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STATE OF VERMONT
BOARD OF NURSING

IN RE:)
Sylvia Flint) Case File No. NU29-1003
License No. 26-21149)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Introduction

The Vermont Board of Nursing ("the Board") held a hearing in this case on Monday, November 8, 2004, at 81 River Street in Montpelier, Vermont. Board members Elayne Clift, Sandra Norton, Donarae Metcalf, Linda Rice, Pat Rock, Ellen Leff, Susan Farrell, Alan Weiss and De-Ann Welch participated in the decision. Edward Adrian, Prosecuting Attorney, appeared for the State. Sylvia Flint ("the Respondent") was present, and was represented by Attorney Leighton Detora.

The parties submitted a Stipulation and Consent Order for the Board's approval, but left two conditions open for argument and discussion, asking the Board to decide what would be appropriate. The disputed conditions were:

- 1) whether Respondent should practice under supervision (Paragraph (A)(6)) and
- 2) whether Respondent should be prohibited from certain types of employment (Paragraph (A)(7)).

Findings of Fact

The facts as stated in the Stipulation and Consent Order are the facts upon which this order is based, in addition to the testimony and argument submitted at hearing. Additional findings include:

- 1) The conduct in question occurred nearly two and one half years ago.
- 2) The Respondent does not have any previous complaints and has not had another complaint since the one in question.
- 3) The Respondent has been actively practicing nursing during that time and has provided the Board with recommendations from her current employer, who testified as to her trustworthiness and competency.

Opinion and Conclusions

The unprofessional conduct committed by the Respondent was serious in nature because it included the alteration of a medical record to avoid the paperwork and procedure involved with correcting a medication error. For whatever reason, the Respondent allowed this to happen without standing up for herself and what she knew to be the right thing to do. To her credit, she takes complete responsibility for her actions and has been candid about her mistake to the Board and to her current employer, who obviously values the Respondent and the contributions she can make to the profession.

After careful consideration, the Board found the State's recommendations to be unnecessary for this particular Respondent based on the evidence presented.

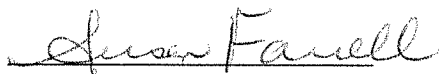
Order

Accordingly, the Board strikes Paragraphs (A)(6) and (A)(7) from the Stipulation and Consent Order presented to and approved by the Board. The Respondent is not required to practice under supervision, nor is she prohibited from working in any particular practice setting.

Appeal Rights

This is a final administrative determination by the Vermont 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, R.N.
Chair

Date:

11/22/04

OFFICE OF PROFESSIONAL REGULATION

Date of entry:

12/1/04

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

IN RE:)
SYLVIA A. FLINT) Docket No: NU 29-1003
License No: 026-0021149)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and Respondent Sylvia A. Flint, R.N., who stipulate and agree as follows:

Board Authority

1) The Vermont State Board of Nursing ("the Board") has authority to 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); Administrative Rules of the Board of Nursing ("ARBN"); Rules of the Office of Professional Regulation.

Statement of Facts

- 2) The Respondent is licensed by the State of Vermont as a Registered Nurse under license number 026-0021149.
- 3) Respondent was originally licensed on July 8, 1993 and Respondent's license is currently set to expire on March 31, 2005.
- 4) At all times relevant, the Respondent was employed as an R.N. at Mt. Ascutney Hospital and Health Center ("the Facility") located in Windsor, Vermont.
- 5) On or about July 15, 2002, the Respondent mistakenly gave patient M.R. 5 mg of Valium when 2.5 mg had been prescribed.
- 6) On or about July 15, 2002, the Respondent ^{observed} ~~allowed~~ D.F., another R.N. at the Facility, to change the record. The Respondent did not object when D.F. crossed out the 5 mg on the narcotic sheet as being given and wrote in 2.5 mg. D.F. wrote on the narcotic sheet that 2.5 mg had been wasted and the Respondent signed as a witness to the waste. The Respondent initialed on the patient M.R.'s medication administration record that 2.5 mg of Valium had been given.
- 7) On or about August 8, 2002, the Respondent admitted to falsifying the records to her supervisor at the Facility, Jill Lord.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Charges

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

- i. 3 V.S.A. §129a(a)(7) (willfully making or filing false reports or records in the practice of the profession); 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. 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

9) 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.

10) 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.

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

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

13) 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.

14) Respondent voluntarily waives her right to a contested hearing before the Board of Nursing.

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

- (1) Re-issue of License.

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Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Upon the imposition of these conditions, Respondent shall be issued a license 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.

(3) Medication Administration and Documentation Course.

Respondent must complete (i.e.: receive a passing grade, if applicable) a course focusing on medication administration and documentation 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. Respondent shall complete this course within three (3) months of the date of entry of this 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 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 monthly thereafter for the 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.

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Office of
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Montpelier, VT 05602

(6) Practice Under Supervision.

The parties have not reached agreement on this condition and leave it to the Board to determine the appropriate conditions.

It is the State's position that the Respondent should be limited to practicing 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. It is also the State's position that the Respondent's practice should be limited to a setting that has direct supervision by a registered nurse that is licensed and in good standing with regard to medication administration.

The Respondent is free to argue for a less restrictive condition in respect to supervision.

(7) Types of Employment Prohibited.

The parties have not reached agreement on this condition and leave it to the Board to determine the appropriate conditions.

It is the State's position that the Respondent should be prohibited from working as a supervising nurse, with the exception of LNAs and other unlicensed assistive persons. 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.

The Respondent is free to argue for a less restrictive condition in respect to types of employment.

(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 employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in Respondent's employment, personal address, or telephone number.

(9) Notification to Other States.

In the event that the Respondent is licensed as a nurse in any other state(s), she must inform the licensing board of the state(s) in which the Respondent is licensed of the conditional status of her Vermont license within thirty (30) days of the date of entry of this Order. If the Respondent fails to provide such notification, it will be considered a violation of this Order.

(10) 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

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fee and demonstrate that he has otherwise complied with the requirements for license renewal.

(11) Costs.

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

(12) 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.

(13) 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.

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

C. 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).

D. 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: 11/8/04

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

STATE OF VERMONT

SYLVIA A. FLINT
RESPONDENT

Dated: 11/8/04

By: [Signature]
Sylvia A. Flint



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 11/8/04

By: Leighton C. Detora
Leighton C. Detora, Esq.

APPROVED AND SO ORDERED: VERMONT BOARD OF NURSING

Dated: 11/08/04

By: Susan Farrell
Chairperson

Date of Entry: 12/1/04

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STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

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

IN RE:)
SYLVIA A. FLINT) Docket No: NU 29-1 003
License No: 026-0021149)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Sylvia A. Flint, R.N.:

Board Authority

- 1) The Vermont State Board of Nursing ("the Board") has authority to 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); Administrative Rules of the Board of Nursing ("ARBN"); Rules of the Office of Professional Regulation.
- 2) Willfully making or filing false reports or records in the practice of the profession is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129a(a)(7).
- 3) 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).
- 4) 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).
- 5) The inability 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).
- 6) 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).
- 7) 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).

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Professional Regulation
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8) 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. §129a(a)(3).

Facts

9) The Respondent is licensed by the State of Vermont as a Registered Nurse under license number 026-0021149.

10) Respondent was originally licensed on July 8, 1993 and Respondent's license is currently set to expire on March 31, 2005.

11) At all times relevant, the Respondent was employed as an R.N. at Mt. Ascutney Hospital and Health Center ("the Facility") located in Windsor, Vermont.

12) On or about July 15, 2002, the Respondent incorrectly gave patient M.R. 5 mg of Valium when 2.5 mg had been prescribed.

13) On or about July 15, 2002, to conceal the error, the Respondent conspired with D.F., another R.N. at the Facility, to change the record. D.F. crossed out the 5 mg on the narcotic sheet as being given and wrote in 2.5 mg. D.F. wrote on the narcotic sheet that 2.5 mg had been wasted and the Respondent signed as a witness to the waste. The Respondent initialed on the patient M.R.'s medication administration record that 2.5 mg of Valium had been given.

14) On or about August 8, 2002, the Respondent admitted to falsifying the records to her supervisor at the Facility, Jill Lord.

Charges

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

i. 3 V.S.A. §129a(a)(7) (willfully making or filing false reports or records in the practice of the profession); 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)(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

iv. 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

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IV(II)(D)(3); and

v. 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 license of Sylvia A. Flint should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 15th day of April 2004.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

nu.flint.soc

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