

STATE OF VERMONT  
BOARD OF NURSING

IN RE:

Stacey E. Deluca  
License Number 26-16027

Docket No.: NU13-0998

STIPULATION AND CONSENT ORDER**STIPULATION**

NOW COMES the State of Vermont, through its Attorney General, William H. Sorrell, and Respondent Stacey E. Deluca, who stipulate and agree as follows:

1. The Board of Nursing has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §§129, 129a, and 26 V.S.A. §§1574, and 1582.
2. Respondent Stacey E. Deluca, of Weston, Vermont, is a registered nurse holding license number 26-16027 issued by the State of Vermont.
3. At all times relevant Respondent was employed as Director of Nursing Services at Linden Lodge of Brattleboro, Vermont.
4. Respondent admits that on or about August 27, 1998, the Department of Aging and Disabilities of the Vermont Agency of Human Services conducted a survey of Linden Lodge and numerous deficiencies were noted, particularly in the areas of quality of care and nursing services.
5. Respondent admits that the surveyors found deficiencies. Respondent asserts that she was acting as the DON and did not personally commit any of the conduct described in the following subparagraphs:
  - a. On August 24 and 25, 1998 Resident #3 was observed seated in a gerichair, a restrictive device, with the tray on for periods of 2-3 hours with no diversionary activity in progress or no meal being eaten. This resident's care plan

indicates the use of the device for specific purposes, none of which were occurring during the period of restraint.

b. On August 24, 1998, resident #9 was observed lying in bed on the left side and back from 2 p.m. to 6 p.m. On 8/26/98 this resident was observed on the left side and back for three consecutive hours. This resident, identified as at risk for skin breakdown, had a stage II pressure sore on the coccyx.

c. On August 24, Resident #20 was observed lying on the left side from 2 p.m. to 6 p.m. On 8/26/98 this same resident was observed lying on left side from 8:15 to 11:30 a.m. when it was brought to staff's attention. The resident has a history of skin breakdown on one foot and coccyx. The care plan called for elevation of this patient's right foot off the bed. The resident's foot was not elevated but was lying on the bed surface on 8/26/98.

d. Despite a comprehensive assessment and care plan being in place, 5 of 5 residents of a target sample were not provided with meal assistance to maintain good nutrition. All but one of these residents experienced an unexplained weight loss.

e. Despite a comprehensive assessment and care plan being in place, range of motion service was not provided Resident #16.

f. Eight residents had not seen a physician for from 85 days to 6 months.

6. 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.

7. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

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8. 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.

9. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.

10. Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.

11. Respondent voluntarily waives the right to charges and a contested hearing before the Board of Nursing.

12. Respondent agrees that the Board may set forth the order below.

#### **ORDER**

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

A. By engaging in the conduct described in paragraphs 3 through 5 above, the Board concludes Respondent violated Board Rule IV.B.4.e (failing to take appropriate action to safeguard a patient from incompetent healthcare) which constitutes unprofessional conduct pursuant to 26 V.S.A. §1582(a)(7)(conduct likely to harm the public).

B. Respondent's license is **reprimanded**.

C. Should Respondent choose to function as a Director of Nursing within the State of Vermont, then for a period of at least the equivalent to one year of full-time work Respondent shall be subject to the following conditions:

1. In the event Respondent chooses to become a DON as outlined herein, then she shall immediately surrender her nursing license to the Vermont Board of Nursing which will issue a new license labeled "conditioned". Failure to surrender her license before

entering upon duties of a DON and within 5 days of having the approvals noted herein in place shall be considered a violation of this Order.

2. The Respondent must submit to the Board or its designee for approval both the name of a qualified consultant and a Consultation and Oversight Plan, proposed by that consultant, that is designed to provide oversight and supervision of the Respondent and is designed to ensure that the Respondent practices nursing competently while functioning as a Director of Nursing.

3. Before the consultant's name is submitted, the Respondent must provide a copy of this stipulation and consent order to that consultant.

4. The Respondent must submit, with the proposed Plan, a signed statement from the consultant, on the consultant's letterhead, that the consultant has received a copy of this stipulation and that the consultant is willing and able to comply with the reporting and cooperation conditions in the subparagraphs below.

5. If the Board approves the consultant and the Plan then the Respondent shall enter into, participate in and comply with the Consultation and Oversight Plan as approved.

6. If the Board does not approve the proposed consultant or the proposed Plan, the Respondent, within two (2) weeks of being notified of the non-approval(s), shall again submit for approval the name of another qualified consultant, shall comply with paragraph 4 above, and shall submit for approval the new Plan, proposed by the consultant. This new plan must address all deficiencies identified by the Board. The process shall be repeated until the Board approves a consultant and plan.

7. The Respondent shall authorize the consultant to submit, and shall take all reasonable steps to ensure that the approved consultant does submit, to the Board,

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monthly reports due by the end of the following month, detailing the Respondent's participation in, and compliance with, the approved Plan, and, in general, whether the Respondent is practicing competently while functioning as Director of Nursing.

8. The Respondent shall authorize the consultant to respond and shall take all reasonable steps to ensure that the approved consultant does respond, to all requests of the Board, or its designee, to discuss and further document the Respondent's participation in, and compliance with, the approved Plan and, in general, whether Respondent is practicing competently while functioning as Director of Nursing.

9. The Respondent shall obtain approval from the Board prior to any change in the consultant or the approved Plan.

D. Notwithstanding any provision above, Respondent must meet all Nursing Board requirements for license renewal and license reinstatement.

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)(7).

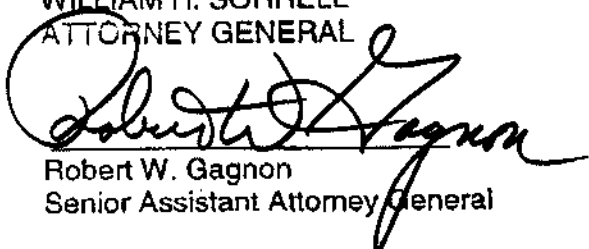
E. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

STATE OF VERMONT

WILLIAM H. SORRELL  
ATTORNEY GENERAL

Dated: 10/1/01

by:

  
Robert W. Gagnon  
Senior Assistant Attorney General

RESPONDENT  
STACEY E. DELUCA

Dated: 9/26/01

by: Stacey E. DeLuca  
Stacey E. Deluca

APPROVED AS TO FORM

Dated: 9/26/01

by: Jeremy Dworkin  
Jeremy Dworkin, her attorney

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 10-12-01

by: Sandra Rice  
Chairperson (acting)

Date of entry: 10/16/01