

Guilford

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

IN RE:)
GAIL F. HARTLEY, L.P.N.) Docket No: NU 37-1102
License No. 025-0007127)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney,
Edward Adrian, and Respondent, Gail F. Hartley who stipulate and agree as follows:

Board Authority

1. The Board of Nursing has jurisdiction to investigate complaints of unprofessional conduct and approve consent orders pursuant to 3 V.S.A. §§129 and 129a, and 26 V.S.A. §§1574 and 1582.

Facts

2. The Respondent (whose address is listed in the database of the Office of Professional Regulation as 58 Grist Mill Dr., Guilford, VT 05301) is a Licensed Practical Nurse holding license number 025-0007127.
3. Respondent's license was originally issued on August 22, 1994 and Respondent's license is currently suspended due to a Default Order dated April 21, 2003 (attached and incorporated).
4. At all times relevant, the Respondent was employed by the Thompson House Nursing Home in Brattleboro, Vermont.
5. On or about November 6, 2002, Respondent observed a significant change in a resident's condition.

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Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

6. Upon information and belief, Respondent noted on the LNA assignment sheet that she questioned if the resident had suffered a stroke.
7. Respondent failed to notify the appropriate person(s) of the change in the resident's condition.
8. Respondent failed to properly document the change in the resident's condition.
9. Respondent failed to properly document the time of her observations.
10. Respondent has recently completed a documentation and assessment program approved by the Board and Respondent now seeks to be reinstated.
11. The Respondent agrees that the conditions below are necessary for her to return to the practice.

Understandings

- A. Respondent admits the facts above are true and that the conditions below are necessary to protect the public.
- B. 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.
- C. 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.
- D. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- E. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.

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F. 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.

G. Respondent voluntarily waives her right to charges and a contested hearing before the Board of Nursing.

H. 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:

I. Respondent admits that she requires the following conditions to protect the public.

J. Based on the above Stipulation and the Findings and Conclusions of this Board, it is **ORDERED** that **CONDITIONS** shall be imposed on Respondent's license to practice nursing and the conditions shall remain **FOR A MINIMUM PERIOD 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 **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) Notification to Employers/Nursing School.

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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, 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.

(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 both years 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

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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 on-site supervision for the entire shift by a registered nurse that is licensed and in good standing.

(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) 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. Respondent shall provide a copy of this Consent Order to all employers, current and future, and shall inform them of the conditional status of her license.

(8) 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.

(9) Costs.

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

(10) 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.

(11) 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.

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

L. 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).

M. 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.

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Office of
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Montpelier, VT 05602

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 10/20/03

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

GAIL F. HARTLEY
RESPONDENT

Dated: Oct 10, 2003

By: Gail F. Hartley
Gail F. Hartley

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: November 10, 2003

By: L Susan Q. Farrell
Chairperson

Date of Entry: 11/17/03

nu.hartley.stip

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Office of
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OFFICE OF PROFESSIONAL REGULATION
VERMONT STATE BOARD OF NURSING

APR 21 2003

IN RE: Gail Hartley)
 Case File No. NU37-1102) DEFAULT ORDER
 License No. 25-7172)

Introduction

The Board of Nursing held a default hearing in the above matter on April 14, 2003 at 133 State Street in Montpelier, Vermont. Susan Farrell, De-Ann Welch, Linda Rice, Sandra Norton, Sue Cota, Elayne Clift, Alan Weiss and Donarae Metcalf participated in the decision. Assistant Attorney General George Haegele appeared for the State. The Respondent did not attend and was not represented.

Findings of Fact

1. The Respondent was sent notice of the Charges against her to her last known address by certified mail and first class mail on February 14, 2003.
2. The certified mail was received and signed for by the Respondent on February 19, 2003 and returned to the Office.
3. Notice of the default hearing was mailed to that same address by certified and regular mail on March 25, 2003.
4. The certified mailing was returned to the Office, marked "undeliverable as addressed."
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 February 7, 2003 (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, effective as of the date of the hearing.

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, R.N.
Chair

Date:

4.18.03

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY:

4/21/03

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

IN RE:)
GAIL F. HARTLEY, L.P.N.) Docket No: NU 37-1102
License No. 025-0007127)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Gail F. Hartley, L.P.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)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a).
2. Engaging in conduct of a character likely to deceive, defraud or harm the public is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(7).
3. Conduct of a character likely to deceive, defraud or harm the public includes making inaccurate or misleading entries. Administrative Rules of the Board of Nursing ("ARBN") Chapter 4, Rule IV(B)(4)(c).
4. Inability to practice nursing competently is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(3).
5. Inability to practice nursing competently includes the performance of unsafe or unacceptable patient care. Administrative Rules of the Board of Nursing ("ARBN") Chapter 4, Rule IV(B)(2)(a).
6. Inability to practice nursing competently includes the failure to conform to the essential standards of the acceptable and prevailing nursing. Administrative Rules of the Board of Nursing ("ARBN") Chapter 4, Rule IV(B)(2)(b).

Facts

7. The Respondent is a Licensed Practical Nurse under License Number 025-0007127.

8. Respondent was originally licensed on August 22, 1994 and Respondent's license has a current expiration date of January 31, 2004.
9. At all times relevant, the Respondent was employed by the Thompson House Nursing Home in Brattleboro, Vermont.
10. On or about November 6, 2002, observed a significant change in a resident's condition.
11. Upon information and belief, Respondent noted on the LNA assignment sheet that she questioned if the resident had suffered a stroke.
12. Respondent failed to notify the appropriate person(s) of the change in the resident's condition.
13. Respondent failed to properly document the change in the resident's condition.
14. Respondent failed to properly document the time of her observations.

Charges

15. By failing to notify the proper official(s) of the resident's change in condition, the Respondent has:
 - a) Engaged in conduct of a character likely to deceive, defraud or harm the public in violation of 26 V.S.A. §1582(a)(7); and
 - b) Shown an inability to practice nursing competently in violation of 26 V.S.A. §1582(a)(3), specifically performance of unsafe or unacceptable patient care and a failure to conform to the essential standards of the acceptable and prevailing nursing practice in violation of the Administrative Rules of the Board of Nursing ("ARBN") Chapter 4, Rule IV(B)(2)(a) and Rule IV(B)(2)(b).
16. By failing to properly document the resident's change in condition and the time of her observation(s), the Respondent has:
 - a) Engaged in conduct of a character likely to deceive, defraud or harm the public in violation of 26 V.S.A. §1582(a)(7), specifically making inaccurate or misleading entries in violation of the Administrative Rules of the Board of Nursing ("ARBN") Chapter 4, Rule IV(B)(4)(c); and
 - b) Shown an inability to practice nursing competently in violation of 26 V.S.A. §1582(a)(3), specifically a failure to conform to the essential standards of the acceptable and prevailing nursing practice in violation of the Administrative Rules of the Board of Nursing ("ARBN") Chapter 4, Rule IV(B)(2)(b).

Relief Requested

WHEREFORE, the license of Respondent should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 7th day of February 2003.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: _____



George C. Haegle IV
Assistant Attorney General