

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

IN RE:)
CATHERINE BUTLAND) Docket No. 2010-569 (NU)
License No. 026.0029812)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney S. Lauren Hibbert, and the Respondent, Catherine Butland, RN, who stipulate and agree as follows:

Board Authority

1. The Vermont State Board of Nursing (the "Board") has authority to issue warnings or reprimands; suspend, revoke, limit, or 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 (the "ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Catherine Butland (the "Respondent") of Williston, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0029812. This license was originally issued on or about July 12, 2004 and expires on or about March 31, 2013.
3. At all times relevant, Respondent was employed as a Registered Nurse at Fletcher Allen Health Care (the "facility"), located in Burlington, Vermont.
4. In or about late July of 2010, the Office of Professional Regulation's Chief Investigator, Amy Carlson, received documentation from the facility alleging that in the course of an audit the facility found multiple errors in the Respondent's handling and documentation of pain medication.
5. On or about December 9, 2010, in an interview with State Investigator Gregory Kelly, Registered Nurse C.V., who is the Nurse Manager at the facility, stated that it is her responsibility to review the high user reports that are prepared by the facility's pharmacy staff. C.V. advised that when she reviewed the Respondent's reports and

STATE OF VERMONT



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the patients' records there were several instances when she could not find medication taken out of PYXIS Pyxis "in full" documented the corresponding patient's records.

6. On or about December 9, 2010, in an interview with State Investigator Gregory Kelly, C.V. stated that it is her opinion that the Respondent has "sloppy charting" and is not using the medication for her own personal use. Additionally, C.V. reviewed with Gregory Kelly her investigation into the instances where medications were not documented in patient records after being withdrawn from PYXIS.
7. On or about December 28, 2010, in an interview with State Investigator Gregory Kelly, the Respondent reviewed the instances where medications were not documented in patient records after being withdrawn from PYXIS.

Statement of Facts re: Patient P.M.

8. On or about April 15, 2010, the Respondent withdrew a total of 300 mcg of Fentanyl from PYXIS. She withdrew 100 mcg of Fentanyl at 15:55, 100 mcg of Fentanyl at 16:53, and 100 mcg of Fentanyl at 17:05.
9. On or about December 9, 2010, C.V. stated that on or about April 15, 2010, the Respondent wasted 75 mcg of Fentanyl with a witness. C.V. stated that 50 mcg was given to P.M., but that she could not determine what time the Fentanyl was administered.
10. On or about December 9, 2010, C.V. stated that on or about April 15, 2010, the Respondent had 100 mcg of Fentanyl that was unaccounted for because it was not documented as administered to P.M. or wasted.
11. On or about December 28, 2010, in an interview with State Investigator Greg Kelly, the Respondent stated that she would have never given patient P.M. 300 mcg of Fentanyl. She stated that she dropped one of the ampoules of Fentanyl when she removed it from PYXIS, and that she forgot to waste it. The Respondent further stated that "[u]nfortunately these little mistakes happen, but I am trying my best to be a better documenter on my medications now."

Statement of Facts re: Patient L.T.

12. On or about December 9, 2010, in an interview with State Investigator Greg Kelly, C.V. stated that on or about April 16, 2010 the Respondent withdrew 5 mg of Morphine from PYXIS and administered the full 5 mg in contradiction to Doctor's order that stated L.T. was to receive 1-4 mg every five minutes. C.V. stated when she questioned the Respondent she said that that L.T. was in pain and that is why she went above the order. C.V. further stated that there was no harm to the patient but that the Respondent should have requested a new order for L.T.

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13. On or about December 28, 2010, in an interview with State Investigator Greg Kelly, the Respondent stated that she went above the order because L.T. was in "a ton of pain," and that she was taught that 5 mg was an acceptable dosage when a patient was in considerable pain but then when she looked back at the order she found it was 1-4 mg every five minutes. The Respondent stated that she "...should have contacted the anesthesiologist and had him rewrite the order 1-5, but in the fast fast pace of, you know, she was in a ton of pain, I was trying to get her comfortable."

Statement of Facts re: Patient D.M.

14. On or about December 9, 2010, C.V. stated that on or about May 18, 2010 the Respondent removed from PYXIS 100 mcg of Fentanyl at 14:26 pm, but that only 50 mcg of Fentanyl was documented as being given to D.M. at 14:35 pm. Additionally, C.V. stated that the Respondent told her that the patient developed pain so she believed that she medicated the patient but did not chart it.
15. On or about December 28, 2010, the Respondent told State Investigator Greg Kelly that she "most definitely" gave it to the patient to keep the patient comfortable because D.M. pain score was up.

Statement of Facts re: Patient G.G.

16. On or about December 9, 2010, C.V. stated that on or about June 4, 2010, the Respondent removed 100 mcg of Fentanyl from PYXIS at 11:27 am for patient G.G.; however, 50 mcg of Fentanyl remained unaccounted for.
17. On or about December 9, 2010, C.V. stated that on or about June 4, 2010, the Respondent removed 1 mg of Dilaudid at 11:19 am for patient G.G.; however, .5 mg of Dilaudid was unaccounted for.
18. On or about December 9, 2010, C.V. stated that when she questioned the Respondent about the medication she gave G.G. on or about June 4, 2010 the Respondent told her that she had given one dose of each medication to G.G. because the patient's IV had become infiltrated and that when she had restarted the G.G.'s IV the patient was still in pain so she administered the remaining doses of Fentanyl and Dilaudid but forgot to chart it.
19. On or about December 28, 2010, the Respondent stated to State Investigator Greg Kelly, that she had "absolutely" given the unaccounted for medication to G.G. after restarting G.G.'s IV.

Statement of Facts re: Patient C.W.

20. On or about December 9, 2010, C.V. stated that on or about June 22, 2010, the Respondent removed a total of 20 mg of Morphine for patient C.W from PYXIS. Through her review the documentation, C.V. stated that Respondent withdrew 10mg

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at 13:58 pm and 10mg at 14:29 pm. C.V. stated that the Respondent gave C.W. morphine at the following times: 4 mg at 13:58 pm, 4 mg at 14:04 pm, 2 mg at 14:15 pm, 4 mg at 14:42 pm, 2 mg at 15:18 pm; and, that the Respondent wasted 3 mg of Morphine at 15:43 pm. C.V. stated that 1 mg of Morphine is unaccounted for in the Respondent's documentation.

21. On or about December 9, 2010, C.V. stated that when she questioned the Respondent about her documentation on June 22, 2010 the Respondent informed her that she believes she probably gave 3 mg at 15:43 pm instead of 2 mg, but that she does not remember.
22. On or about December 28, 2010, the Respondent told State Investigator Greg Kelly that she probably gave G.G. 3 mg at 15:43 pm instead of 2 mg.

Statement of Facts re: Patient J.N.

23. On or about December 9, 2010, in an interview with State Investigator Greg Kelly, C.V. stated that on or about July 2, 2010 the Respondent removed 100 mg of Fentanyl at 16:42 pm from PYXIS; however, only 50 mg was documented as being given to patient J.N. at 16:53 pm. C.V. stated that when she spoke to the Respondent about the 50 mg of Fentanyl that was unaccounted for the Respondent told her that she gave that medication to J.N. but forgot to document it.
24. On or about December 28, 2010, in an interview with State Investigator Greg Kelly, the Respondent stated that she believes she gave J.N. the unaccounted for 50 mg of Fentanyl because it is standard practice to give Fentanyl and Dilaudid at the same time and she did document giving J.N. Dilaudid on or about December 28, 2010.
25. On or about December 28, 2010, in an interview with State Investigator Greg Kelly the Respondent admitted she made mistakes during the performance of her nursing duties, including narcotic administration errors. However, the Respondent denied diversion. Additionally, the Respondent stated that this audit review "opened my eyes" and that now she takes an extra moment to make sure everything is documented.
26. Prior to entering into this Stipulation and Consent Order the Respondent underwent an independent evaluation by a licensed alcohol and drug counselor who stated that the Respondent does not have a substance abuse problem and that the Respondent is fit to practice. Additionally, the Respondent submitted to three random drug and alcohol screens and on all three screens she was negative for narcotics.
27. Respondent has committed unprofessional conduct because her repeated failure to document medication puts patients at risk and shows that she was performing unsafe patient care, she did not conform to essential standards of suitable care, and she failed to comply with the rules governing the practice of profession.

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Charges

28. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:
- a. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause) which includes performing unsafe or unacceptable patient care pursuant to ARBN Chapter 4, Subchapter 4, Rule II(B)(1); and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Subchapter 4, Rule II(B)(2);
 - b. 3 V.S.A. § 129a(b)(1) and (2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and
 - c. 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).

Understandings

29. This Stipulation is neither an admission of liability by the Respondent nor a concession by the State of Vermont that its charges are not well-founded. To avoid delay, uncertainty, inconvenience, and expense of protracted litigation of the charges above, the Parties reach a full and final Stipulation pursuant to these Understandings and the Order below. The Respondent does not dispute that the State could prove at least some of charges by a preponderance of the evidence if this matter went to a hearing and agrees that the conditions below are necessary and appropriate.
30. 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.
31. 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.
32. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
33. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.

STATE OF VERMONT



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34. 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 and Consent Order.
35. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
36. Respondent agrees that the Order set forth below may be entered by the Board.

ORDER

Based on the Stipulation above, it is ORDERED AND ADJUDGED as follows:

- A. The Board of Nursing hereby **CONDITIONS** the Respondent's license to practice nursing for six (6) months from the date of entry below. The conditions are as follows:

(1) Re-issue of License.

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

(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 a minimum of six (6) months 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. The Respondent shall be prohibited from working more than forty (40) hours per week during the conditioned period.

(3) Documentation Course.

Respondent must successfully complete (i.e., receive a passing grade, if applicable) a documentation course with prior approval by the Board or its designee, and then submit written documentation of completion (certificate of completion, etc.) to verify the 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 Stipulation and Consent Order.

(4) Administration of Controlled Substances Course.

Respondent must successfully complete (i.e., receive a passing grade, if applicable) an administration of controlled substances course with prior approval by the Board or its designee, and then submit written documentation of completion (certificate of completion, etc.) to verify the 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 Stipulation and Consent Order.

(4) Notification to Employers/Nursing School.

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Respondent shall provide a copy of this Stipulation and Consent 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 Consent Order or of any subsequent nursing employment, Respondent shall cause Respondent's immediate supervisor to submit to the Board an employer agreement form approved by the Board, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

In the event the Respondent is attending a nursing program which has a clinical portion that involves actual patient care, Respondent shall provide a copy of the Stipulation and Consent Order to the Program Director. Respondent shall cause the Program Director to submit to the Board a nursing program agreement form approved by the Board, acknowledging receipt of the Stipulation and Consent Order and the ability of the program to comply with the conditions in the Consent Order during clinical experience.

(5) Reports from Employers/Program Directors.

Within one (1) month of the date of entry of this Order or within one (1) month of the commencement of nursing employment and monthly thereafter, Respondent shall cause every nursing employer the Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance. The Respondent's employer shall perform monthly medication audits on the Respondent's work; the results of which shall be included in the employer's monthly reports to the Board. The employer will give a copy of the report to the Board to the Respondent.

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. These reports shall be submitted in writing on forms issued by the Board. All nursing program reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance.

(6) Practice Under Supervision.

Respondent shall practice nursing only in a setting where Respondent has direct 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 in a supervisory role. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency, or as a private duty nurse or personal care provider requiring a nursing or nursing assistant license during the effective period of this Consent Order.

(8) Out-of-State Practice.

Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board prior to Respondent

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practicing nursing outside the State of Vermont. If Respondent fails to receive such approval before practicing nursing outside the State of Vermont, none of the time spent practicing nursing 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 nursing practice so long as the Respondent can still comply with the provisions of this Consent Order.

If the Respondent receives discipline on a nursing license held in another state during the conditioned period, the Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.

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

Within ten (10) days of the date of entry of this Consent 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 (including resignation or termination), personal address, or telephone number.

(10) Notification to Other States.

In the event that the Respondent is licensed in nursing in any other state(s), she must inform the nursing licensing board of the state(s) in which the Respondent is licensed of the conditional status of her Vermont nursing license within thirty (30) days of the date of entry of this Order. If the Respondent fails to provide such notification, it will be considered a violation of this Order.

(11) 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 as a nurse, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that she has otherwise complied with the requirements for license renewal.

(12) Costs.

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

(13) 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.

(14) 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 she has fully complied with the terms of this Order.

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- B. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- C. 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).
- D. 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: 1/4/12

By: S. Lauren Hibbert
State Prosecuting Attorney

CATHERINE BUTLAND
RESPONDENT

Dated: 1/3/12

By: Catherine Butland
Catherine Butland

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 1/3/12

By: Peter Joslin, Esq.
Peter Joslin, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 1-9-12

By: Ellen Rebb
Chairperson

Date of Entry: 1/10/12

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