

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

IN RE:

SCOTT R. CARRUTHERS, R.N.
License No. 026-0024553

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Docket No: NU 52-0400

STIPULATION AND CONSENT ORDER

The Respondent, Scott Carruthers, RN, and the State of Vermont, by its Attorney General, William H. Sorrell, stipulate to the statements of Board Authority, Facts and Understandings set forth below and agree to the entry of the following Consent Order by the Vermont State Board of Nursing as a final order in this matter.

Board Authority

1. The Vermont State Board of Nursing ["the Board"] has authority to discipline Respondent if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 26 V.S.A. §1582(a).
2. Altering clinical records or making inaccurate or misleading entries constitutes unprofessional conduct of a character likely to deceive, defraud or harm the public upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(7). Administrative Rules of the Board of Nursing ("ARBN") Chapter 4, Rule IV (B)(4)(c).
3. Failure to conform to the essential standards of acceptable and prevailing nursing practice constitutes unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(3) Administrative Rules of the Board of Nursing ("ARBN") Chapter 4, Rule IV (B)(2)(b).

Facts

4. The Respondent (whose address is listed in the database of the Office of Professional Regulation as 1316 Warren Road, Eden, Vermont 05652) is a Registered Nurse under License Number 026-0024553.
5. Respondent was originally licensed on January 6, 1998 and Respondent's license is currently extended.
6. At all times relevant, the Respondent was employed by Fletcher Allan Health Care in Burlington, Vermont.

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

7. On or about September 17, 1999, Respondent was the Circulating Nurse in the Operating Room responsible for counting the sponges following a gastroplasty and cholecystectomy.
8. Respondent, prior to completion of the closing of the peritoneum, was given the opportunity for a break.
9. Respondent states that upon leaving the Operating Room for his break, that he informed the Replacement Nurse that the Final Count was underway but not complete.
10. The replacement nurse claims that the Respondent stated that the Final Count was complete.
11. Respondent states that at the time of his break the perioperative nursing documentation form was not filled out regarding the Final Count.
12. The replacement nurse claims that at the time of the break, that the form indicated that the Respondent had completed the Final Count.
13. When Respondent returned from the break the operation was completed.
14. Respondent states that at the close of the case, while completing the entries on the form, he inadvertently wrote his name in the area of the form regarding Final Count and then crossed out his name, dated and initialed this change, and then wrote the name of the replacement nurse without verifying whether the replacement nurse had in fact performed the final count.
15. Around or about four (4) days later it was discovered that four (4) lap sponges had been left in the patient's abdomen.

Charges

- A. By altering or making an inaccurate entry into clinical records, the Respondent has:
- (1) Failed to comply with the provisions of state statutes or rules governing the practice of the profession in violation of 3 V.S.A. §129a(a)(3); which prohibit any conduct of a character likely to deceive, defraud or harm the public in violation of 26 V.S.A. §1582(a)(7), Administrative Rules of the Board of Nursing ("ARBN") Chapter 4, Rule IV (B)(4)(c); and
 - (2) Failed to comply with the provisions of state statutes or rules governing the practice of the profession in violation of 3 V.S.A. §129a(a)(3); which require that Respondent conform at all times to the essential standards of the acceptable and prevailing nursing practice. ARBN Chapter 4, Rule IV (B) (2)(b); 1582(a)(3).

Understandings

- B. The Respondent understands that the Board of Nursing must review and accept the terms of the Order set forth below and that if the Board rejects all or any portion of the Order, then this entire document shall be null and void.
- C. The Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- D. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.
- E. The Respondent agrees that he has had sufficient opportunity to consult with legal counsel before signing this document.
- F. The Respondent agrees to settle the charge against him on the terms set forth in this order and is voluntarily waiving his right to a contested hearing before the Board of Nursing.
- G. The Respondent agrees that the Order set forth immediately below may be entered by the Board of Nursing.

Consent Order

H. Based on the above stipulations, it is **ADJUDGED** as follows:

(1) The "Facts" listed above are true; and

(2) The Respondent has engaged in unprofessional conduct in that the Respondent has:

i. Failed to comply with the provisions of state statutes or rules governing the practice of the profession in violation of 3 V.S.A. §129a(a)(3); 26 V.S.A. §1582(a)(7); 1582(a)(3); and the Rules of the Board of Nursing.

I. Based on the above stipulation and on the above Findings and Conclusions of this Board, it is **ORDERED** as follows:

J. The Board hereby **CONDITIONS** Respondent's license to practice nursing for a **minimum period of six (6) months**. The **CONDITIONS** on Respondent's license would be as follows:

(1) Educational Course.

Respondent shall take and pass the C.N.O.R. exam, or an equivalent examination, approved by the Board in advance. Respondent shall take the examination by no later than December 31, 2001. If Respondent fails to pass the examination by the deadline, Respondent's license will remain conditioned until such time as Respondent passes the examination.

(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 six (6) months of supervised nursing practice in which he 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) Interview with the Board or its designee.

Respondent shall appear in person for interviews with the Board or its designee upon request.

(4) Re-issue of License.

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

(5) 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.

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

Within five (5) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of his current place of nursing employment, 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. Respondent shall provide a copy of this Consent Order to all employers during the effective period of this order, current and future, and shall inform them of the conditional status of his license.

(7) Notification to Employers.

Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which he practices during the effective period of this order as a nurse and inform them of his conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any subsequent employment, Respondent shall request his 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.

(8) Reports from Employers.

Within one (1) month of the date of entry of this Consent Order and every month thereafter, Respondent shall request every employer he has worked for during the 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 Respondent is not employed in nursing during any month or portion thereof, Respondent shall submit to the Board, in writing, a self-report describing other employment or activities. In the event the Respondent is attending a nursing program, he shall provide a copy of the Consent

Order to the Program Director. Respondent shall request the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Consent Order and ability of the program to comply with the conditions in the Consent Order during clinical experience.

Respondent shall sign a consent, upon request of the Board, to authorize his employer to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period the Consent Order is in effect.

(9) Practice Under Supervision.

Respondent shall practice only in a setting where he has on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing.

(10) Types of Employment Prohibited.

Respondent shall not work for a nurse registry, travelling 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.

(11) Prohibited Duties.

Respondent shall be prohibited from employment in the position of Charge Nurse during the effective period of this Consent Order.

(12) License Renewal.

In the event Respondent's license is scheduled to expire during the period this Consent Order is in effect, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualifications to practice nursing in the State of Vermont.

(13) Costs.

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

(14) Violation of the Consent Order.

If Respondent violates the terms of this Consent 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 Consent Order, the conditional license period shall be extended until the matter is final.

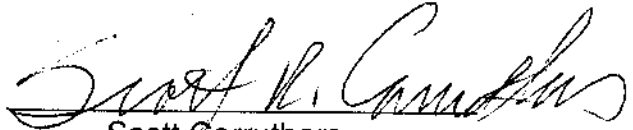
K. Notwithstanding any provision above, Respondent must meet all Nursing Board requirements for license renewal and license reinstatement.

- L. At any time after the entry of this Order, the Respondent may petition the Board to reinstate his license and/or modify the conditions.
- M. 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 practicing as a Registered Nurse, the Respondent must timely apply for renewal of his nursing license or obtain a license to be a Licensed Practical Nurse.
- N. 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).
- O. This Stipulation and Consent Order will remain part of the Respondent's licensing file and may be used in determining sanctions in future disciplinary matters.

AGREED TO:

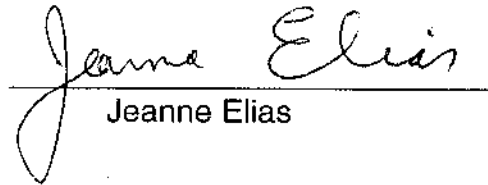
BY: SCOTT CARRUTHERS
RESPONDENT

Date: April 5, 2001


Scott Carruthers

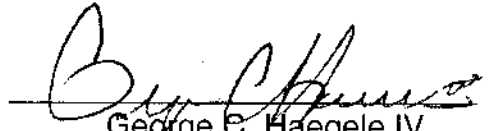
APPROVED AS TO FORM:

BY: JEANNE ELIAS
RESPONDENT'S ATTORNEY


Jeanne Elias

AND BY: STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

Date: 4/6/01


George E. Haegle IV
Assistant Attorney General

ACCEPTED AND SO ORDERED:

BOARD OF NURSING

Date: April 9, 2001


Chairperson

Dated entered: 4-12-01