

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

IN RE:)
WENDY A. DALEY)
License No. 026.0013140)

Docket No. 2012-7

STIPULATION AND CONSENT ORDER

NOW COME the State of Vermont, by State Prosecuting Attorney Gabriel M. Gilman, and the respondent, Wendy A. Daley, RN, represented by Attorney John Paul Faignant, who stipulate and agree as follows:

Board Authority

1. The Vermont State Board of Nursing ("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 ("ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Wendy A. Daley ("Respondent") of West Rutland, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0013140. This license was first issued on or about July 24, 1979 and expires on March 31, 2015.
3. Since its issuance in 1979, Respondent's license has never previously been disciplined. Respondent has never been disciplined by any other licensing jurisdiction.
4. At all times relevant, Respondent was employed as a Registered Nurse at Our House Too (the "Facility") in Rutland, Vermont.
5. At all times relevant, Respondent was responsible for providing patient care and supervision to the aides employed at the Facility.
6. On or about August 15, 2009, B.B. became a resident of the Facility. B.B. suffered from Alzheimer's dementia.
7. Members of B.B.'s family lived near the Facility, visited often, and expressed a desire to manage B.B.'s medical appointments outside the Facility. The Facility accommodated. This arrangement was unusual for the Facility and for Respondent, because the Facility and its staff generally arranged resident medical appointments directly.

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8. Respondent was aware or should have been aware of significant deterioration in the condition of B.B.'s toes.
9. Notwithstanding efforts to accommodate the wishes of residents' families, supervising nurses such as Respondent bear ultimate professional responsibility for ensuring that care plans are updated to circumstance and timely executed.
10. Respondent did not arrange for B.B. to be brought to a podiatrist by the Facility or by her family, and did not adjust B.B.'s care plan in a manner commensurate to the deterioration of the B.B.'s toes.
11. On June 6, 2011, B.B.'s family brought her to see a podiatrist, M.C.
12. As a result of an infection in her toe, B.B. required brief treatment with an oral antibiotic and Bacitracin ointment. She recovered fully.
13. The parties agree that B.B. was well cared for generally, and that the events described above arose from a breakdown in nursing communication and lines of responsibility.
14. Recognizing the seriousness of the events described above, Respondent acted on her own initiative to affect significant changes to Facility procedures, and to her own nursing practice, calculated to improve communication between nurses and nurse assistants, and to ensure that care plans are timely updated and acted upon.
15. Between the events described above and the resolution of this matter by agreement, Respondent completed, of her own initiative, multiple continuing education activities relevant to the challenges of nursing in the context residential elder care and best practices in care planning. In addition to these, to facilitate settlement of this matter, Respondent has voluntarily completed NCSBN Learning Extension courses *Sharpening Critical Thinking Skills* (3.6 contact hours) and *Delegating Effectively* (4.2 contact hours).

Violation

16. 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 3 V.S.A. § 129a(b)(1) and (2).

Understandings

17. Respondent admits that the facts stipulated above are true and that the Order set forth below is appropriate to protect the public.
18. 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.
19. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement prejudice her right to a fair and impartial hearing in

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future hearings if this agreement is not accepted by the Board and proceeds to a contested hearing before the same panel.

20. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
21. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
22. 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.
23. 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.
24. Respondent agrees that the Order set forth below may be entered by the Board.

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. 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:

Dated: 1/27/2014

STATE OF VERMONT
SECRETARY OF STATE

By: [Signature]
Gabriel M. Gilman
State Prosecuting Attorney

WENDY A. DALEY
RESPONDENT

Dated: 1/16/2014

By: [Signature]
Wendy A. Daley, RN

APPROVED AS TO FORM:

Dated: 1/16/14

ATTORNEY FOR RESPONDENT

By: [Signature]
John Paul Faignant, Esq.

APPROVED AND SO ORDERED:

Dated: 2/10/14
Date of Entry: 2/11/14

VERMONT BOARD OF NURSING

By: [Signature]
Chairperson

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