STATE OF VERMONT
BOARD OF NURSING

IN RE:	)	
Alecia Chesery	)	Case File No. NU40-1202
License No. 26-19620	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Introduction

The Vermont Board of Nursing ("the Board") held a hearing in this case on Monday, December 8, 2003, at 81 River Street in Montpelier, Vermont. Board members Elayne Clift, Laurey Tyo, Sandra Norton, Donarae Metcalf, Susan Farrell, Sue Cota and De-Ann Welch participated in the decision. Edward Adrian, Prosecuting Attorney, appeared for the State. Alecia Chesery ("the Respondent") was present, and was represented by Attorney Judy Barone.

At the start of the hearing, it was noted that the Respondent's pending motion in limine and the State's motion for telephone testimony had been agreed upon by the parties and that there was no need for a ruling on either.

Findings of Fact

1. The Respondent is a registered nurse holding license number 26-19620 issued by the State of Vermont.

2. At all times relevant, the Respondent was employed by Fletcher Allen Health Care in Burlington, Vermont as an interim nurse manager on the cardio/thorasic surgery unit.

3. On or about December 9, 2002, the Respondent was working the unit when patient P.C. began ringing his call bell. Other nurses had previously answered his bell that evening.

4. Patient P.C. has Huntington's disease, a neurological degenerative brain disorder. P.C. had a reputation on the unit for being very difficult at times. He was on the unit for approximately a year. P.C. is known to flail his arms and legs, become agitated when he does not get what he demands, throw objects at staff, shout and curse. He has

struck staff with his arms and legs before, causing one nurse to go to the emergency room.

5. Psychosis, impulsiveness, eccentricity and irritability are all symptoms of Huntington's disease, as are purposeless movements. P.C. sometimes required assistance eating his meals.

6. P.C.'s irritability was deemed "predictable" by one witness, stating that is was almost always related to his sleeping pill or his food.

6. Nurse Gabrielle Siscoe told Respondent she was not going to answer his bell any more because she had already answered it several times in the few minutes since 7:00 PM. P.C.'s assigned nurse was taking care of another patient in another room.

7. Because P.C. was a difficult patient, the staff would take turns caring for him and answering his call bell. The Respondent, as charge nurse, could make the assignments. For several months previous, Respondent had not been assigned to P.C., nor had she answered his call bell because she had a bad experience with him in which he had shouted at her and told her to never come back. Since that time, she felt that he did not trust her any more and asked not to be assigned to P.C..

8. A new directive from management was that because everyone had a hard time dealing with P.C., there was too much of a burden on those few who would still answer his call bell. Therefore, everyone must begin answering his call bell again.

9. For approximately two weeks after the staff meeting where this new directive was announced, the Respondent answered P.C.'s call bell without incident.

10. On December 9, 2002, Respondent entered P.C.'s room to answer his call bell. P.C. wanted his sleeping pill. The Respondent turned off the call bell at the head of his bed and informed him it was too early for his pill. P.C. continued to ring his call bell and demand his sleeping pill, growing increasingly loud and agitated, and using expletives.

11. The Respondent responded in kind, by cursing and raising her voice. She then placed the call bell out of the reach of P.C. and left the room. The incident lasted one to two minutes.

12. The exchange was loud and inappropriate enough to disturb the resident across the hall and upset visiting family members.

13. Nurse Gabrielle Siscoe was several paces from P.C.'s door and saw the Respondent enter the room. According to Nurse Siscoe, the Respondent "looked angry" by her body language and said, "You're a f---ing pain in the ass," when she entered P.C.'s room. She also heard various uses of the word "f---ing" as an expletive on both sides of the shouted exchange.

14. M.C., a patient across the hall, also heard a loud, profanity-laced exchange and became frightened.

15. When other nurses entered P.C.'s room, they found the call bell on the floor. It took between 30 and 40 minutes to calm P.C. down after the incident and M.C. needed comforting as well.

16. Respondent asserts that all she said was "God damn" and that was directed at the ceiling.

17. Respondent told Susan Stoner, who investigated the incident for the hospital, that she did not use any inappropriate language.

18. The Respondent told investigator Brenda Tetreault, of the Office of Professional Regulation, that she did expect to be reprimanded, but not fired, and that she should have done things differently. She admitted to using "expletives," but not directed at P.C.

19. The Respondent testified that the words "God" and "damn" qualify as expletives (plural).

20. The Respondent did make notes within days of the incident and kept them at home but she has not looked at them since making them.

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 or 3 V.S.A. §129a.

B. Based on substantial credible evidence, the Respondent, by her actions detailed above, has evidenced an inability to practice nursing competently by any cause in violation of 26 V.S.A. §1582(a)(3), in that she performed unsafe or unacceptable patient care and failed to conform to the essential standards of acceptable and prevailing nursing practice.

C. The above also constitutes a violation of 3 V.S.A. §129a(a)(3) for failing to comply with state statutes or rules governing the practice of the profession.

Opinion

The Respondent does not take responsibility for her actions in this case and attempts to place blame on the patient, on the institution and on the work environment. While all of these factors may have contributed to a very difficult and unenviable situation, there is no excuse for

a licensed professional and caregiver to lose control as she did after only a few minutes of difficult behavior from a patient. No matter the situation, there is no excuse for verbally abusing a patient or taking away his call bell.

It is a disturbing display of a lack of patience, professionalism, and judgment. By her own testimony, the Respondent allowed things to be taken personally instead of stepping back to re-assess the situation. This is highly inappropriate. Furthermore, Respondent's statements to others after the fact, including this Board, are inconsistent at best.

Order

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) Anger Management Course

Respondent shall take and successfully complete a course in anger management approved in advance by the Board or its designee. This course must be successfully completed within 6 months of the date of entry of this order.

(3) Psychosocial Nursing Course

Respondent shall take and successfully complete a course in psychosocial nursing which includes instruction on appropriate and professional nursing interventions to deal with difficult and acting out patient behaviors, also including instruction on interpersonal

communication. The course must be approved in advance by the Board or its designee. This course must be successfully completed within 6 months of the date of entry of this order.

(4) 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".

(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 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.

(6) 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 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.

(7) 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.

(8) Reports from Employer

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.

(9) Practice Under Supervision.

Respondent shall practice only in a setting where she has direct, on-the-unit supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing, or is in good standing in all states that nurse is licensed.

(10) Prohibited Duties.

Respondent shall not work as a Charge Nurse.

(11) Types of Employment Prohibited.

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

(12) Costs.

Respondent shall bear all costs of complying with this Order.

(13) 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.

(14) 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 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: Susan Farrell Date: Dec. 18, 2003
Susan Farrell, R.N.
Chair

OFFICE OF PROFESSIONAL REGULATION

Date of entry: 12/30/03