

**STATE OF VERMONT
BOARD OF NURSING**

IN RE:)
Gregory Burbo) Case File No. NU31-1002
License No. 26-22385)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Introduction

The Vermont Board of Nursing ("the Board") held a hearing in this case on Monday, November 10, 2003, at 81 River Street in Montpelier, Vermont. Board members Alan Weiss, Elayne Clift, Laurey Tyo, Sandra Norton, Donarae Metcalf, Patricia Rock, Susan Farrell, Sue Cota and De-Ann Welch participated in the decision. Edward Adrian, Prosecuting Attorney, appeared for the State. Gregory Burbo ("the Respondent") was present, as was Kimberly Burbo, his wife.

The Respondent does not dispute the facts alleged in the State's Specification of Charges and the parties stipulated to a set of facts which were adopted by the Board, with the exception of Paragraph 7g. The parties then argued what the appropriate sanction should be, given the facts.

Findings of Fact

The Board adopts the facts as stipulated in the document submitted by the parties, entitled "Stipulation of Facts and Understanding," as the findings of fact upon which it bases its order, below.

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 or 3 V.S.A. §129a.

B. Respondent, by his actions detailed in the stipulated facts, has evidenced an inability to practice nursing competently by any cause in violation of 26 V.S.A. §1582(a)(3), in that he performed unsafe or unacceptable patient care and failed to conform to the essential standards of acceptable and prevailing nursing practice.

Opinion

The Respondent presented well at the hearing and exhibited remorse for his mistakes and is committed to changing his practice to avoid such problems in the future. However, in the interest of public protection, the Board must insist on a period of conditions to monitor the Respondent's nursing activities before he can return to unrestricted practice. The Respondent did request certain exceptions be made to the State's request that he not be allowed to work in a setting where he could give medication on an unsupervised basis or that he not be allowed to work in a setting where he does not have a direct supervisor for the entire shift. Specifically, the Respondent requested he be allowed to work in home health, which he claims is a much better atmosphere for him with a slower, less pressured environment, contrary to that environment in which he made the medication errors.

Order

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

(1) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed **twenty-four (24) months** of supervised nursing practice in which he 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) Medication Course / Prohibition on Administering Medications

Respondent shall take and successfully complete a course in medication administration approved by the Board or its designee. Until the Respondent provides proof of successful completion of such a course, Respondent shall not administer medication:

(3) Re-issue of License.

Within five (5) days of the date of entry of this Order, Respondent shall submit his license to the Board of Nursing for a re-issued license labeled "conditioned"

(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 notify the Board before beginning such practice. If Respondent fails to notify the Board before, none of the time spent in out-of-state practice will be credited toward the fulfillment of the terms and conditions of this Order.

(5) 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 his current place of nursing employment (if he is employed as a nurse), 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.

Notification to Employers/Nursing School.

Respondent shall provide a copy of this Order to all employers in any current or future setting in which he practices as a nurse and inform them of his conditional license status. Within ten (10) days of the date of entry of this Order or of any such subsequent employment, Respondent shall cause his immediate supervisor to write to the Board, on the employer's letterhead, acknowledging receipt of the Order and the ability to comply with the conditions in the Order. In the event Respondent is attending a nursing program, Respondent shall provide a copy of the Order to the Program Director. 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.

Reports from Employer

Within one (1) month of the date of entry of this Order and every month thereafter, Respondent shall cause every employer for which he has been employed as a nurse during that 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 the Respondent attends nursing school, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Respondent's performance and attendance. This report shall be submitted in writing on forms issued by the Board.

Respondent shall authorize his employer and his nursing school administrator 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.

(8) Practice Under Supervision.

Respondent shall practice only in a setting where he has direct supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing, or is in good standing in all states that nurse is licensed, with one exception: the Respondent may continue to practice in the home health setting so long as the following additional conditions are

For any employment in home health care, the Respondent shall have a review of his nursing competency by his supervisor each month, to include:

a. Random, unannounced visits to the Respondent's home health sites at least twice per month to observe and review the Respondent's nursing skills and practices, to include observation of medication administration (for the first six (6) months of work in home health).

b. A thorough review must occur with the Respondent's supervisor each time a patient changes or a new patient is added, prior to the Respondent accepting the assignment.

c. A thorough review must occur with the Respondent's supervisor each time a patient's medication changes, prior to the Respondent accepting the assignment.

d. All other conditions remain in effect during and after this six month period, including the monthly employer reports, for the entire 24 months of these conditions.

Prohibited Duties.

Respondent shall not work as a Charge Nurse.

Types of Employment Prohibited.

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

(11) Costs.

Respondent shall bear all costs of complying with this Order.

(12) Violation of the Order.

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.

(13) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the

Board to remove any and all conditions on his license and after formal review by the Board, Respondent's nursing license may be fully restored by appropriate Board action. Furthermore, Respondent must demonstrate, to the Board's satisfaction, that he can safely return to unrestricted practice, that he has safely and competently administered medications and that he has fully complied with all the terms of this Order.

B. 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).

C. 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, R.N.
Chair

Date: 11.21.03

OFFICE OF PROFESSIONAL REGULATION

Date of entry: 12/1/03

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

IN RE:)
GREGORY F. BURBO, R.N.) **Docket No: NU31-1002**
License No. 26-22385)

STIPULATION OF FACTS AND UNDERSTANDING

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and Respondent Gregory F. Burbo, 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)(6); 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)(3).
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).

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Facts

4. The Respondent is a Registered Nurse under License Number 26-22385.
5. Respondent's license has a current expiration date of March 31, 2005.
6. At all times relevant to these Charges, the Respondent was employed by Correctional Medical Services, Chittenden County Regional Correctional Facility, South Burlington, Vermont.
7. The Respondent made the following medication errors:
 - a) On or about December 12, 2001, Respondent administered medication to patient T.C. at the wrong time.
 - b) On or about February 1, 2002, Respondent administered the wrong dose of medication at the wrong time to patient T.J.
 - c) On or about April 4, 2002, Respondent administered a Tetanus vaccination rather than the prescribed PPD vaccination to patient C.S.
 - d) On or about April 10, 2002, Respondent wrote a wrong medication order for patient T.S.
 - e) On or about April 16, 2002, Respondent prepared a Thorazine solution for patient K.B. and instead administered it to patient L.V. to take with another medication.
 - f) On or about April 19, 2002, Respondent administered the wrong medication to a patient and insisted that this was the correct medication when the patient questioned the administration.
 - g) On or about May 14, 2002, Respondent administered the wrong dose of medication to patient S.S.

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Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

h) On or about May 21, 2002, Respondent administered the wrong dose of a medication to patient S.T.

i) On or about September 19, 2002, Respondent administered medication to patient R.W. at the wrong time.

8. The Respondent made the following monitoring errors:

a) Daily vital signs were ordered for patient A.S. on or about October 16, 2001 and Respondent failed to take the patient's vital signs on or about October 17, 18, 20, 22 and 23, 2001.

b) On or about October 19, 2001, patient W.F. put in a "sick slip" concerning an ear infection. Respondent failed to check the "sick slips" on a daily basis and as a result patient W.F. was not seen until October 22, 2001 and as the result of lack of attention the infection had significantly progressed.

Understanding

9. Respondent admits the facts above are true.

10. The Respondent recognizes that based on the facts admitted above, the Board has the authority to discipline his license to practice nursing.

11 At this time, the Respondent does not wish to enter into a consent agreement with the State concerning the appropriate disciplinary action in this matter.

12. The Respondent agrees that since the facts are not disputed in this matter, he voluntarily waives his right to a hearing on the merits. Instead, the State and Respondent agreed to proceed to a sanctions hearing.

13. At the sanctions hearing, the State is free to argue for what it deems to be the appropriate sanctions. Likewise, the Respondent is free to argue for what he feels are

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| appropriate sanctions.

14. The State and the Respondent agreed to abide by the decision of the Board
| concerning sanctions.

15. Respondent is not under the influence of any drugs or alcohol at the time he
| signs this Stipulation.

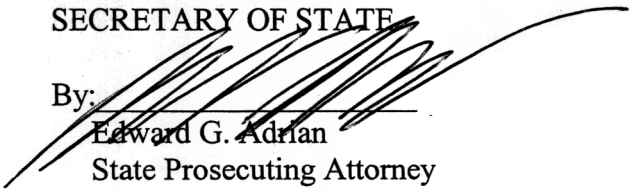
16. Respondent voluntarily enters into this agreement after the opportunity to
| consult with legal counsel and is not being coerced by anyone into signing this
Stipulation.

17. Respondent voluntarily waives his right to charges and a contested hearing on
| the merits before the Board of Nursing.

AGREED TO:

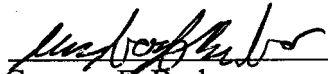
STATE OF VERMONT
SECRETARY OF STATE

Dated: 11/5/03

By: 
Edward G. Adrian
State Prosecuting Attorney

GREGORY F. BURBO
RESPONDENT

Dated: 11-4-03

By: 
Gregory F. Burbo

*Agree to factually of all but T.C. which
I dispute.*

nu.burbo.stip

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Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Date of Entry 11/13/03

T.g not T.C.

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

IN RE:	)	
GREGORY F. BURBO, R.N.	)	Docket No: NU31-1002
License No. 26-22385	)	

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont, by and through its State Prosecuting Attorney Edward G. Adrian and makes the following Charges against the Respondent, Gregory F. Burbo, RN:

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)(6); 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)(3).
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 26-22385.

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Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

5. Respondent's license has a current expiration date of March 31, 2005.
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 - d) On or about April 10, 2002, Respondent wrote a wrong medication order for patient T.S.
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 - f) On or about April 19, 2002, Respondent administered the wrong medication to a patient and insisted that this was the correct medication when the patient questioned the administration.
 - g) On or about May 14, 2002, Respondent administered the wrong dose of medication to patient S.S.
 - h) On or about May 21, 2002, Respondent administered the wrong dose of a medication to patient S.T.

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Prosecuting Attorney
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Professional Regulation
Montpelier, VT 05602

- i) On or about September 19, 2002, Respondent administered medication to patient R.W. at the wrong time.

8. Respondent made the following monitoring errors:

- a) Daily vital signs were ordered for patient A.S. on or about October 16, 2001 and Respondent failed to take the patient's vital signs on or about October 17, 18, 20, 22 and 23, 2001.
- b) On or about October 19, 2001, patient W.F. put in a "sick slip" concerning an ear infection. Respondent failed to check the "sick slips" on a daily basis and as a result patient W.F. was not seen until October 22, 2001 and as the result of lack of attention the infection had significantly progressed.

Charges

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

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

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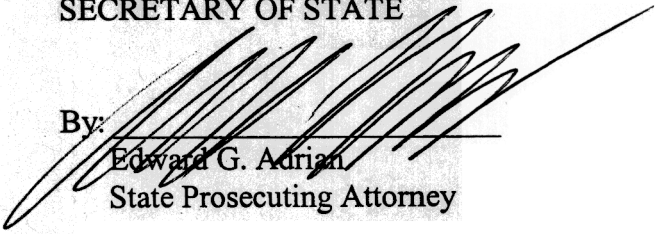
Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Relief Requested

WHEREFORE, the license of Gregory Burbo, RN, should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 16th day of July 2003.

STATE OF VERMONT
SECRETARY OF STATE

By: 

Edward G. Adrian
State Prosecuting Attorney

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STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602