

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

IN RE:

**KATHLEEN CLARK
License No. 026.0031403**

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Docket No. 2012-3

STIPULATION AND CONSENT ORDER

Stipulation

NOW COME the State of Vermont, by and through State Prosecuting Attorney Gabriel M. Gilman, and Respondent, Kathleen Clark, by and through Attorney Brooks G. McArthur, 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, 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.

Stipulated Facts

2. Kathleen Clark ("Respondent") of Brattleboro, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0031403. This license was originally issued on or about July 7, 2005 and expires on March 31, 2013.
3. At all times relevant hereto, Respondent was employed as a Registered Nurse at Brattleboro Memorial Hospital, Brattleboro, Vermont.
4. On or about December 11, 2011, Respondent disconnected the hand-held call button of patient D.M. because the patient had been ringing the light frequently. Other nurses on shift were not aware Respondent disabled the call button. D.M. did have access to a call button on her hand-rail, but may not have known that the hand-held call button had been disabled.
5. On or about December 12, 2011, Respondent posted a message on Facebook stating "I think the callbell trick worked! LOL!" referring to her action of disconnecting D.M.'s hand-held call button.

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National Life Building
Second Floor North
Montpelier, VT
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Violations

6. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:
 - a. 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 Rule 11.2(b)(1) and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Rule 11.2(b)(2));
 - b. 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, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and

Understandings

7. Respondent admits that the facts above are true and that the conditions below are necessary to protect the public.
8. 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.
9. 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.
10. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
11. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
12. 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.
13. 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.
14. Respondent agrees that the Order set forth below may be entered by the Board.

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ORDER

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

- A. The Board of Nursing hereby **WARNS** the Respondent's license.
- B. Respondent's license is **CONDITIONED** as follows:
 - a. Respondent shall, within ninety days of this Order, at her own expense, complete a course pre-approved by the Board as reasonably related to nursing ethics. Failure to complete such a course within the prescribed timeframe shall constitute a violation of this Order.
 - b. Upon receipt of satisfactory evidence that Respondent has completed the described course, the Board or its designee shall terminate the conditions upon Respondent's license and restore the license to unencumbered status.
- C. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- D. 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).
- E. 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:

Dated: 10/2/12

STATE OF VERMONT
SECRETARY OF STATE

By: [Signature]
Gabriel Gilman
State Prosecuting Attorney

KATHLEEN CLARK
RESPONDENT

Dated: 9/28/12

By: [Signature]
Kathleen Clark

APPROVED AS TO FORM:

Dated: 10/1/12

ATTORNEY FOR RESPONDENT

By: [Signature]
Brooks G. McArthur
Jarvis, McArthur & Williams

APPROVED AND SO ORDERED:

Dated: 10/8/12
Date of Entry: 10/9/12

VERMONT BOARD OF NURSING

By: [Signature]
Chairperson

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