

**STATE OF VERMONT
BOARD OF NURSING**

In re: Michele A. Cardinal
License No. 026-0020976

}
} Docket No. NU33-1106
}

Entry Order on Stipulation and Consent Order

Participating Board Members

Linda Rice, APRN, Chair
Deann Welch, LPN
Alan Weiss
Sandra Norton, LNA
William G White Jr.
Janine Carr, RN

Appearances:

for Petitioner, State of Vermont: Edward G. Adrian
for Respondent: Richard T. Cassidy

Presiding Officer: Larry S. Novins

The Vermont Board of Nursing held a hearing on a proposed Stipulation and Consent Order in the above matter on December 8, 2008 at the National Life Building in Montpelier, Vermont.

Paragraph 6 of the Stipulation and Consent Order gives the Board discretion to determine the nature of Ms. Cardinal's supervision during the period of her conditioned license. The Stipulation states in part:

...[T]he respondent will argue that she be permitted to work with the on-site supervision of a registered nurse, or with the availability of a supervising registered nurse who shall be available all time [sic] by telephone and physically no more that [sic] 30 minutes from the facility. If the Respondent's proposed disposition on this issue is not accepted by the Board, the Respondent shall retain the right ot withdraw from this agreement."

Order

The Board accepts all other provisions of the Stipulation and Consent Order. With regard to paragraph 6, Ms. Cardinal is permitted to work so long as there is on-site supervision provided by a registered nurse licensed and in good standing with the Board.

Ms. Cardinal shall indicate to the Board by December 17, 2008 whether she agrees to be bound by the Stipulation and Consent Order as paragraph 6 is modified herein. If she indicates that she withdraws from the Stipulation and Consent Order as modified by this Order, this matter

will be set for a full merits hearing at the Board's January meeting.

Vermont Board of Nursing

By: Linda Rice APRN
Linda Rice, APRN, Chair

Dated: December 8, 2008

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 12/10/08

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

IN RE:

MICHELE A. CARDINAL

License No. 026-0020976

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)

Docket No: NU33-1106

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Edward G. Adrian, and the Respondent, Michele A. Cardinal, R.N., 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, 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. The Respondent, Michele A. Cardinal, is licensed in the State of Vermont as a registered nurse under license number 026-0020976. This license was originally issued on or about April 27, 1993 and is currently set to expire on March 31, 2009.
3. At all times relevant, the Respondent was employed as a registered nurse at Copley Hospital (the "Facility") located in Morrisville, Vermont.
4. Patient J.P. was admitted to the Facility on or about August 27, 2006, with increasing shortness of breath. J.P. was experiencing additional medical issues and had a medical history that included the amputation of his right leg above the knee. J.P. was transferred from acute status to rehabilitative status on September 1, 2006.
5. The State has alleged, and contends that it could prove some of the facts as stated below in paragraphs 6 through 12.
6. On or about the night of September 3, 2006, the Respondent was assigned to care for J.P. At the shift change, it was reported to the Respondent that J.P. was experiencing mental status changes, jaw pain, vomiting, and incontinence. Later that evening, registered nurse R.K. informed that Respondent that jaw pain was a symptom that J.P. had previously

experienced before he had a "heart attack." In response, the Respondent stated that the patient just wanted more pain medication.

7. Later that evening at approximately 9:00 p.m., the Respondent and nursing assistant W.M. found that J.P. had vomited and been incontinent of stool. While providing care for J.P., W.M. heard the Respondent scold J.P. for being incontinent and not ringing his call bell. When the Respondent and W.M. left J.P.'s room, the Respondent shut the door and told W.M. to stay out of J.P.'s room.

8. At approximately 5:30 a.m., W.M. checked on J.P. and discovered that his condition had worsened. J.P.'s eyes were rolled back, he was diaphoretic, and a dusky-gray color. There was stool and vomit on J.P., his bed, and the floor. W.M. reported her observations to the Respondent and the Respondent came to J.P.'s room. J.P. again complained of pain in his jaw. The Respondent called housekeeping for a mop, cleaned the floor in J.P.'s room, and returned to her desk.

9. At that point, W.M. found R.K. and requested that R.K. look at J.P. R.K. observed that J.P. was cold, clammy, diaphoretic, ashen in color, and that his respirations were approximately 40 and labored. J.P. was verbally non-responsive. At approximately 7:00 a.m. W.M. paged the respiratory therapist, S.D., who, upon seeing J.P., agreed that J.P. was in distress.

10. The Respondent then called J.P.'s physician and based on the Respondent's assessment of the situation to the physician, the physician ordered that J.P. be administered Lasix by mouth. Despite suggestions by the Respondent's colleagues that the Respondent request that Lasix be administered intravenously, the physician did not order Lasix by IV until the nursing supervisor W.E. called the physician back and notified him of the patient's declining status.

11. The patient was subsequently transferred to the Facility's special care unit and then later to Fletcher Allen Health Care.

12. In an interview with the Respondent conducted by the Facility on or about October 31, 2006, the Respondent denied any recollection of the incident described above.

13. The Respondent does not admit to the alleged facts as outlined above, but does not contest that the State could prove at least some facts by a preponderance of the evidence that could result in a finding that Respondent has engaged in unprofessional conduct if this matter went to a merits hearing.

Charges

14. The acts, omissions and/or circumstances described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:

- i. 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. Failure to practice competently includes: 1) performance of unsafe or unacceptable patient or client care; and/or 2) failure to conform to the essential standards of acceptable and prevailing practice);
- ii. 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, Rule IV(II)(B)(1); failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(2); 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

- 15. 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 agreement pursuant to this Stipulation and that the Board may impose the Consent Order set forth below.
- 16. 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.
- 17. 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.
- 18. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- 19. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
- 20. 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.
- 21. 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.
- 22. 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** Respondent's license to practice nursing for a **MINIMUM PERIOD OF ONE (1) YEAR** 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 one (1) year 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 fifty (50) hours per week during the conditioned period.

(3) Assessment Course.

Respondent must successfully complete (i.e., receive a passing grade, if applicable) an assessment course focusing on patient assessment 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.

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, Respondent 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 works 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 parties have not reached agreement as to the level of supervision under which Respondent must practice.

It is the State's position that 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.

At the time of the disposition hearing, the Respondent will argue that she be permitted to work with the on-site supervision of a registered nurse, or with the availability of a supervising registered nurse who shall be available at all time by phone and physically no more that 30 minutes for the facility.

If the Respondent's proposed disposition on this issue is not accepted by the Board, the Respondent shall retain the right to withdraw from this agreement.

(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 private duty nurse or personal care provider during the effective period of this Consent Order.

(8) Out-of-State Practice.

Before any out-of-state nursing practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board prior to Respondent practicing nursing outside the State of Vermont. If Respondent fails to receive such approval before practicing nursing outside the State, 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.

(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.

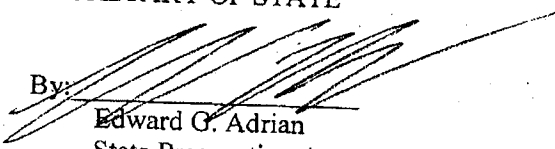
After the conditional license period, the Respondent may petition the Board to remove any and all conditions on her license. The Respondent must present proof that she has fully complied with the terms of this Order.

- 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:

Dated: 12/8/08

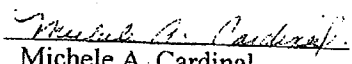
STATE OF VERMONT
SECRETARY OF STATE

By: 

Edward C. Adrian
State Prosecuting Attorney

MICHELE A. CARDINAL
RESPONDENT

Dated: 12-8-08

By: 

Michele A. Cardinal

APPROVED AS TO FORM:

Dated: 12/8/08

ATTORNEY FOR RESPONDENT

By: [Signature]
Richard T. Cassidy, Esq.

APPROVED AND SO ORDERED:

Dated: 12/8/08

VERMONT BOARD OF NURSING

By: [Signature]
Chairperson

Date of Entry: 12/10/08
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STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

IN RE:

MICHELE A. CARDINAL

License No. 026-0020976

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Docket No: NU33-1106

AMENDED SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Michele A. Cardinal, R.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. The Respondent, Michele A. Cardinal, is licensed in the State of Vermont as a registered nurse under license number 026-0020976. This license was originally issued on or about April 27, 1993 and is currently set to expire on March 31, 2009.

3. At all times relevant, the Respondent was employed as a registered nurse at Copley Hospital (the "Facility") located in Morrisville, Vermont.

4. Patient J.P. was admitted to the Facility on or about August 27, 2006, with increasing shortness of breath. J.P. was experiencing additional medical issues including the amputation of his right leg above the knee. J.P. was transferred from acute status to rehabilitative status on September 1, 2006.

5. On or about the night of September 3, 2006, the Respondent was assigned to care for J.P. At the shift change, it was reported to the Respondent that J.P. was experiencing mental status changes, jaw pain, vomiting, and incontinence. Later that evening, registered nurse R.K. informed that Respondent that jaw pain was a symptom that J.P. had previously experienced before he had a "heart attack." In response, the Respondent stated that the patient just wanted more pain medication.

6. Later that evening at approximately 9:00 p.m., the Respondent and nursing assistant W.M. found that J.P. had vomited and been incontinent of stool. While providing care for J.P., W.M. heard the Respondent scold J.P. for being incontinent and not ringing his call bell.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

When the Respondent and W.M. left J.P.'s room, the Respondent shut the door and told W.M. to stay out of J.P.'s room.

8. At approximately 5:30 a.m., W.M. checked on J.P. and discovered that his condition had worsened. J.P.'s eyes were rolled back, he was diaphoretic, and a dusky-gray color. There was stool and vomit on J.P., his bed, and the floor. W.M. reported her observations to the Respondent and the Respondent came to J.P.'s room. J.P. again complained of pain in his jaw. The Respondent called housekeeping for a mop, cleaned the floor in J.P.'s room, and returned to her desk.

9. At that point, W.M. found R.K. and requested that R.K. look at J.P. R.K. observed that J.P. was cold, clammy, diaphoretic, ashen in color, and that his respirations were approximately 40 and labored. J.P. was verbally non-responsive. At approximately 7:00 a.m. W.M. paged the respiratory therapist, S.D., who, upon seeing J.P., agreed that J.P. was in distress.

10. The Respondent then called J.P.'s physician and based on the Respondent's assessment of the situation to the physician, the physician ordered that J.P. be administered Lasix by mouth. Despite suggestions by the Respondent's colleagues that the Respondent request that Lasix be administered intravenously, the physician did not order Lasix by IV until the nursing supervisor W.E. called the physician back and notified him of the patient's declining status.

11. The patient was subsequently transferred to the Facility's special care unit and then later to Fletcher Allen Health Care.

12. In an interview with the Respondent conducted by the Facility on or about October 31, 2006, the Respondent denied any recollection of the incident described above.

Charges

14. The acts, omissions and/or circumstances described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:

- i. 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. Failure to practice competently includes: 1) performance of unsafe or unacceptable patient or client care; and/or 2) failure to conform to the essential standards of acceptable and prevailing practice);
- ii. 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, Rule IV(II)(B)(1); failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(2); 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).

STATE OF VERMONT



Prosecuting Attorney
Office of
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9 Baldwin Street
Montpelier, VT
05609-1107

Relief Requested

WHEREFORE, the license of Michele A. Cardinal should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 7th day of July, 2008.

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
9 Baldwin Street
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STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

IN RE:

MICHELE A. CARDINAL
License No. 026-0020976

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Docket No: NU33-1106

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Michele A. Cardinal, R.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.

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2. The Respondent, Michele A. Cardinal, is licensed in the State of Vermont as a registered nurse under license number 026-0020976. This license was originally issued on or about April 27, 1993 and is currently set to expire on March 31, 2009.
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4. Patient J.P. was admitted to the Facility on or about August 27, 2006, with increasing shortness of breath. J.P. was experiencing additional medical issues including the amputation of his right leg above the knee. J.P. was transferred from acute status to rehabilitative status on September 1, 2006.
5. On or about the night of September 3, 2006, the Respondent was assigned to care for J.P. At the shift change, it was reported to the Respondent that J.P. was experiencing mental status changes, jaw pain, vomiting, and incontinence. Later that evening, registered nurse R.K. informed that Respondent that jaw pain was a symptom that J.P. had previously experienced before he had a "heart attack." In response, the Respondent stated that the patient just wanted more pain medication.
6. Later that evening at approximately 9:00 p.m., the Respondent and nursing assistant W.M. found that J.P. had vomited and been incontinent of stool. While providing care for J.P., W.M. heard the Respondent scold J.P. for being incontinent and not ringing his call bell.

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9. At that point, W.M. found R.K. and requested that R.K. look at J.P. R.K. observed that J.P. was cold, clammy, diaphoretic, ashen in color, and that his respirations were approximately 40 and labored. J.P. was verbally non-responsive. At approximately 7:00 a.m. W.M. paged the respiratory therapist, S.D., who, upon seeing J.P., agreed that J.P. was in distress.

10. The Respondent then called J.P.'s physician and based on the Respondent's assessment of the situation to the physician, the physician ordered that J.P. be administered Lasix by mouth. Despite suggestions by the Respondent's colleagues that the Respondent request that Lasix be administered intravenously, the physician did not order Lasix by IV until the nursing supervisor W.E. called the physician back and notified him of the patient's declining status.

11. The patient was subsequently transferred to the Facility's special care unit and then later to Fletcher Allen Health Care.

12. In an interview with the Respondent conducted by the Facility on or about October 31, 2006, the Respondent denied any recollection of the incident described above.

13. By way of history, the Respondent's license was previously warned by the Board pursuant to a Stipulation and Consent Order entered on or about June 18, 2007. Attachment A. This discipline was due to an allegation by the State that the Respondent made an inappropriate remark to a patient. Attachment A. The Respondent denied that allegation. Attachment A.

Charges

14. The acts, omissions and/or circumstances described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:

- i. 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. Failure to practice competently includes: 1) performance of unsafe or unacceptable patient or client care; and/or 2) failure to conform to the essential standards of acceptable and prevailing practice);

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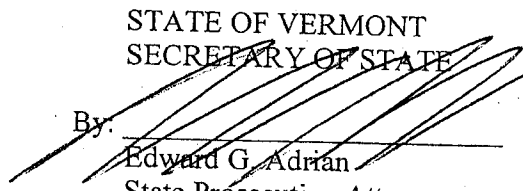
- ii. 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes performing unsafe or unacceptable patient care pursuant to ARBN Chapter 4, Rule IV(II)(B)(1); failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(2); 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).

Relief Requested

WHEREFORE, the license of Michele A. Cardinal should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 8th day of June, 2008.

STATE OF VERMONT
SECRETARY OF STATE

By: 
Edward G. Adrian
State Prosecuting Attorney

nu.cardinal.soc2

STATE OF VERMONT



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