

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

IN RE:

THOMAS E. DeVOYD, R.N., M.S.
License No. 026-0022052

CASE NO. NU-56-0305

)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, Esq., and the Respondent, Thomas E. DeVoyd, R.N., M.S., along with his attorney, John D. Monahan, Jr., Esq., who stipulate and agree as follows:

Board Authority

1. The Vermont State Board of Nursing (the "Board") has the authority to approve consent orders, issue warnings or reprimands, suspend, revoke, limit, 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)(5); 3 V.S.A. § 814(d); 26 V.S.A. § 1582(a); the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.

Statement of Facts

2. The Respondent is licensed in the State of Vermont as a Registered Nurse under license number 026-0022052, issued by the State of Vermont. The Respondent's license was originally issued on March 29, 1995, and is currently set to expire on March 31, 2007.

3. At all times relevant, the Respondent was employed by Burlington Health and Rehabilitation ("BHR") in Burlington, Vermont. The Respondent became employed as the Director of Nursing at BHR on or about September 22, 2004. The Respondent was employed as the Director of Nursing at BHR for approximately six (6) months, stepping down from that position and into a staff position.

4. In early March, 2005, surveyors from the Department of Aging and Independent Living conducted a survey at BHR. Numerous deficiencies were found at the facility, several of which involved nursing practices. The Respondent concedes that he bears some responsibility for the deficiencies cited in the survey and, taking the survey as a whole, the Respondent admits that the survey evidences a failure to conform to the acceptable and prevailing nursing management practices expected of a Director of Nursing.

Charges

5. By engaging in the conduct described above, Respondent has exhibited unprofessional conduct in the performance of his managerial duties as the Director of Nursing. Specifically, the Respondent has violated:

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Burlington, VT 05402-0988
(802) 864-5751

- a. 3 V.S.A. § 129a(a)(3) (Failing to comply with the provisions of state statutes or rules governing the practice of the profession);
- b. 3 V.S.A. § 129a(b)(2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes failure to conform to the essential standards of acceptable and prevailing practice); and
- c. 26 V.S.A. § 1582(a)(3) (Unprofessional conduct, being the inability to practice nursing competently by reason of any cause, including the failure to conform to the essential standards of acceptable and prevailing nursing practice).

Understandings

6. Respondent understands that the Board must review and accept the terms of this Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.

7. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.

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

9. 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.

10. Respondent voluntarily waives his right to a contested hearing before the Board and any right to appeal from the Order entered pursuant to this Stipulation.

11. 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. Respondent's actions described above demonstrate grounds for discipline because the Respondent committed unprofessional conduct in violation of:

- i. 3 V.S.A. § 129a(a)(3);
- ii. 3 V.S.A. § 129a(b)(2); and
- iii. 26 V.S.A. § 1582(a)(3).

B. Respondent's license is hereby **CONDITIONED** for **ONE (1) YEAR** commencing with the date of entry of this Stipulation and Consent Order. The conditions are as follows:

i. Issuance of License

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

ii. Education Requirement

Respondent shall take a three (3) credit nursing management course approved in advance by the Board. It shall be Respondent's responsibility to obtain the Board's approval of the course, and that approval shall not be unreasonably withheld. Because Respondent intends to engage in a full-time direct nursing practice, the Board will consider approval of an appropriate "on line" or non-credit bearing course.

iii. Completion of Conditional License Period

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

iv. Costs

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

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

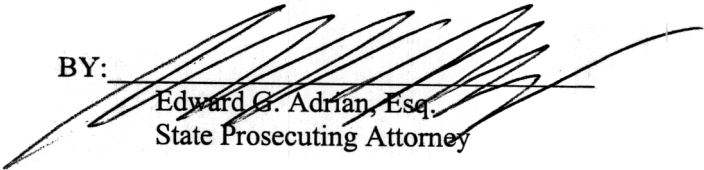
D. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. § 129(a).

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.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 2/9/06

BY: 

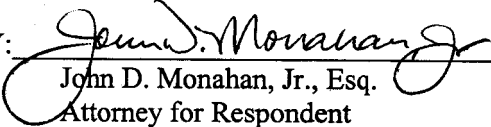
Edward G. Adrian, Esq.
State Prosecuting Attorney

Dated: 2/11/06

BY: 

Thomas E. DeVoyd, R.N., M.S.
Respondent

Dated: February 3, 2006

BY: 

John D. Monahan, Jr., Esq.
Attorney for Respondent

APPROVED AND SO ORDERED:

VERMONT STATE BOARD OF NURSING

Dated: 3/13/06

BY: Susan Farrell
Chairperson

Date of Entry: 3/15/06

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