

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

**IN RE:** )  
**BEVERLY J. FARONE, L.P.N.** )  
**License No. 025-0006986** )

**Docket No: NU 53-0103**

**STIPULATION AND CONSENT ORDER**

**STIPULATION**

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and Respondent Beverly J. Farone, L.P.N., who stipulate and agree as follows:

**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) The inability 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) The inability to practice nursing competently includes the performance of unsafe or unacceptable patient care pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(2).
- 4) Failure to comply with the provisions of state statutes or rules governing the practice of the profession is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(3).

**Facts**

- 5) The Respondent is a Licensed Practical Nurse under License Number 025-0006986.
- 6) Respondent was originally licensed on October 19, 1993 and Respondent's license is currently set to expire on January 31, 2004.
- 7) At all times relevant, the Respondent was employed as a Charge Nurse at Genesis Eldercare Mt. View Center ("the facility") located in Rutland, Vermont.

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- 8) On or about January 11, 2003, Respondent threw some juice from a cup on R.B., a resident of the facility after R.B. did not drink all the juice in the cup. ~~DSF~~
- 9) Respondent admitted that the incident occurred to Stan Struzinski, an investigator for Medicaid Fraud.

### Charges

10) The above acts, omissions and/or circumstances described above, constitute grounds for discipline because Respondent violated:

A. 26 V.S.A. §1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes the performance of unsafe or unacceptable patient care pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(2); and

B. 3 V.S.A. §129a(a)(3) (failing to comply with the provisions of state statutes or rules governing the practice of the profession).

### Understandings

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 his 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 charges and a contested hearing before the Board of Nursing.

17) Respondent agrees that the order set forth below may be entered by the Board.

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### ORDER

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

A. The Respondent's conduct described in the paragraphs above, taken alone, together or in any combination, constitutes unprofessional conduct in that the Respondent has violated :

i. 26 V.S.A. §1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes the performance of unsafe or unacceptable patient care pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to the Administrative Rules of the Board of Nursing, Chapter 4, Rule IV(II)(B)(2); and

ii. 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. The Board of Nursing hereby **CONDITIONS** Respondent's license for **A MINIMUM OF ONE (1) YEAR** from the date of entry of this Order. The **CONDITIONS** are as follows:

(1) License to be labeled "Conditioned".

Any license issued to the Respondent by this Board shall be 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 total 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 parties recognize that the Respondent may not be able to complete this condition within one consecutive year because of family obligations.

(3) Anger Management Course.

Respondent must complete (i.e.: receive a passing grade, if applicable) a course on anger management with prior approval by the Board or its designee, and then submit written documentation (certificate of completion, etc.) to verify same to the satisfaction of the Board or its designee. This course must be completed within six (6) months 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 during the conditioned period 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 employment, Respondent shall cause Respondent's ~~immediate~~ supervisor

STATE OF VERMONT



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to write to the Board, on the employer's letterhead, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

In the event Respondent is attending a nursing program which has a clinical portion which involves actual patient care, she shall provide a copy of the Stipulation and Consent Order to the Program Director. Respondent shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Stipulation and Consent Order and ability of the program to comply with its conditions during clinical experience.

(5) Reports from Employers/Nursing School.

Within one (1) month of the date of entry of this Stipulation and Consent Order or within one (1) month of the commencement of employment, and every month thereafter for the year the conditions are in place, Respondent shall cause every employer Respondent 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 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. This report shall be submitted in writing on forms issued by the Board and accompanied by a cover letter on the school's letterhead.

(6) Practice Under Supervision.

Respondent shall practice only in a setting where Respondent has on-site supervision for the entire shift by a registered nurse that is licensed and in good standing.

(7) Types of Employment Prohibited.

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

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

Within five (5) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of her current place of nursing employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in nursing employment, personal address, or telephone number.

(9) 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 nursing, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that he has otherwise complied with the requirements for license

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renewal.

(10) Costs.

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

(11) 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.

(12) 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. If such proof is presented, Respondent's license shall be unencumbered.

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:

Dated: 12/29/03

STATE OF VERMONT  
SECRETARY OF STATE

By: [Signature]  
Edward G. Adrian  
State Prosecuting Attorney

BEVERLY J. FARONE  
RESPONDENT

Dated: 12/29/03

By: [Signature]  
Beverly J. Farone

ATTORNEY FOR RESPONDENT

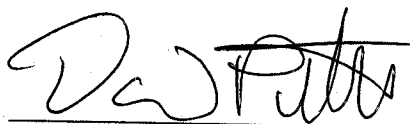
APPROVED AS TO FORM:

STATE OF VERMONT



Prosecuting Attorney  
Office of  
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Montpelier, VT 05602

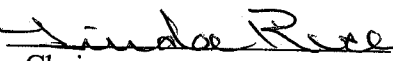
Dated: 12/08/03

By:   
David Putter

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 1-12-04

By:  Linda Rice A.R.N.  
Chairperson

Date of Entry: 1/20/04

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