

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

IN RE:)
MARYELLEN BUDRO) **Docket No: NU 80-0503**
License No: 025-0007807)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and Respondent Maryellen Budro, L.P.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); Administrative Rules of the Board of Nursing ("ARBN"); Rules of the Office of Professional Regulation.

Facts

- 2) The Respondent is a Licensed Practical Nurse under License Number 025-0007807.
- 3) Respondent was originally licensed on August 26, 1999 and Respondent's license is currently set to expire on January 31, 2004.
- 4) At all times relevant, the Respondent was employed as an L.P.N. at Centers for Living and Rehabilitation ("the Facility") located in Bennington, Vermont.
- 5) On or about August 9, 2002, Respondent left a Facility medication cart unlocked and pre-poured medications unsecured.
- 6) On or about January 11, 2003, Respondent left an insulin needle at the bedside of resident H.S. The needle was full with 40 units.
- 7) On or about January 11, 2003, Respondent left two used insulin needles at the bedside of resident C.P.
- 8) On or about February 10, 2003, the Respondent admitted to the Nurse Manager that the Respondent failed to chart as given the following medications on or about February 7, 2003:

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a) Resident M.P.'s 8:00 a.m. medications: Acetaminophen, Amlodipine, Venlafaxine, Folic acid, vitamins, aspirin, Gentamicin, Phenytoin and Artificial Tears; Resident M.P.'s 12:00 p.m. Gentamicin and 2:00 p.m. Artificial Tears.

b) Resident I.P.'s 11:30 a.m. chem stick.

c) Resident M.G.'s 12:00 p.m. medications: Levalbuterol, Ipratropium, Cephalexin and Lactobacillus Acidophilus; Resident M.P.'s 2:00 p.m. Darvocet.

d) Resident O.J.'s 10:00 a.m. Cardizem and 2:00 p.m. Nitroglycerin patch.

e) Resident S.K.'s 8:00 a.m. Garlic pill and vitamins; Resident S.K.'s 2:00 p.m. Vicoden.

f) Resident M.P.'s 2:00 p.m. Gentamycin.

g) Resident M.T.'s 2:00 p.m. Calcium Carbonate.

h) Resident L.D.'s 2:00 p.m. Divalproex Sodium.

9) On or about May 10, 2003, Respondent charted that she gave resident S.K. her 2:00 p.m. Vicoden. However, resident S.K. was out of the facility on pass that day. The drug count indicated that the pill had not been given. Respondent admitted to the Director of Nursing Services at the Facility that the Respondent simply goes down the MAR on residents the Respondent is assigned and initials the empty blocks at the end of Respondent's shift.

Charges

10) The above acts, omissions and/or circumstances described above, constitute grounds for discipline because Respondent violated:

i. 26 V.S.A. §1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes the performance of unsafe or unacceptable patient care pursuant to ARBN, Chapter 4, Rule IV(II)(B)(1), and 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. 26 V.S.A. §1582(a)(7) (Engaging in conduct of a character likely to deceive, defraud or harm the public), which includes falsifying or altering clinical records or making inaccurate or misleading entries pursuant to ARBN, Chapter 4, Rule IV(II)(D)(3); and

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

Understandings

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11) 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.

12) Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

13) Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.

14) Respondent voluntarily waives her right to charges and a contested hearing before the Board of Nursing.

15) Respondent agrees that the State has sufficient evidence for the Board to find that Respondent has engaged in unprofessional conduct and that the Order set forth below may be entered by the Board.

ORDER

Based upon the stipulation above, it is **ORDERED AND ADJUDGED** as follows:

A. Respondent's actions described above demonstrate grounds for discipline because Respondent violated:

i. 26 V.S.A. §1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes the performance of unsafe or unacceptable patient care pursuant to ARBN, Chapter 4, Rule IV(II)(B)(1), and 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. 26 V.S.A. §1582(a)(7) (Engaging in conduct of a character likely to deceive, defraud or harm the public), which includes falsifying or altering clinical records or making inaccurate or misleading entries pursuant to ARBN, Chapter 4, Rule IV(II)(D)(3); and

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

B. The Board of Nursing hereby **CONDITIONS** Respondent's license to practice nursing for a **MINIMUM PERIOD OF TWO (2) YEARS** commencing with the date of entry of this Consent Order. The conditions are as follows:

(1) Re-issue of License.

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

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(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 two (2) 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's license is additionally conditioned as follows.

(3) Medication Documentation and Administration Course.

Respondent must complete (i.e.: receive a passing grade, if applicable) a course focusing on the documentation and administration of medications with prior approval by the Board or its designee, and then submit written documentation (certificate of completion, etc.) to verify same to the satisfaction of the Board or its designee. This course must be completed within ninety (90) days of the date of entry of this Consent Order.

(4) Notification to Employers/Nursing School.

Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting during the conditioned period 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 Consent Order or of any subsequent 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 Respondent is attending a nursing program which has a clinical portion which involves actual patient care, she 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 ability of the program to comply with its conditions during clinical experience.

(5) Reports from Employers.

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

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.

(6) Practice Under Supervision.

The Respondent shall have direct supervision for the first **three month** period of this

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stipulation in all situations where she is involved in or may be involved in the administration of medications. Other than medication administration, the Respondent shall practice only in a nursing setting where Respondent has on-site supervision for the entire shift by a Registered Nurse that is licensed and in good standing with the Board.

(7) Types of Employment Prohibited.

Respondent shall not work as a supervising nurse. 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.

(8) 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.

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

Within five (5) days of the date of entry of this 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.

(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 nursing, 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.

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on her license. The Respondent must present proof that

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she has fully complied with the terms of this Order.

C. Notwithstanding any provision above, the 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: 5/3/04

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

MARYELLEN BUDRO
RESPONDENT

Dated: 4/28/04

By: Mary Ellen Budro
Maryellen Budro

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 5/10/04

By: Susan Farrell
Chairperson

Date of Entry: 5/12/04

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IN RE:)
MARYELLEN BUDRO) **Docket No: NU 80-0503**
License No: 025-0007807)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Maryellen Budro, L.P.N.:

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); Administrative Rules of the Board of Nursing ("ARBN"); Rules of the Office of Professional Regulation.
- 2) The inability 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)(3).
- 3) The inability to practice nursing competently includes the performance of unsafe or unacceptable patient care pursuant to ARBN, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN, Chapter 4, Rule IV(II)(B)(2).
- 4) Engaging in conduct of a character likely to deceive, defraud or harm the public is unprofessional conduct upon which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(7).
- 5) Conduct of a character likely to deceive, defraud, or harm the public includes falsifying or altering clinical records or making inaccurate or misleading entries. ARBN, Chapter 4, Rule IV(II)(D)(3).
- 6) Failure to comply with the provisions of state statutes or rules governing the practice of the profession is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(3).

Facts

- 7) The Respondent is a Licensed Practical Nurse under License Number 025-0007807.

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- a) Resident M.P.'s 8:00 a.m medications: Acetaminophen, Amlodipine, Venlafaxine, Folic acid, vitamins, aspirin, Gentamicin, Phenytoin and Artificial Tears; Resident M.P.'s 12:00 p.m. Gentamicin and 2:00 p.m. Artificial Tears.
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B. 26 V.S.A. §1582(a)(7) (Engaging in conduct of a character likely to deceive, defraud or harm the public), which includes falsifying or altering clinical records or making inaccurate or misleading entries pursuant to ARBN, Chapter 4, Rule IV(II)(D)(3); and

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

Relief Requested

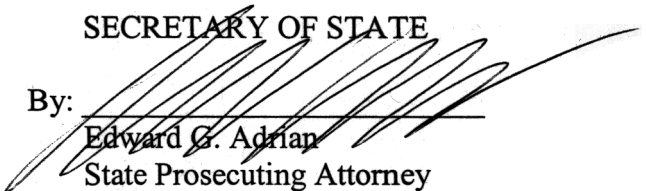
WHEREFORE, the license of Maryellen Budro should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 7th day of November 2003.

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SECRETARY OF STATE

By:


Edward G. Adrian
State Prosecuting Attorney

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