

OFFICE OF PROFESSIONAL REGULATION
VERMONT STATE BOARD OF NURSING

IN RE:

Constance Fletcher)
Case File No. NU39-1203)
License No. 25-6508)

DEFAULT ORDER

Introduction

The Board of Nursing held a default hearing in the above matter on December 13, 2004 at 81 River Street in Montpelier, Vermont. Board members Alan Weiss, Susan Farrell, Sandra Norton, De-Ann Welch, Laurey Tyo, Elayne Clift and Margaret Luce (*ad hoc* member) participated in the decision. State Prosecuting Attorney Edward Adrian appeared for the State. Constance Fletcher ("the Respondent") was present.

Findings of Fact

The Respondent was sent notice of the Charges against her to her last known address by certified mail and first class mail on September 15, 2004. She was also sent notice of the default hearing on November 18, 2004.

2. Both certified mailings were returned marked "unclaimed," but he regular mailings were not returned.
3. The Respondent did receive notice of the hearing as evidenced by her attendance.
4. The Respondent asserted that she had no memory of the events surrounding the Charges and therefore could not answer or dispute the Charges.
5. After taking notice of its own file, the Board found the Respondent to be in default. The allegations contained in the State's Specification of Charges dated September 5, 2004 (copy attached) are therefore treated as the facts on which the Board's order is based.

Conclusions of Law

The Respondent has received adequate notice of the charges against her as indicated by the Board's file. Because the Respondent has failed to answer the charges against her, the State's factual allegations are treated as if proved. Accordingly, the Board finds, in the default hearing held pursuant to 3 V.S.A. §809(d), that the Respondent has engaged in the

unprofessional conduct alleged in the State's Specification of Charges.

Order

In accordance with the above findings of fact and conclusions of law, the license of the Respondent is hereby INDEFINITELY SUSPENDED until such time as the Respondent has undergone a neurological and psychological evaluation indicating she is able to safely return to the practice of nursing under a conditioned license as the Board deems appropriate.

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: Susan Farrell
Susan Farrell, RN
Chair

Date: Dec 24, 2004

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 1/6/05

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

IN RE:)
CONSTANCE FLETCHER) **Docket No: NU 39-1203**
License No. 025-0006508)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Constance Fletcher, L.P.N.:

Board Authority

- 1) The Vermont State Board of Nursing ("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); the Administrative Rules of the Board of Nursing ("AREN"); and the Rules of the Office of Professional Regulation.
- 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) Being unable to practice nursing competently includes the performance of unsafe or unacceptable patient care pursuant to ARBN, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN, Chapter 4, Rule IV(II)(B)(2).
- 4) Failing to practice competently by reason of any cause on as single occasion or on multiple occasions is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. § 129a(b).
- 5) Engaging in conduct of a character likely to deceive, defraud or harm the public is unprofessional conduct upon which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(7).
- 6) Conduct of a character likely to deceive, defraud, or harm the public includes falsifying or altering clinical records or making inaccurate or misleading entries. ARBN, Chapter 4, Rule IV(II)(D)(3).
- 7) Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports

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Prosecuting Attorney
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or records or willfully failing to file the proper reports or records is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129(a)(7).

8) Having a mental, emotional or physical disability, the nature of which interferes with the ability to practice nursing is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(6).

9) Failing 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. §129(a)(3).

Facts

10) The Respondent is a Licensed Practical Nurse under License Number 025-0006508.

11) Respondent was originally licensed on April 2, 1990 and Respondent's license is currently set to expire on January 31, 2004.

12) The Respondent's license is currently conditioned pursuant to a Stipulation and Consent Order entered by the Board on November 17, 2003. The Respondent was disciplined for incompetent nursing practice and falsifying records. The Respondent's license is conditioned until approximately November 17, 2004. (See Attachment A).

13) At all times relevant to these charges, the Respondent was employed as an L.P.N. at Burlington Health and Rehabilitation Center (the "Facility") located in Burlington, Vermont.

14) On December 15, 2003, the Respondent advised the charge nurse, Helen Short, that the Respondent had received permission from the Director of Nursing, Rachel Bean, to leave her shift early. However, in fact, the Respondent had never received permission from Ms. Bean to leave early.

15) Upon information and belief, the Respondent left the Facility at approximately 10:00 p.m. The Respondent's shift was scheduled to end at 11:00 p.m.

16) The Respondent advised P.M., an R.N. at the Facility, that the Respondent had administered her 8:30 medications with her 5:00 p.m. medications so that she could "be out of here by 8:00 p.m." During the 5:00 p.m. med pass, the Respondent signed off on the medication administration record as having given all of her 8:30 medications.

17) The Respondent also failed to provide scheduled treatments to two residents on December 15, 2003. However, the Respondent signed off on the treatment administration records for these two residents as having given treatment.

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18) On or about June 4, 2004, the Respondent advised State Investigator Brenda Tetrault that she had no recollection of the events on December 15, 2003, nor any memory of what she did for three weeks prior to that date. The Respondent stated that it was all like a "dream", that she did not know where she was and she should not have been allowed to work. The Respondent further stated that she was "completely insane".

Charges

19) By committing the above act(s), circumstance(s) and/or omission(s), 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 ARBN, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN, Chapter 4, Rule IV(II)(B)(2); and
- ii. 3 V.S.A. § 129a(b) (failing to practice competently by reason of any cause on a single occasion or on multiple occasions); and
- iii. 26 V.S.A. §1582(a)(7) (engaging in conduct of a character likely to deceive, defraud or harm the public), which includes falsifying or altering clinical records or making inaccurate or misleading entries pursuant to ARBN, Chapter 4, Rule IV(II)(D)(3); and
- iv. 3 V.S.A. § 129a(b) (failing to practice competently by reason of any cause on a single occasion or on multiple occasions); and
- v. 3 V.S.A. §129a(a)(7) (willfully making or filing false reports or records in the practice of the profession); and
- vi. 26 V.S.A. §1582(a)(6) (having a mental, emotional or physical disability, the nature of which interferes with the ability to practice nursing); and
- vii. 3 V.S.A. §129a(a)(3) (failing to comply with the provisions of state statutes or rules governing the practice of the profession).

Relief Requested

WHEREFORE, the Respondent's license should be revoked, suspended, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 5th day of September 2004.

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Office of
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Montpelier, VT 05602

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

nu.fletcher.soc

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

IN RE:)
CONSTANCE FLETCHER, L.P.N.) Docket No: NU 30-1002
License No. 025-0006508)

STIPULATION AND CONSENT ORDER

STIPULATION

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

Board Authority

- 1) The Vermont State Board of Nursing ("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 the failure to conform to the essential standards of acceptable and prevailing nursing practice and is unprofessional conduct upon which the Board can base disciplinary action. Administrative Rules of the Board of Nursing ("ARBN") Chapter 4, Rule IV (II)(B)(2).
- 4) Falsifying or altering clinical records or making inaccurate or misleading entries is unprofessional conduct upon which the Board can base disciplinary action. Administrative Rules of the Board of Nursing ("ARBN") Chapter IV, Rule IV(II)(D)(3).
- 5) Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129(a)(7).
- 6) Having a mental, emotional or physical disability, the nature of which interferes with the ability to practice nursing is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(6).

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Facts

Attachment A

- 7) The Respondent is a Licensed Practical Nurse under License Number 025-0006508.
- 8) Respondent was originally licensed on April 2, 1990 and Respondent's license is currently set to expire on January 31, 2004.
- 9) At all times relevant to these Charges, the Respondent was employed by Fletcher Allen Health Care in Burlington, Vermont.

False Record

- 10) On or about October 6, 2002, Respondent signed another nurse's initials in the medical records of a resident falsely indicating that the other nurse had administered the medication.
- 11) Signing another nurse's name as administering a medication when that nurse, in fact, did not administer the medication is a false record.

Inaccurate Record

- 12) On or about October 6, 2002, Respondent failed to document the effect(s) of the medication(s) administered.
- 13) The essential standards of acceptable and prevailing nursing practice require the above to be documented.

Morphine IV Push

- 14) On or about October 6, 2002, Respondent gave a morphine IV push when the facility prohibited the same on that unit.

Medical Concerns

- 15) On or about April 28, 2003, Respondent disclosed to the Office of Professional Regulation that she suffers from a thyroid condition and that she has severe memory problems.

Charges

- 16) 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:
 - i. Failed to conform to the essential standards of acceptable and prevailing nursing practice.
- (2) Falsified or altered clinical records or made inaccurate or misleading entries;
and

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- (3) Willfully made or filed a false report or record in the practice of the profession;
and
- (4) Shown that she has a mental, emotional or physical disability, the nature of
which interferes with her ability to practice nursing competently.

Understandings

- 17) Respondent admits the conclusions of unprofessional conduct as set forth below in the Board's Order.
- 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 has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- 20) 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.
- 21) Respondent voluntarily waives her right a contested hearing before the Board of Nursing.
- 22) Respondent agrees that the Board may enter the Order set forth below.

ORDER

Based upon the stipulation above, it is **ORDERED AND ADJUDGED** as follows:

A. Respondent's actions demonstrate grounds for discipline because 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:
 - i. failed to conform to the essential standards of acceptable and prevailing nursing practice in violation of ARBN Chapter 4, Rule IV(II)(B)(2).
- (2) falsified or altered clinical records or made inaccurate or misleading entries in violation of ARBN Chapter IV, Rule IV(II)(D)(3); and
- (3) willfully made or filed a false report or record in the practice of the profession in violation of 3 V.S.A. §129(a)(7).
- (4) shown that she has a mental, emotional or physical disability, the nature of which interferes with her ability to practice nursing competently in violation of 26 V.S.A. §1582(a)(6).

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B. Respondent Constance Fletcher's license is hereby **CONDITIONED** for a period of one (1) year commencing with the date of entry of this Stipulation and Consent Order. The conditions are as follows:

(1) Length of Time Conditions Imposed.

These conditions shall remain in place until Respondent has completed one (1) year of supervised nursing practice in which Respondent works at least forty (40) hours every two (2) weeks in nursing. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis.

(2) Medication Administration Course.

Respondent shall, at her own expense, complete one (1) course in medication administration, which must be pre-approved by the Board. Respondent must submit written documentation (certificate of completion, etc.) to verify same to the satisfaction of the Board or its designee. Respondent shall complete this course within three (3) months of the date of entry of this Order.

(3) 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 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 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, Respondent 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.

(4) 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 one year period 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.

(5) Practice Under Supervision.

Respondent shall practice only in a setting where Respondent has direct

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supervision for the entire shift by a registered nurse that is licensed and in good standing with the Vermont Board of Nursing.

(6) 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.

(7) Letter from Treating Physician.

Respondent must submit to the Board a detailed letter from Respondent's treating physician addressing Respondent's physical and cognitive abilities, including (a) Respondent's memory problems, (b) Respondent's thyroid condition, and (c) an acknowledgment that the Respondent does not present a risk to the health, safety or welfare of the Respondent's patients. This letter must be received by the Board within two (2) weeks of the date of entry of this Stipulation and Consent Order. If the letter is not received within two (2) weeks of the date of entry of this Stipulation and Consent Order, or the letter indicates that the Respondent presents a risk to her patients, then after notice and an opportunity to be heard, **the Respondent's license will be INDEFINITELY SUSPENDED until the letter has been provided to the Board.**

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

Within five (5) days of the date of entry of this Stipulation and 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) Out of State Practice/Residence.

Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board prior to Respondent leaving the State of Vermont. If Respondent fails to receive such approval before leaving the State, none of the time spent out-of-state will be credited toward the fulfillment of the terms and conditions of this Consent Order. The Board will approve out-of-state practice so long as the Respondent can still comply with the provisions of this Consent Order.

(10) Violation of the Consent Order.

If Respondent violates the terms of this Stipulation and 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.

(11) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition

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the Board to remove any and all conditions on her license and after formal review by the Board, Respondent's nursing license may be formally restored by appropriate Board action. Respondent shall demonstrate, to the Board's satisfaction, that Respondent fully complied with all the terms of this Consent Order. If Respondent demonstrates to the Board's satisfaction that she has fully complied with the terms of this Stipulation and Consent Order, her license will be reinstated.

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

D. By signing this Stipulation and Consent Order, Respondent authorizes her employer and nursing school administrator to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period this Stipulation and Consent Order is in effect.

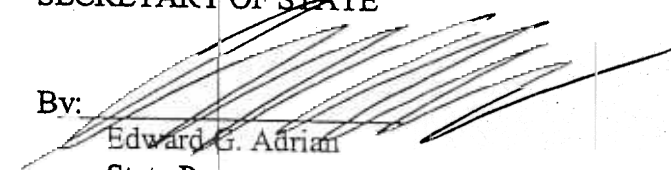
E. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

F. This Stipulation and Consent Order will remain part of the 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: 11/10/03

By: 
Edward G. Adrian
State Pro

CONSTANCE FLETCHER
RESPONDENT

Dated: 10/31/03

By: Constance Fletcher
Constance Fletcher

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

APPROVED AND SO ORDERED:

Dated: November 10, 2003

Date of Entry: 11/17/03

nu.fletcher.stip

VERMONT BOARD OF NURSING

By: Susan Farrell
Chairperson

STATE OF VERMONT



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