prevailing practice.) As explained above regarding the first Charge (26 V.S.A. § 1582(a)(3)), the Respondent's care on the evening in question was not competent. This charge is moot, however, given the Board's finding in the first charge.

(iii) 3 V.S.A. § 129a(a)(3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession). The State did not allege a violation of any rules or of a statute in its "Statement of Facts" nor did the State present any evidence that the Respondent violated any state or federal rules or statutes governing the practice of nursing. There is therefore no need to address this charge.

BOARD ORDER

Based on the findings of facts set forth above, the Board of Nursing therefore ORDERS the Respondent's license to be SUSPENDED pursuant to its finding under 26 V.S.A. §1582(a)(3) (Charge contained in ¶8(i)); and

ORDERS that the Respondent's license remain SUSPENDED until the Respondent successfully completes a remedial course in cardiac care; and

ORDERS that the Respondent's license be CONDITIONED for a period of two years pursuant to the terms set forth at the conclusion of this order; and

The Board DISMISSES the Charge contained in ¶8 (ii) as moot and the Board DISMISSES the Charge contained in ¶8 (iii).

- END -

Vermont Board of Nursing:

By: Linda Rice, APRN Date: 1-19-07
Linda M. Y. Rice, APRN
Board Vice Chairperson

OFFICE OF PROFESSIONAL REGULATION
DATE OF ENTRY: 1/23/07

APPENDIX

In re: Theresa F. Bruno }
License No. 025-0004622 }
Docket No. NU 39-1105 }

License Conditions

Condition #1. TIME: The conditions shall remain in place until Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent completes two (2) years of supervised nursing practice in which Respondent 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.

Condition #2. EDUCATION: Respondent shall take a remedial course of training in cardiac care, approved in advance by the Board or its designee. The Respondent shall successfully complete the course prior to having her license conditionally reinstated.

Condition #3. DISCLOSURE: Respondent shall provide a copy of this Order to all employers in any current or future setting in which Respondent practices as a nurse and inform them of Respondent's conditional license status. Within ten (10) days of the date of entry of this Order or of any subsequent employment, Respondent shall cause Respondent's immediate supervisor to write to the Board, on the employer's letterhead, acknowledging receipt of these conditions and the ability to comply with the conditions in this Order.

Condition #4. REPORTS: Within one (1) month of the date of entry of this Order and monthly thereafter, Respondent shall cause every employer Respondent has worked for during the relevant period to submit to the Board an evaluation of Respondent's performance and dates worked during that period. This report shall be submitted in writing on forms issued by the Board.

Condition #5. SCHOOL: In the event the Respondent is attending a nursing program, Respondent shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Order and ability of the program to comply with the conditions in the Order during clinical experience.

Condition #6. TYPE OF SUPERVISION: Respondent shall practice only in a setting where Respondent has direct supervision for the entire shift by a licensed registered nurse good standing.

Condition #7. PROHIBITIONS: 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 Order.

Condition #8. LICENSE RENEWAL: Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualifications to practice as a nurse in the State of Vermont.

Condition #9. COSTS: Respondent shall bear all costs of complying with this Order.

Conditions #10. COMPLETION OF CONDITIONAL LICENSE PERIOD: Upon completion of the conditional license period, Respondent may petition the Board to remove any and all license conditions; and after formal review by the Board, Respondent's nursing license may be formally restored by Board action. Respondent shall demonstrate, to the Board's satisfaction that Respondent fully complied with all the terms of this Order. If the Respondent demonstrates to the Board's satisfaction compliance with this Order, then any and all conditions shall be removed.

- END -

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Nursing.

A party aggrieved by a final decision of a Board may appeal the decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, 26 Terrace Street, Montpelier, Vermont 05609-1101 within 30 days of the entry of the order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted based on the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.

To request a stay of the Board's decision, please refer to the attached stay instructions. all conditions, then any and all conditions shall be removed.

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

IN RE:)
THERESA F. BRUNO) **DOCKET No. NU39-1105**
License No. 025-0004622)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Theresa F. Bruno, L.P.N.:

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. §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.

Statement of Facts

2. Theresa F. Bruno (the "Respondent") of Bomoseen, Vermont is a licensed practical nurse holding license number 025-0004622, issued by the State of Vermont. The Respondent has held this license since at least January of 1991 and it is currently set to expire on January 31, 2008.

3. At all relevant times, Respondent was employed as a licensed practical nurse at Green Mountain Nursing Home ("GMNH") located in Colchester, Vermont.

4. On or about October 30, 2005, the Respondent was scheduled to work the 7:00 p.m. to 7:00 a.m. shift. One of the patients in the Respondent's care that evening was L.F. L.F. was eighty-four with a history of heart problems. L.F. had recently developed a new set of defibrillation issues and was under increased observation and attention from the nursing staff.

5. L.F.'s medical records indicate that on that evening L.F. began experiencing heart related pain which continued through the next morning. The Respondent responded to L.F.'s pain as follows:

a. On October 30, 2005 at approximately 11:15 p.m. L.F. complained to the Respondent, "My heart hurts." The Respondent administered 2.5 mg of Oxycodone to "promote comfort."

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
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b. On October 31, 2005 at approximately 2:15 a.m. L.F. advised Respondent, "My heart hurts and my left arm and elbow." The Respondent administered 500 mg of Tylenol to "promote comfort."

c. On October 31, 2005 at approximately 4:30 a.m. L.F. again complained to the Respondent of heart related pain stating, "My heart hurts and my left arm and elbow." The Respondent administered three doses of .4 mg of nitroglycerin and noted that the patient had no relief from the chest and arm pain. The Respondent also noted that L.F. was exhibiting pain and anxiety through the shuffling of her feet. The Respondent applied gel booties to the L.F.'s feet and gave her a banana and chocolate milk to prevent hypoglycemia.

d. In her last entry on October 31, 2005 at approximately 5:30 a.m., the Respondent noted that L.F.'s blood sugar level was 471 and that she would re-check the level shortly.

6. The Respondent failed to notify the on-call doctor or the nurse of L.F.'s condition, even though L.F. was exhibiting clear signs of cardiac distress with no improvement during the six hours she was in the Respondent's care.

7. When the day shift nurse, S.V., came on duty, she found L.F. in the same condition and vomiting. S.V. notified the on-call doctor of L.F.'s current condition and history throughout the night. L.F. was immediately transferred to the emergency room and died later that day.

Charges

8. 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, but is not limited to, performing unsafe or unacceptable patient care and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(1) and (2);

(ii) 3 V.S.A. § 129a(b) (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); and

(iii) 3 V.S.A. § 129a(a)(3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession).

Relief Requested

STATE OF VERMONT



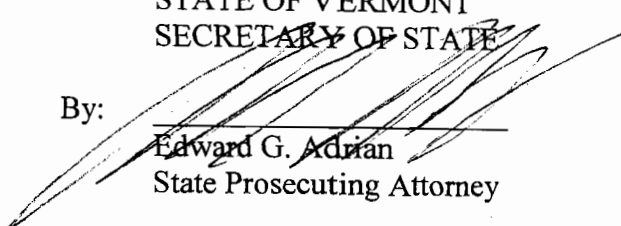
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WHEREFORE, the license of Theresa F. Bruno should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 3rd day of May, 2006.

STATE OF VERMONT
SECRETARY OF STATE

By:


Edward G. Adrian
State Prosecuting Attorney

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