

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

IN RE:

ELLEN N. HACKER

License No. 026.0020229

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Docket No. 2009-321

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney BetsyAnn Wrask, and the Respondent, Ellen N. Hacker, RN, 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, or 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); 3 V.S.A. § 129a; 3 V.S.A. § 814(d); 26 V.S.A. § 1582; the Administrative Rules of the Board of Nursing (the "ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Ellen N. Hacker (the "Respondent") of Burlington, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0020229. This license was originally issued on or about September 11, 1991 and is currently set to expire on or about March 31, 2011.
3. At all times relevant, Respondent was employed as a Registered Nurse at the Visiting Nurses Association of Chittenden and Grand Isle Counties (the "VNA").
4. Respondent was on medical leave at the VNA from approximately September 29, 2008 through mid-April 2009.
5. On or about July 15, 2009 in a Mandatory Report of Unprofessional Conduct, Registered Nurse J.W. reported in part that while Respondent was unexpectedly out on medical leave, problems were discovered regarding Respondent's record-keeping, documentation, and frequency of home visits. J.W reported that upon Respondent's return, Respondent was on probation and unable to follow conditions and deadlines regarding documentation and record-keeping, and therefore Respondent was terminated on or about May 19, 2009.

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6. On or about February 20, 2009, Respondent had signed an Employee Coaching for Improvement Report, which contained an Action Plan that would become effective upon Respondent's return to the VNA. The reasons for the Report were indicated in part to be poor record-keeping; missing a scheduled visit; poor productivity; and not turning in day sheets. The Action Plan required in part that Respondent complete documentation within a certain timeline, and that she work toward a certain goal of productivity. The consequence for failure to improve was noted as immediate dismissal.
7. On or about September 29, 2009 in a letter to State Investigator Greg Kelly, Respondent admitted that after her return from medical leave, she was not always able to meet the VNA standards due to physical constraints. Respondent advised that in retrospect, she returned to work from medical leave too soon.
8. By failing to comply with standards regarding documentation and record-keeping, Respondent has violated 3 V.S.A. § 129a(b)(1) and (2).

Charges

9. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:
 - a. 3 V.S.A. § 129a(b)(1) and (2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and
 - b. 3 V.S.A. § 129a(a)(3) (Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession).

Understandings

10. 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.
11. 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.
12. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

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13. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
14. 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.
15. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
16. 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 **REPRIMANDS** Respondent's license to practice registered nursing.
- B. 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).
- C. 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: 9-8-10

By: [Signature]
Betsy Ann Wrask
State Prosecuting Attorney

ELLEN N. HACKER
RESPONDENT

Dated: 9-7-10

By: [Signature]
Ellen N. Hacker

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 10/11/10

By: [Signature]
Chairperson RECEIVED

Date of Entry: 10/13/10
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