

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

IN RE:

**REBECCA J. CHASE
License No. 026.0025791**

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)

Docket No. 2012-155

STIPULATION AND CONSENT ORDER

Stipulation

NOW COME the State of Vermont, by and through State Prosecuting Attorney Gabriel M. Gilman and Respondent ReBecca J. Chase and 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. ReBecca J. Chase ("Respondent") of Cornish, NH was licensed by the State of Vermont as a Registered Nurse under license number 026.0025791. The license was originally issued on or about August 3, 2000 and lapsed on March 31, 2003.
3. On or about December 20, 2011, the New Hampshire Board of Nursing disciplined Respondent for accessing a patient's medical records without the necessary need to know. A copy of the New Hampshire Board of Nursing's Findings of Fact, Rulings of Law, and Sanctions, dated December 20, 2011, is attached hereto as Exhibit A.
4. On or about February 27, 2012, Respondent submitted a Registered Nurse Renewal Application to the Board.

Basis for Reciprocal Discipline

5. The conduct for which Respondent was disciplined in New Hampshire would constitute unprofessional conduct in this state and is properly the subject of Board discipline pursuant to:

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Office of
Professional Regulation
National Life Building
Second Floor North
Montpelier, VT
05620-3602

- a. 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);
 - b. 3 V.S.A. § 129a(b)(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: (2) failure to conform to the essential standards of acceptable and prevailing practice); and
 - c. 3 V.S.A. §129(a)(5) (The Board may discipline any licensee or refuse to license any person who has had a license application denied or license revoked, suspended, limited, conditioned or otherwise disciplined by a licensing agency in another jurisdiction for conduct which would constitute unprofessional conduct in this state, or has surrendered a license while under investigation for unprofessional conduct.).
6. Consistent and commensurate application of licensing conditions between and among jurisdictions tends to promote professional accountability and is in the interest of the public.

Understandings

7. Respondent understands that the Board of Nursing must review and accept the terms of this Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.
8. 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.
9. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
10. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
11. 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.
12. 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.

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13. Respondent agrees that the Order set forth below may be entered by the Board.

Order

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

- A. The license of ReBecca Chase, RN, is **CONDITIONED** on terms substantially similar to those imposed by Order of the New Hampshire Board of Nursing. In particular:
1. Respondent shall practice nursing in a structured health-care environment where other health-care providers are employed;
 2. Respondent shall not practice nursing in a home care environment or be employed by a staffing agency;
 3. Upon obtaining registered nurse employment, Respondent shall provide to the employer a copy of this Stipulation and Consent Order and the New Hampshire Board of Nursing's Findings of Fact, Rulings of Law, and Sanctions dated December 20, 2011;
 4. Respondent shall submit to the Board quarterly work-performance evaluations from Respondent's nursing supervisor; and
 5. Respondent may petition to terminate the above conditions by demonstrating to the Board's satisfaction either:
 - a. that the New Hampshire Board of Nursing has terminated Respondent's probation and restored her unencumbered New Hampshire license, or
 - b. that Respondent has met the reinstatement requirements substantially equivalent to those set out in the New Hampshire Board of Nursing's Findings of Fact, Rulings of Law, and Sanctions dated December 20, 2011.
- B. 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).
- C. 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.

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AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: March 30, 2012

By: _____

Gabriel M. Gilman
State Prosecuting Attorney

REBECCA J. CHASE, RN
RESPONDENT

Dated: 03/27/2012

By: Rebecca J. Chase, RN
Rebecca J. Chase, RN

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 4/9/12

By: _____

Janine Carr
Chairperson

Date of Entry: 4/10/12

nu.chase.strp

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STATE OF NEW HAMPSHIRE
NEW HAMPSHIRE BOARD OF NURSING
21 S FRUIT ST STE. 16
CONCORD NH 03301-2431

Webpage: <http://www.state.nh.us/nursing>

TDD Access: Relay NH 1-800-735-2964

State's
Exhibit

A

Nursing 603-271-2323

Nurse Asst. 603-271-6282

In the Matter of:
Rebecca Chase, RN
(Adjudicatory/Proceeding)

Docket No. 11-1031-0287

FINDINGS OF FACT, RULINGS OF LAW, AND SANCTIONS

A hearing chaired by the Board Vice-chairperson Karen Baranowski, RN, was held on December 15, 2011 at the Board of Nursing's office, 21 S. Fruit St., Concord, N.H. for Rebecca Chase, (Respondent) pursuant to the Notice of Hearing dated November 1, 2011.

Present at the hearing were: Respondent

Witnesses: C. Majewski, Administrative Director Perioperative Services, DHMC
S. Stone, RN, DHMC

Board members: S. Dyer, B. Fersch, K. Hartman, K. Kidder, J. Kuras, B. Libby, C. Smith and
H. Featherston

Board member absent: R. Duhaime, N. Fortin
and Board staff: S. Goodness, K. Dickson

Investigator/Prosecutor for the Board: L. O'Connor, Esq.

Following presentation of oral or written statements and exhibits the Board found for the following:

FINDINGS OF FACT:

1. The Board first granted a license to practice nursing to Rebecca Chase, RN ("Respondent") on July 10, 2003. Respondent holds license number 052153-21. Respondent's current license will expire on October 12, 2012.
2. Rebecca Hackett reported to Dartmouth Hitchcock Medical Center that she believed Respondent accessed her medical records.
3. Jackie Cook conducted an audit to determine whether Ms. Hackett's records were accessed.
4. Ms. Cook identified three instances where Ms. Hackett's records were accessed, February 10, 2010, October 12, 2010, and October 21, 2010.
5. Further investigation revealed that Ms. Chase accessed the record from the operating room where she was working on those dates.
6. Respondent had received a Final Written Warning in June 2008 for accessing a patient's medical records without the necessary need to know.

7. Respondent denies ever accessing Ms. Hackett's medical records.
8. Respondent resigned her position at Dartmouth Hitchcock Medical Center in lieu of termination.
9. Respondent pursued the grievance process for Dartmouth Hitchcock Medical Center and the panel supported the termination decision for HIPPA breaches.

RULINGS OF LAW:

1. In February 2010 and October 2010, Respondent accessed a patient's medical records without the necessary need to know in violation of RSA 326-B:37, (h)(1).

SANCTIONS:

1. For violating sections of the Nurse Practice Act including unprofessional conduct demonstrated by accessing a patient's medical records with the necessary need to know, the Board imposes **PROBATION** and assesses a monetary penalty of \$500 the violation to deter future misconduct and to defray the costs associated with the investigation and prosecution of this case to be paid within 90 days from the effective date of the Board's order in one single payment by certified bank check or postal money order payable to the "NH Board of Nursing". Failure to pay the penalty by the deadline will cause the penalty to be reported to credit reporting services for inclusion on the Respondent's credit record. If the Board determines that collection action including court proceedings are necessary to enforce this obligation, the Board will petition the Court to assess the Respondent with all costs including reasonable legal fees and accrued interest at the prevailing government rate.
2. Upon obtaining employment as a Registered Nurse, a Probation period shall commence and continue for 2 years, or until Respondent successfully petitions the Board for termination of probation, whichever is later. During this probation period the following restrictions and conditions are imposed:
3. Respondent shall practice nursing in a structured health-care environment where other health-care providers are employed;
4. Respondent shall not practice nursing in a home care environment or be employed by a staffing agency;
5. Upon obtaining registered nurse employment, Respondent shall notify the Board in writing of such employment within ten days and provide a copy of this Agreement to the nurse supervisor. Within one (1) month after beginning such employment, said nursing supervisor shall submit a report directly to the Board, in writing, setting forth:
 - a. the name and address of Respondent's employer;
 - b. the duties and responsibilities to be performed by Respondent;
 - c. a discussion of the quality of nursing-related activities provided by Respondent, including a discussion of the ability of the Respondent to provide nursing-related activities with skill and safety to patients; and
 - d. the nursing supervisor shall acknowledge that this Agreement was read and that the role of the nursing supervisor is understood;

6. Respondent shall submit to the Board on a quarterly basis work performance evaluations from Respondent's nursing supervisor on a Board-provided form. Said evaluation shall include:
 - a. name and address;
 - b. number of hours worked, timeliness and efficiency;
 - c. quality and safety of nursing care, including punctuality and attendance;
 - d. ability to safely practice nursing with reasonable skill;
 - e. adherence or failure to adhere to Board stipulations.
7. Said restrictions and conditions shall be in force only while the Respondent is employed in a capacity for which a Registered Nurse license is required and subject to adequate supervision approved by the Board. Respondent is required to notify the Board, in writing, within 10 days after the commencement, termination or change in role in any such employment;
8. In the event the Board determines that any complaint or negative written report is substantiated and is a violation of RSA 326-B and/or the Board rules, it shall be considered grounds for disciplinary action pursuant to RSA 326-B:12 III. The complaint or report shall be reviewed by the Executive Director who shall determine whether immediate suspension or other action is warranted and take such action.
9. Respondent shall notify the Board of an address change within fifteen (15) days of such relocation;

At the end of this probation period, Respondent may, in a letter to the Board, petition the Board for termination of probation and removal of the restrictions and conditions set forth above. Respondent shall demonstrate to the Board the ability to safely practice nursing through evidence of character references, personal and professional testimony and/or written exhibits; said evidence shall specifically include, but is not limited to:
 1. Three letters of reference that address Respondent's punctuality, honesty, integrity and productive work habits. If Respondent has been employed since the date of this Agreement, one letter should be from the employer.
 2. Respondent shall appear before the Board to provide an oral presentation in support of the petition.
 3. The Respondent shall provide a copy of this order to all nursing license boards and registries where she is currently licensed or registered and schools of nursing where currently enrolled within 30 days of receipt of the NH Board-executed copy as well as to all licensing boards, employers and schools of nursing for which the Respondent makes future application at the time of such application.
 4. Should the Respondent apply for any New Hampshire license under RSA 326-B authority on or after the effective date of this order, the Respondent shall by the act of filing such application automatically waive any statute of limitations or laches defense which may otherwise be available concerning the misconduct set forth above with the misconduct being fully addressed in the context on the Respondent's license application. Respondent shall bear the burden of proving that the Respondent possesses sufficient knowledge, judgment, skills, abilities and character qualifications to be licensed in any such future licensing proceedings.
4. Any relief from the provisions of this order shall be granted pursuant to RSA 326-B:39.

5. This order shall become a public document upon signature and a summary of the misconduct noted above may be published in the Board's newsletter and notification of federal and other state agencies and boards of nursing shall be effectuated as required or permitted by law.

Board rationale:

Licensee had multiple HIPAA infractions, this was a second disciplinary occurrence. She denied every infraction found by DHMC Information Technology (IT) audit of the medical record.

Respondent's password to access electronic records would have changed over the course of the year, so it would have been forced changed every 3-6 months. In addition, Respondent said she had an antagonist personal issue with the Complainant. Respondent was not a credible witness due to her total lack of eye contact, blaming others for the violation and lacking ownership for the incidents.

BY ORDER OF THE BOARD:

Margaret J. Walker
Margaret J. Walker Ed.D., RN
Executive Director

12/20/11
Date