

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

IN RE:)
JANE M. FRISCH) Docket No: NU 10-0703
License No. 026-0023177)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Jane M. Frisch, 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 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) and 129a; 3 V.S.A. §814(d); 26 V.S.A. §1582(a); Administrative Rules of the Board of Nursing; Rules of the Office of Professional Regulation.
2. 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).
3. The inability to practice nursing by reason of any cause is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(3).
4. 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).

Facts

5. The Respondent is licensed in the State of Vermont as a Registered Nurse under License Number 026-0023177.
6. The Respondent's license was originally issued on October 17, 1996 and the Respondent's license is currently set to expire on March 31, 2005.

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7. At all times relevant, the Respondent was employed as an R.N. by Bennington Area Home Health (the "Facility") in Bennington, Vermont.
8. On or about April 11, 2003, Cynthia Ghosh, the Nursing Director at the Facility, informed State Investigator Steven Kennedy that the Respondent failed to follow the care plan of diabetic patient B.S. in that the Respondent did not conduct B.S.'s foot care and blood sugar on several occasions.
9. The Respondent failed to timely submit required paperwork for submission to Medicare for the following patients:
 - a. Patient V.H. The form was due on March 18, 2003. The Respondent did not submit the form until April 4, 2003.
 - b. Patients D.G. The form was due on April 6, 2003. The Respondent did not submit the form until April 21, 2003.
 - c. Patient J.R. The form was due on April 11, 2003. The Respondent did not submit the form until April 21, 2003.
10. The Respondent was late for a visit with patient M.H. due to the Respondent's failure to put M.H. on the Respondent's schedule for May 27, 2003. Cynthia Ghosh, the Nursing Director at the Facility, realized that the patient needed to be seen and called the Respondent to remind her. The Respondent saw the patient later that day.
11. On two separate occasions, occurring on or about April 17, 2003 and May 27, 2003, the Respondent failed to return calls that were made to her beeper by the Facility.
12. The Respondent missed two visits for dressing changes with patient C.G. on or about May 28 and May 29, 2003. The Facility was not aware of these missed visits until C.G. alerted the Facility that no one had been to C.G.'s residence for the scheduled appointments. The Respondent admitted to Investigator Kennedy that she had missed these visits because she forgot to write them on her schedule.
13. On or about July 1, 2003, the Respondent failed to follow the care plan for patient C.G. which required that Bacitracin, an antibiotic ointment, be applied during dressing changes. The Respondent used Vaseline on C.G. during a dressing change instead of Bacitracin.
14. The Respondent failed to follow the care plan for patient C.G. which required that a dressing change be completed on C.G. twice daily from June 19, 2003 to July 1, 2003. The Respondent changed C.G.'s dressing only once per day.
15. The Respondent failed to place patient K.J.'s name on the schedule for blood work ordered for July 1, 2003. The Respondent was K.J.'s primary nurse and it was the Respondent's duty to place the patient's name on the schedule so that the blood work could be assigned.

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Charges

16. The above acts, omissions and/or circumstances described above, constitute grounds for discipline because Respondent 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).

Understandings

17. 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.

18. 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.

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

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

21. 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.

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

23. Respondent agrees that the Order set forth below may be entered by the Board.

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ORDER

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

A. The Board of Nursing hereby **CONDITIONS** the Respondent's license to practice nursing for a minimum period of **ONE (1) YEAR** commencing with the date of entry of this Stipulation and Consent Order. The conditions are as follows:

(1) Re-issue of License.

Upon the commencement 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 one (1) year of supervised nursing practice in which she works 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. Respondent shall be prohibited from working more than forty (40) hours per week.

(3) Medical Documentation Course and Diabetic Management Course.

Respondent shall, at her own expense, complete one (1) course focusing on medical documentation and one (1) course focusing on diabetic management, including the role of a nurse in the home health field. These courses 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. These courses must be completed within six (6) months of the date of entry of the Consent Order.

(4) Notification to Employers/Nursing School.

During the conditioned period, 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 commencement of these conditions or of any subsequent nursing 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 Order and **monthly** thereafter, Respondent shall cause every nursing employer Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that time period. 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

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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 nursing setting where Respondent has on-site supervision for the entire shift by a Registered Nurse that is licensed and in good standing with the Board.

(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. However, the Respondent may continue to work in her capacity as a per diem nurse at Bennington Health and Rehab Center. If the Respondent ceases to be employed at Bennington Health and Rehab Center, then she may no longer work in any of the categories above.

(8) 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.

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

Within five (5) days of the date of entry of this 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 employment, personal address, or telephone number.

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

(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

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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 full 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:

Dated:

5/13/04

STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

JANE M. FRISCH
RESPONDENT

Dated:

5/4/04

By:

Jane M. Frisch
Jane M. Frisch

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated:

July 12, 2004

By:

Susan Farrell
Chairperson

Date of Entry:

7/14/04

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nu.frisch.stip

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IN RE:)
JANE M. FRISCH) Docket No: NU 10-0703
License No. 026-0023177)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Jane M. Frisch, R.N.:

Board Authority

1. The Vermont State Board of Nursing ("the Board") has authority to 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) and 129a; 3 V.S.A. §814(d); 26 V.S.A. §1582(a); Administrative Rules of the Board of Nursing; Rules of the Office of Professional Regulation.
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(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).

Relief Requested

WHEREFORE, the license of Jane M. Frisch should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 6th day of February 2004.

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SECRETARY OF STATE

By: _____

Edward G. Adrian

State Prosecuting Attorney

nu.frisch.soc

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