

STATE OF VERMONT
BOARD OF NURSING

IN RE:

Anne Chase

License No. 26-19542

Case File No. NU23-0900

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Introduction

The Vermont Board of Nursing ("the Board") held a hearing in this case on Monday, March 25, 2002, at 81 River Street in Montpelier, Vermont. Board members Sandra Norton, Alan Weiss, Linda Rice, Larry Kingsbury, Laurey Tyo, and *Ad Hoc* member Marjorie Allard participated in the decision. William Ahlers, Assistant Attorney General, appeared for the State. Anne Chase ("the Respondent") was present and was represented by Attorney John Page. Chris Winters was the Presiding Officer.

The Board received copies of the Specification of Charges and the Respondent's Answer. In addition, State's Exhibits 1-11 were admitted as evidence at the start of the hearing.

Findings of Fact

1. The Respondent is a licensed practical nurse who holds license number 25-4678 issued by the State of Vermont.
2. Respondent, at all times relevant, was employed by Berlin Health and Rehabilitation in Barre, Vermont.
3. On or about September 9, 2000, while employed at Berlin Health and Rehabilitation, the Respondent was assigned to work the day shift as a medication nurse.
4. The Respondent was responsible for the medication and treatment of multiple residents. Among them was resident "M.J.".
5. Resident M.J. was under physician's orders to receive marinol, a narcotic, in food, at 8:00 AM.
6. The Respondent instructed nursing assistant Sara Locke to administer the

marinol for resident M.J. by delivering the marinol, which had been mixed in a cup with ice cream, to M.J. who was located in another room, specifically, the dining room.

7. The nursing assistant questioned other nurses on duty in the dining room about the Respondent's instructions and was told to return the medication to the Respondent, which she did.
8. Nurse Janis Bernasconi told the Respondent she would take care of the medication. The medication was ultimately wasted by Nurse Bernasconi, as is indicated by the nursing notes.
9. The Respondent charted that M.J. refused to eat and did circle her initials on the front page of the chart to indicate the medication was not given.
10. The Respondent did not initial or put a time on the entry on the back of the chart indicating that M.J. refused to eat.
11. On or about September 18, 2000, while employed at Berlin Health and Rehabilitation, the Respondent was assigned to work the day shift as a medication nurse.
12. The Respondent was responsible for the medication and treatment of multiple residents. Among them were residents "E.G." and "S.S."
13. Resident E.G. was under physician's orders to receive various 8:00 AM. and 9:00 A.M. medications, including atenolol, lasix, and an antacid.
14. The Respondent gave E.G. the medications in a cup but did not watch her take them (place them in her mouth).
15. Four pills, including two "Tums", one atenolol and one lasix, were discovered by another nurse during lunch.
16. The medications and cup were found in an unattended area where several other residents had access to them.
17. The medications were intact, showing no signs of having been placed in the resident's mouth and then spit out.
18. Resident S.S. wandered off the wing and out of the facility during the Respondent's shift.
19. The Respondent attempted to locate S.S., searching several areas of the facility where she knew S.S. was likely to be found.

20. When the Respondent was unable to locate S.S. to give her medications, she informed her supervisor that S.S. was missing.
21. The Respondent also informed her supervisor she was taking a break. This break was to use the restroom and lasted approximately 7-10 minutes.
22. A search ensued for resident S.S., utilizing all available staff. S.S. was found wandering outside the facility.
23. The Respondent was previously disciplined by the Board of Nursing by a Stipulation and Consent Order entered on August 17, 1995. In that document, the Respondent admitted to a series of medication errors.

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.
- B. Respondent, by engaging in the conduct described above, has exhibited an inability to practice nursing competently by reason of any cause pursuant to 26 V.S.A. §1582(a)(3). Such conduct constitutes unacceptable patient care and a failure to conform to the essential standards of acceptable and prevailing nursing practice in violation of Board Administrative Rules Chapter 4, Rules (IV)(B)(2)(a) and (b).
- C. More specifically, as to Count I of the Specification of Charges, by directing a licensed nursing assistant to administer a narcotic as described above, the Respondent committed unprofessional conduct in violation of 26 V.S.A. §1582(a)(3) and Nursing Board Administrative Rules Chapter 4, Rules (IV)(B)(2)(a) and (b), as well as 3 V.S.A. §129a(a)(6) (delegating professional responsibilities to a person whom the licensed professional knows is not qualified).
- D. As to Count I of the Specification of Charges, by failing to document the time and initial the medication administration record when documenting that the patient refused to eat as described above, the Respondent committed unprofessional conduct in violation of 26 V.S.A. §1582(a)(3) and Nursing Board Administrative Rules Chapter 4, Rules (IV)(B)(2)(a) and (b).
- E. As to Count II of the Specification of Charges, by failing to watch a patient take the medications and swallow them and by leaving the medications in a cup, unattended, in the presence of other patients, as described above, the Respondent committed unprofessional conduct in violation of 26 V.S.A.

§1582(a)(3) and Nursing Board Administrative Rules Chapter 4, Rules (IV)(B)(2)(a) and (b).

- F. As to Count III of the Specification of Charges, by notifying her supervisor of the missing patient and leaving for a bathroom break, as described above, the Respondent did not commit unprofessional conduct in violation of 26 V.S.A. §1582(a)(3) and Nursing Board Administrative Rules Chapter 4, Rules (IV)(B)(2)(a) and (b).

Order

Count III of the State's Specification of Charges is dismissed.

Counts I and II are proved by a preponderance of the evidence.

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 she 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) Re-issue of License.

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

(3) 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 medications.

(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/ Phone 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 nursing employment (if she 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.

(6) Notification to Employers/Nursing School.

Respondent shall provide a copy of this Order to all employers in any current or future setting in which she practices as a nurse and inform them of her conditional license status. Within ten (10) days of the date of entry of this Order or of any such subsequent employment, Respondent shall cause her 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.

(7) Reports from Employers/Nursing School

Within one (1) month of the date of entry of this Order and every month thereafter, Respondent shall cause every employer for which she 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 her employer and her 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) Types of Employment / Hours Prohibited.

Respondent shall not work as a charge nurse during the effective period of this Order. Respondent shall work only the day or evening shift during the effective period of this Order. Respondent shall not work the night shift during the effective period of this Order.

(9) Supervision Required.

The Respondent shall work only in a setting where she is supervised for the entire shift by a licensed nurse in good standing with the Board of Nursing. Supervision must be on site for the entire shift.

(10) Costs.

Respondent shall bear all costs of complying with this Order.

(11) 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.

(12) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on her 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 she can safely return to unrestricted practice, that she has safely and competently administered medications and that she 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: Linda Rice APRN
Linda Rice
Acting Chair

Date: 4-4-02

OFFICE OF PROFESSIONAL REGULATION

Date of entry: 4/23/02

STATE OF VERMONT
BOARD OF NURSING

IN RE:	)	
Anne Chase	)	Docket No. NU23-0900
<u>License No: 25-4678</u>	)	

SPECIFICATION OF CHARGES

1. The Vermont Board of Nursing has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses and nursing assistants pursuant to 3 V.S.A. §§129, 129a; 26 V.S.A. §§1574, 1582, 1595 and 1598; the Board of Nursing's Rules and the Office of Professional Regulation's Rules.
2. Respondent Anne Chase, of Worcester, Vermont, is a licensed practical nurse holding license number 25-4678 issued by the State of Vermont, which was originally issued on about May 15, 1979 and it is currently active.
3. By way of history, Respondent (formerly known as Anne Ryan-Macy) committed a series of medication errors in 1992 and 1993, according to a Stipulation and Consent Order entered on about August 17, 1995, for which she was reprimanded and her license was conditioned for one year (Docket No. NU10-0193, attached and incorporated).
4. At all times relevant, Respondent was employed by or associated with Berlin Health & Rehabilitation, of Barre, Vermont.

Count 1

5. Paragraphs 1 to 4 are incorporated.
6. On or about September 9, 2000, Respondent instructed a nursing assistant to administer marinol - a schedule II, controlled medication - which had been mixed in with a cup of ice cream, to patient "M.J." (who was located in another room). Respondent delegated this duty to the nursing assistant without indicating what the medication was, what it was used for and/or symptoms that might arise from an adverse reaction.
7. Respondent charted that M.J. refused to eat the above medication-mixture, but did not initial the entry.

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109 State Street
Montpelier, VT
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8. The above act(s), omission(s) and/o circumstance(s), taken individually, together or in any combination, violate: Nursing Board Rules Chapter 4, Rule IV(B)(2)(a) (performance of unsafe or unacceptable nursing care) and Chapter 4, Rule IV(B)(2)(b) (failure to conform to the essential standards of acceptable and prevailing nursing practice); 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), and; 3 V.S.A. §129a(a)(6) (delegating professional responsibilities to a person whom the licensed professional knows, or has reason to know, is not qualified by training, experience, education or licensing credentials to perform them).

Count 2

9. Paragraphs 1 to 4 are incorporated.
10. On or about September 18, 2000, Respondent left several medications intended for patient "E.G.", in a cup, unattended, in the presence of one or more other patient(s).
11. The above act(s), omission(s) and/o circumstance(s), taken individually, together or in any combination, violate: Nursing Board Rules Chapter 4, Rule IV(B)(2)(a) (performance of unsafe or unacceptable nursing care) and Chapter 4, Rule IV(B)(2)(b) (failure to conform to the essential standards of acceptable and prevailing nursing practice), and; 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).

Count 3

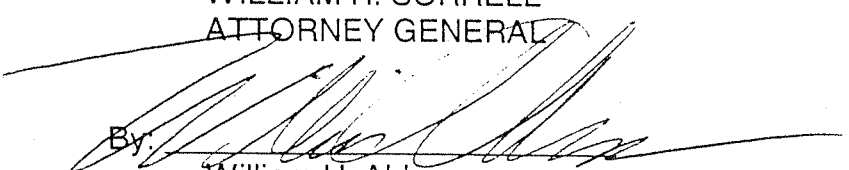
12. Paragraphs 1 to 4 are incorporated.
13. On or about September 18, 2000, Respondent was unable to locate patient "S.S." to administer medication at about 9:15 a.m. as scheduled, and went on a break. Further, the patient had wandered outside the facility and was not found until about 10:30 a.m.
14. The above act(s), omission(s) and/o circumstance(s), taken individually, together or in any combination, violate: Nursing Board Rules Chapter 4, Rule IV(B)(2)(a) (performance of unsafe or unacceptable nursing care) and Chapter 4, Rule IV(B)(2)(b) (failure to conform to the essential standards of acceptable and prevailing nursing practice), and; 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).

WHEREFORE, the license of Anne Chase should be revoked, suspended or otherwise disciplined.

Dated this 31ST day of July, 2001 at Montpelier, Vermont.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 

William H. Ahlers
Assistant Attorney General

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

STATE OF VERMONT
BOARD OF NURSING

IN RE:
ANNE RYAN-MACY, LPN
License Number 4678

)
) Docket No. NU10-1093
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STIPULATION AND CONSENT ORDER

NOW COME the State of Vermont, through Attorney General Jeffrey L. Amestoy, and Respondent Anne Ryan-Macy and stipulate and agree as follows:

1. The Board of Nursing has jurisdiction to investigate complaints of unprofessional conduct and approve consent orders pursuant to 3 V.S.A. §129, and 26 V.S.A. §§1574, 1582.

2. Respondent is a licensed practical nurse licensed by the State of Vermont holding license number 4678.

3. While working at Rowan Court Nursing Home in Barre, Vermont, from September 1992 through September 1993, Respondent committed a series of medication errors. Some of these errors included the following: administering Phenobarbital instead of Valium, administering Ritalin instead of Ativan; administering Ativan instead of Dilaudid; administering half the dose of Cipro that was ordered; administering inhalant medications in the wrong order; administering medications during or after a meal instead of before the meal as ordered; and cutting a piece of skin from a patient without a physician's order and with unsterile scissors.

4. The conduct described above fails to conform to the essential standards of acceptable and prevailing nursing practice

under Board Rule IV.B.3. Respondent is thus unable to practice nursing competently under 26 V.S.A. §1582(a)(3).

5. Respondent voluntarily waives her right to charges and a contested hearing before the Board of Nursing to resolve this matter.

6. WHEREFORE, the parties agree that the following constitutes fair and reasonable discipline given the circumstances stated above:

a. Respondent is hereby issued a REPRIMAND;

b. Respondent's license is CONDITIONED for a period of one year from the date of entry of this Stipulation and Consent Order as follows:

i. Attend Medication Course.

Respondent shall satisfactorily complete a medication course approved by the Board within four (4) months of the date of entry of this Stipulation and Consent Order;

ii. 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 in which she practices as a nurse and inform them of her conditional license status. Within ten (10) days of the date of entry of this Stipulation and Consent Order or of any subsequent employment, Respondent shall cause her 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 its conditions. In the event Respondent is attending

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a nursing program, 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.

iii. Reports from Employers/Nursing School

Within one (1) month of the date of entry of this Stipulation and Consent Order and every month thereafter during the one (1) year the conditions are in place, Respondent shall cause every employer she 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 and accompanied by a cover letter on the employer's letterhead. In the event the Respondent attends nursing school, she 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. In the event Respondent is not employed in nursing or attending school during any month or portion thereof, she shall submit to the Board, in writing, a self-report describing other employment or activities.

iv. Practice Under Supervision.

Respondent shall practice only in a setting where she has on-site supervision for the entire shift by a registered

nurse in good standing with the Vermont Board of Nursing with the following exception: Respondent may continue to work in her present position at Washington County Mental Health's Hill Street Intermediate Care Facility in Barre, Vermont.

v. Prohibited Duties.

Respondent shall not work as a Charge Nurse.

vi. Types of Employment Prohibited.

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

vii. Notification of Board of Addresses and Employers.

Respondent shall provide the Vermont Board of Nursing with her current address and the name and address of her current employer, and notify the Vermont Board within 48 hours of any change of either of these.

viii. Costs.

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

7. The final disposition of the complaint against Respondent is public and the Board may notify other states of its disposition.

8. The parties understand that the terms of this stipulation are contingent upon review and acceptance by the Board and that, if the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.

9. This Stipulation and Consent Order is entered into voluntarily by Respondent after the opportunity to consult with legal counsel. Respondent has not been coerced by anyone into signing this Stipulation and Consent Order.

STATE OF VERMONT

JEFFREY L. AMESTOY
ATTORNEY GENERAL

Dated: 7-18-95

by: Eve Jacobs-Carnahan
Eve Jacobs-Carnahan
Assistant Attorney General

ANNE RYAN-MACY
RESPONDENT

Dated: 7-17-95

by: Anne Ryan-Macy
Anne Ryan-Macy

ACCEPTED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 8/14/95

by: Brenda B. Smith
Chairperson

Date of entry: 8-17-95