

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

IN RE:)
WENDY CULLIGAN) Docket No. 2011-71 (NU)
License No. 026.0033328)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney S. Lauren Hibbert, and the Respondent, Wendy Culligan, RN, 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. Wendy Culligan (the "Respondent") of Swanton, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0033328. This license was originally issued on or about June 26, 2006 and expires on or about March 31, 2013.
3. At all times relevant, Respondent was employed as a Registered Nurse at Fletcher Allen Health Care (the "Facility"), located in Burlington, Vermont.
4. On or about January 26, 2011 the Office of Professional Regulation received a Mandatory Report of Unprofessional Conduct from Human Resource Specialist, M.M. The Report indicated that the Respondent was under investigation for falsifying a patient's record and that she was under corrective action for code of conduct and practice issues.
5. On or about January 12, 2011, in an internal report written, by Registered Nurse A.A. states that on or around the morning of January 11, 2011 J.B. approached A.A. about a possible medication error. On or about January 10, 2011 at approximately eleven in the morning, Registered Nurse J.B. confused the concentration of morphine prescribed for a patient by setting the PCA for ~~hydromorphine~~ as opposed to

hydromorphone

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morphine and consequently doubled the dose administered to the patient. J.B. stated that the Respondent took care of the patient from eleven in the evening on January to seven thirty in the morning on January 11, 2011. J.B. stated that when the Respondent was transferring care to J.B. she warned J.B. to "be careful" because the PCA had been set incorrectly. J.B. did not know whether or not the Respondent had reported the incident to an MD or completed a SAFE report. After review it was discovered that the Respondent had not done either. A.A.'s investigation of the incident revealed irregularities with respect to the PCA. Additionally, the Respondent altered the previous nurse's, N.L., documentation. As a result of these inconsistencies, A.A. asked W.E., to run a history of the PCA and the Alaris CPU in order to ascertain whether or not there had been an error, and the history indicated that the rate of the Alaris CPU had not been changed until on or about 6:55 on January 11, 2011. This is inconsistent with the Respondent's reports.

6. On or about March 24, 2011 State Investigator Laura Pezzulo met with witness A.A. at the Facility. A.A. was accompanied by Nurse Manager, M.T., and M.M. A.A. stated that in looking at the documentation, it appeared that the Respondent noticed the error at 06:04, but waited until 06:55 before correcting the patient's infusion rate and no physicians were notified of the mistake. A.A. stated that while this patient was unharmed such an over sedation could have led to respiratory depression and possibly death. Such an error indicated that by failing to notice this mistake earlier in her shift, the Respondent had not been conducting bedside reporting correctly.
7. On or about April 4, 2011, in an interview with Investigator Pezzulo, the Respondent explained that she took over care of the patient at 23:00 and received a nursing report from N.L., and at some time that night she noticed that the PCA was set to the wrong rate though she could not indicate when during her shift this happened but said that she reset the PCA after noticing it and that the process took "five minutes." She stated that she did not have time to fill out a SAFE report and indicated that she did not remember whether or not she had notified an MD. She could not explain the changes made to N.L.'s paperwork.
8. Respondent has committed unprofessional conduct because her failure to follow safety protocol by failing to fill out a SAFE report, not notifying a physician of a patient overdose, and falsifying documents; she did not conform to essential standards of suitable care, and she failed to comply with the rules governing the practice of profession.

Violations

9. 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

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pursuant to ARBN Chapter 4, Subchapter 4, Rule II(B)(1); and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Subchapter 4, Rule II(B)(2);

- b. 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing reports or records or willfully failing to file the proper reports or records.)
- c. 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
- d. 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).

Understandings

- 10. Respondent admits the facts above are true and that the conditions below are necessary to protect the public.
- 11. 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.
- 12. 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.
- 13. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- 14. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
- 15. 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.
- 16. 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.
- 17. 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 **CONDITIONS** the Respondent's license to practice nursing for one (1) year from the date of entry below. The conditions are as follows:

(1) Re-issue of License.

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

(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 a **minimum of one (1) year** of supervised nursing practice in which she 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. The Respondent shall be prohibited from working more than one hundred (100) hours per two weeks during the conditioned period.

(3) Course Work.

Respondent must successfully complete (i.e., receive a passing grade, if applicable) courses on the following topics:

- a) Medication Errors
- b) Documentation
- c) Ethics

These courses must have prior approval by the Board or its designee, and then the Respondent must submit written documentation of completion (certificate of completion, etc.) to verify the same to the satisfaction of the Board or its designee. These courses must be completed within ninety (90) days of the date of entry of this Stipulation and Consent Order.

(4) 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 Respondent practices as a nurse and inform them of Respondent's conditional license status.

Within ten (10) days of the date of entry of this Consent Order or of any subsequent nursing employment, Respondent shall cause Respondent's immediate supervisor to submit to the Board an employer agreement form approved by the Board, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

In the event the Respondent is attending a nursing program which has a clinical portion that involves actual patient care, Respondent shall provide a copy of the Stipulation and

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Consent Order to the Program Director. Respondent shall cause the Program Director to submit to the Board a nursing program agreement form approved by the Board, acknowledging receipt of the Stipulation and Consent Order and the ability of the program to comply with the conditions in the Consent Order during clinical experience.

(5) Reports from Employers/Program Directors.

Within one (1) month of the date of entry of this Order or within one (1) month of the commencement of nursing employment and monthly thereafter, Respondent shall cause every nursing employer the Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance (i.e., consistently meeting all standards of nursing practice) and attendance.

In the event the Respondent is attending a nursing program, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of her performance and attendance. These reports shall be submitted in writing on forms issued by the Board. All nursing program reports shall indicate satisfactory performance (i.e., consistently meeting all standards of nursing practice) and attendance.

(6) Practice Under Supervision.

Respondent shall practice nursing only in a setting where Respondent has direct supervision for the entire shift by a registered nurse that is licensed and in good standing with the Board.

(7) Types of Employment Prohibited.

Respondent shall not work in a supervisory role. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency, or as a private duty nurse or personal care provider requiring a nursing or nursing assistant license during the effective period of this Consent Order.

(8) Out-of-State Practice.

Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board prior to Respondent practicing nursing outside the State of Vermont. If Respondent fails to receive such approval before practicing nursing outside the State of Vermont, none of the time spent practicing nursing 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 nursing practice so long as the Respondent can still comply with the provisions of this Consent Order.

If the Respondent receives discipline on a nursing license held in another state during the conditioned period, the Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.

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

Within ten (10) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of her current place of employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours

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of any change in employment (including resignation or termination), personal address, or telephone number.

(10) Notification to Other States.

In the event that the Respondent is licensed in nursing in any other state(s), she must inform the nursing licensing board of the state(s) in which the Respondent is licensed of the conditional status of her Vermont nursing license within thirty (30) days of the date of entry of this Order. If the Respondent fails to provide such notification, it will be considered a violation of this Order.

(11) License Renewal.

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 practice as a nurse, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that she has otherwise complied with the requirements for license renewal.

(12) Costs.

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

(13) Violation of this Order.

If the Respondent violates the terms of this Order in any respect, the Board, after giving the Respondent notice and an opportunity to be heard, may rescind or modify this Order and impose additional appropriate disciplinary actions. If a complaint of unprofessional conduct is made against the Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

(14) Completion of Conditional License Period.

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on her license. The Respondent must present proof that she has fully complied with the terms of this Order.

- B. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- C. 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).
- D. 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.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 10/24/11

By: Samuel J. Little

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S. Lauren Hibbert
State Prosecuting Attorney

WENDY CULLIGAN
RESPONDENT

Dated: 10-24-11

By: Wendy Culligan
Wendy Culligan

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 10/24/11

By: [Signature]
Brooks McArthur, Esq.
McArthur, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 11-14-11

By: [Signature]
Chairperson

Date of Entry: 11/14/11
nu.culligan.stip

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