

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

In re: Janice Dancer
License No. 26-24014

PETITION FOR REINSTATEMENT /
REMOVAL OF CONDITIONS
Docket No. NU30-1198

ENTRY ORDER

On 10 April 2006, this matter came before the Vermont Board pursuant to Janice Dancer's timely appeal of the preliminary denial of her petition to reinstatement her RN license without conditions. Appellant Janice Dancer appeared before the Board to ask that it overrule the preliminary denial and issue her RN license without any conditions.

Board members Kenneth W. Bush, Susan O. Farrell, Chairperson, Ellen Leff, Donarae Metcalf, Sandra Norton, Laurey M. Tyo and Alan Weiss participated in the decision of this matter. Board counsel Kevin F. Leahy presided.

Findings of Fact &
Conclusions of Law

In a hearing before the Board of Nursing seeking reversal of a preliminary denial, the Appellant bears the burden of proof of showing that the preliminary denial should be reversed. 3 V.S.A. § 129(e). It is therefore incumbent upon the Appellant to demonstrate to the Board that she meets all requirements for the requested relief and that the Board denied the Appellant's initial reinstatement application in error.

The Appellant's initial reinstatement application was denied based on an employer report for the month of January 2006. (Bd. Ltr. to Appellant, 22 February 2006.) The Board's preliminary denial letter also stated that the Appellant's employer had not submitted a "letter in support on [the Appellant's] behalf," which the Board requested to assist it in establishing that all conditions had been met.

At the hearing of this matter, the Appellant presented credible evidence that she has met the requirements set forth in her 14 February 2001 *Stipulation and Consent Order*, which currently sets forth the conditions on her license. Appellant's record showed that she has performed well and practiced safely since the Board last considered her license conditions at a hearing in July 2005.

The Appellant addressed one particular issue of concern regarding a report of a medication error in January 2006. Based on the evidence presented by the Appellant, the Board finds that the January 2006 error report was *de minimus* and did not present a risk to the public. In fact, during that month, the Appellant was placed in a situation, beyond her control, where her employer required her to work as a charge nurse outside the parameters of this Board's previous Order. The Appellant handled the situation

professionally, quickly brought this problem to her supervisor's attention and remedied the situation. The Appellant also assured the Board that the "employer letter of support" was forthcoming.

In light of the above, receipt of the "employer letter of support," on the Appellant's behalf, will adequately satisfy the conditions originally set forth in the 2001 *Stipulation and Consent Order*; and it will support a finding by this Board that the Appellant can safely return to the practice of her profession without any conditions on her license. Therefore, upon receipt of this final document, the Board shall grant the Appellant's request to have her license reissued without any conditions.

ORDER

The Boards OVERRULES the 22 February 2006 decision preliminarily denying the Appellant's request to have her license reissued without any conditions and ORDERS, upon receipt of the letter noted above, the Appellant's license be REISSUED WITHOUT CONDITIONS.

Vermont Board of Nursing:

By: Susan O. Farrell
Susan O. Farrell, RN, Chairperson

Date: May 25, 2006

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 5/26/06

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Nursing.

A party aggrieved by a final decision of a Board may appeal the decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, 26 Terrace Street, Montpelier, Vermont 05609-1101 within 30 days of the entry of the order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.

To request a stay of the Board's decision, please refer to the attached stay instructions.

OFFICE OF PROFESSIONAL REGULATION
VERMONT STATE BOARD OF NURSING

IN RE: Janice Dancer)
Case File No. NU30-1198) PETITION FOR REINSTATEMENT /
License No. 26-24014) REMOVAL OF CONDITIONS

Introduction

The Board of Nursing held a hearing in the above matter on July 11, 2005 at 81 River Street in Montpelier, Vermont. Board members Alan Weiss, Ellen Leff, De-Ann Welch, Linda Rice and Elayne Clift participated in the decision. State Prosecuting Attorney Edward Adrian appeared for the State. Janice Dancer ("The Petitioner") was present. Christopher Winters was the presiding officer.

The Board takes official notice of its own licensing file for previous decisions on Ms Dancer's license.

Findings of Fact

1. The Respondent's license was conditioned by Board Order for one year in 2001, based in part on the Respondent having made medication errors. The Respondent was required to take a pharmacology course, which she has completed and she has recently completed twelve months of supervised and otherwise conditioned practice as required by the Board's Order.
2. Part of the Order required monthly reports from the Respondent's employer. Of the last eleven monthly reports, four have indicated medication errors (June and November 2004, March and April 2005).
3. The Respondent provided explanations for some of these errors, but does not dispute that the errors did occur.

Conclusions of Law and Order

Under the terms of the Board's previous Order at Paragraph 10, the Respondent may petition the Board to reinstate her license without conditions and the Board may restore the license. However, the Board will only do so if the Respondent has satisfied the Board that she has met all conditions and is able to safely and competently practice nursing.

In light of the previous discipline for medication errors, and the continued medication errors indicated in the employer reports, the Board is not satisfied that the Respondent is ready to return to the unconditioned practice of nursing.

The Board would like to see a further track record of error-free medication administration and will consider reinstatement again once the Respondent has provided three consecutive employer reports with no indication of medication administration problems. Support from the Respondent's employer would also be most helpful to the Board in making its decision.

The Board AFFIRMS its preliminary denial of the Respondent's petition.

Appeal Rights

This is a final administrative determination by the Vermont State 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: Linda Rice APRN Date: 7-19-05
Linda Rice, A.P.R.N.
Acting Chair

OFFICE OF PROFESSIONAL REGULATION
DATE OF ENTRY: 7/25/05

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

IN RE:	)	
Janice Dancer, R.N.	)	Docket No: NU30-1198
License No.'s 026-0024014 and	)	
075-0007128	)	

STIPULATION AND CONSENT ORDER

The Respondent, Janice Dancer, R.N., and the State of Vermont, by its Attorney General, William H. Sorrell, stipulate to the statements of Board Authority, Facts and Understandings set forth below and agree to the entry of the following Consent Order by the Vermont State Board of Nursing as a final order in this matter.

Board Authority

- 1 The Vermont State Board of Nursing ["the Board"] has authority to approve consent orders, issue warnings or reprimands, suspend, revoke, limit, condition or prevent the renewal of current or lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. §129(a)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a).
2. Being unable to practice nursing competently by reason of any cause is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(3).
3. Inability to practice nursing competently includes performance of unsafe or unacceptable patient care and failure to conform to the essential standards of

acceptable and prevailing nursing practice. Administrative Rules of the Board of Nursing ("ARBN") Chapter 4, Rule IV(B)(2).

Facts

4. The Respondent (whose address is listed in the database of the Office of Professional Regulation as 2779 VT RT 64, Williamstown, VT 05679) is a Registered Nurse under License Number 026-0024014.
5. Respondent's license to practice as a registered nurse has a current expiration date of March 31, 2001
6. Respondent additionally holds a license to practice as a Nursing Assistant, license number 075-0007128, with an expiration date of January 31, 2001
7. Respondent represents that she is currently retired and will not renew either license from the Board of Nursing
8. At all times relevant to these Charges, the Respondent was employed by the Rowan Court Nursing Home in Barre, Vermont.
9. Respondent made the following medication errors:
 - a) On or about July 22, 1998, Respondent gave a medication, specifically Liquid Abx, to the wrong patient;
 - b) On or about August 22, 1998 and August 23, 1998, Respondent administered medications, specifically Lasix, which was not to be given on those days according to the order.

- c) On or about September 6, 1998 through September 10, 1998, Respondent administered a medication, specifically Digoxin. "q.d." (daily) instead of "q.o.d." (every other day) as required under the order.
- d) On or about September 24, 1998, Respondent failed to check a resident's blood pressure as required by the order. Respondent was required to check the resident's blood pressure and apply a Nitro Patch, PRN if the systolic blood pressure was above 90.

Charges

A. By committing the above act(s), circumstance(s) and/or omission(s), the Respondent has:

- (1) shown she is unable to practice nursing competently by reason of any cause, in violation of 26 V.S.A. §1582(a)(3), specifically Respondent:
 - (a) performed unsafe or unacceptable patient care; and
 - (b) failed to conform to the essential standards of acceptable and prevailing nursing practice.

Understandings

B. The Respondent understands that the Board of Nursing must review and accept the terms of the Order set forth below and that if the Board rejects all or any portion of the Order, then this entire document shall be null and void.

- C. The Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- D. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.
- E. The Respondent agrees that she has had sufficient opportunity to consult with legal counsel before signing this document.
- F. The Respondent is voluntarily waiving her right to a contested hearing before the Board of Nursing.
- G. The Respondent agrees that the Order set forth immediately below may be entered by the Board of Nursing.

Consent Order

H. Based on the above stipulations, it is **ADJUDGED** as follows:

(1) The "Facts" listed above are true; and

(2) The Respondent has engaged in unprofessional conduct in that the Respondent has shown she is unable to practice nursing competently by reason of any cause, in violation of 26 V.S.A. §1582(a)(3), in that she:

(a) performed unsafe or unacceptable patient care and failed to conform to the essential standards of acceptable and prevailing nursing practice.

Based on the above stipulation and on the above Findings and Conclusions of this Board, it is **ORDERED** follows:

J. The Respondent's license is hereby **CONDITIONED** for a minimum period of one (1) year. The **CONDITIONS ON** Respondent's license are as follows:

1) Completion of Educational Course.

Respondent shall complete a course, approved by the Board, concentrating on pharmacology. Respondent shall complete this course no later than May 1, 2001

If Respondent does not renew her license(s) issued by the Vermont Board of Nursing and does not apply for any other related license, then Respondent may choose not to take the course. However, should Respondent renew her license(s) and/or apply for a related license, then Respondent must complete the course before practicing.

2) Length of Time Conditions Imposed.

The conditions shall remain in effect until Respondent has completed all conditions ordered. Respondent's license is conditioned as follows.

3) Reports from Employers.

Within one (1) month of the date of entry of this Consent Order and every month thereafter, Respondent shall cause every employer she has worked for during the 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 Respondent is not employed in nursing during

any month or portion thereof, Respondent shall submit to the Board, in writing, a self-report describing other employment or activities.

Respondent shall sign a consent, upon request of the Board, to authorize her employer to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period the Consent Order is in effect.

4) Practice Under Supervision.

Respondent shall practice only in a setting where she has on-site supervision for the entire shift by a registered and/or licensed nurse in good standing with the Vermont Board of Nursing. Respondent shall not practice as a charge nurse.

5) Types of Employment Prohibited.

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

Respondent shall not work as a Charge Nurse during the effective period of this Consent Order.

6) License Renewal.

In the event Respondent's license is scheduled to expire during the period this Consent Order is in effect, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualifications to practice nursing in the State of Vermont.

7) Costs.

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

8) Violation of the Consent Order.

If Respondent violates the terms of this Consent 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 Consent Order, the conditional license period shall be extended until the matter is final.

9) Reevaluation of Conditions.

In the event Respondent does not work in nursing within three (3) years of the date of entry of this Consent Order, Respondent may appear before the Board for reevaluation of the conditions of this Consent Order.

10) 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. Respondent, however, must present proof to the satisfaction of the Nursing Board, that she poses no danger to the practice of nursing and that she can safely and competently perform the duties of a nurse. Such proof shall include appropriate support from her employer. Furthermore, Respondent shall demonstrate, to the Board's satisfaction, that she fully complied with all the terms of this Consent Order.

K. 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 practicing as a R.N., the Respondent must timely apply for renewal of her nursing license.

L. 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)(8).

M. This Stipulation and Consent Order will remain part of the Respondent's licensing file and may be used in determining sanctions in future disciplinary matters.

AGREED TO:

BY: JANICE DANCER, R.N.
RESPONDENT

Date: 1/5/01

Janice Dancer R.N.
Janice Dancer, R.N.

APPROVED AS TO FORM

BY: _____
Respondent's Attorney
(if applicable)

AND BY: STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

Date: 1/8/01

George C. Haegle IV
George C. Haegle IV
Assistant Attorney General

ACCEPTED AND SO ORDERED:

BOARD OF NURSING

Date: 2-12-01

Diane Dowgiewicz
Chairperson

Dated entered: 2.14.01

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609