

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

IN RE:

RHONDA J. HUTCHINS

License No. 026.0025774

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Docket No. 2009-220

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney BetsyAnn Wrask, and the Respondent, Rhonda J. Hutchins, 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. Rhonda J. Hutchins (the "Respondent") of Whitehall, New York was licensed by the State of Vermont as a Registered Nurse under license number 026.0025774. This license was originally issued on or about August 2, 2000 and expired on or about March 31, 2009.
3. At all times relevant, Respondent was employed as a Registered Nurse at Mountain View Center (the "Facility"), a nursing home located in Rutland, Vermont.
4. On or about September 14, 2007 in a Corrective Action Notice signed by Respondent, Respondent was found to have left the Facility with the medication/narcotic keys.
5. By leaving the Facility with the medication/narcotic keys, Respondent has violated 3 V.S.A. § 129a(b)(1) and (2).
6. On or about September 25, 2007 in a Medication Incident Report signed by Respondent, Respondent was found to have administered one resident's ordered Ativan 0.5mg to another resident, who was to be administered Ativan 1mg.

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Respondent stated in this Report that after lunch, her unit was chaotic; she was hurrying; and she was not wearing her glasses.

7. By administering a resident another resident's dose of Ativan, Respondent has violated 26 V.S.A. § 1582(a)(3); ARBN Chapter 4, Subchapter 4, Rule II(B)(1) and (2); and 3 V.S.A. § 129a(b)(1) and (2).
8. On or about November 1, 2007 in a Medication Incident Report, Respondent was found to have omitted the ordered administration of Vicodin 5/500 to a resident. Respondent stated in this Report that she made this error by not double-checking after she poured this resident's medications.
9. By omitting the ordered administration of Vicodin 5/500 to a resident, Respondent has violated 26 V.S.A. § 1582(a)(3); ARBN Chapter 4, Subchapter 4, Rule II(B)(1) and (2); and 3 V.S.A. § 129a(b)(1) and (2).
10. On or about November 28, 2007 in a Medication Incident Report signed by Respondent, Respondent was found to have administered the wrong medication after she misread a resident's order. Respondent stated in the Report that the ordered medication, MS Contin 15mg, had not been received from the pharmacy, so she pulled Oxycodone 15mg from backup and administered this wrong medication.
11. By administering a resident the wrong medication after she misread a resident's order, Respondent has violated 26 V.S.A. § 1582(a)(3); ARBN Chapter 4, Subchapter 4, Rule II(B)(1) and (2); and 3 V.S.A. § 129a(b)(1) and (2).
12. On or about February 4, 2008 in a Corrective Action Notice signed by Respondent, Respondent received a written warning and three days' suspension for inappropriate behavior to staff, residents, and residents' families. It was noted that Respondent had been spoken to several times regarding her communication skills.

However, thereafter, on or about March 12, 2008, Respondent completed a nursing continuing education course regarding introductory skills for supervision in home and residential care, which focused in large part on effective communication

13. By engaging in inappropriate behavior to staff, residents, and residents' families, Respondent has violated 26 V.S.A. § 1582(a)(3); ARBN Chapter 4, Subchapter 4, Rule II(B)(1) and (2); and 3 V.S.A. § 129a(b)(1) and (2).
14. On or about May 5, 2008 in a Corrective Action Notice signed by Respondent, Respondent received a verbal warning for failing to do required assessments on two occasions for a new admission.
15. By failing to do required assessments on two occasions for a new admission, Respondent has violated 26 V.S.A. § 1582(a)(3); ARBN Chapter 4, Subchapter 4, Rule II(B)(1) and (2); and 3 V.S.A. § 129a(b)(1) and (2).

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16. On or about May 20, 2008 in a Medication Incident Report signed by Respondent, Respondent was found to have omitted the ordered administration of Ativan 0.5mg to a resident. Respondent stated in this Report that she made this error after becoming distracted.
17. By omitting the ordered administration of Ativan 0.5mg to a resident, Respondent has violated 26 V.S.A. § 1582(a)(3); ARBN Chapter 4, Subchapter 4, Rule II(B)(1) and (2); and 3 V.S.A. § 129a(b)(1) and (2).
18. On or about June 16, 2008 in a Corrective Action Notice signed by Respondent, Respondent was found to have documented in the Treatment Administration Record (the "TAR") that she changed protective dressings for Resident M.W.'s knees on or about June 14 and 15, 2008. However, on or about June 16, 2008, this resident's dressings were found to be dated and initialed by another nurse on or about June 13, 2008, indicating that Respondent had not changed the dressings she documented in the TAR that she had changed.

Respondent states that Resident M.W. did not have a wound, but that the dressings to be changed were for protective purposes only.

19. By documenting in the TAR that she changed protective dressings for Resident M.W.'s knees on or about June 14 and 15, 2008 when she had not, Respondent has violated 26 V.S.A. § 1582(a)(3); ARBN Chapter 4, Subchapter 4, Rule II(B)(1) and (2); and 3 V.S.A. § 129a(b)(1) and (2).
20. On or about June 18, 2008 in a Medication Incident Report signed by Respondent, Respondent was found to have omitted the ordered administration of Ativan 0.5mg to a resident. Respondent stated in this Report that working long hours; being short-staffed; and stretching herself too thin contributed to her making this error.
21. By omitting the ordered administration of Ativan 0.5mg to a resident, Respondent has violated 26 V.S.A. § 1582(a)(3); ARBN Chapter 4, Subchapter 4, Rule II(B)(1) and (2); and 3 V.S.A. § 129a(b)(1) and (2).
22. In an effort to resolve this matter, on or about July 24, 2010, Respondent completed a Board pre-approved course regarding detecting and preventing medication errors.
23. In an effort to resolve this matter, on or about July 31, 2010, Respondent completed a Board pre-approved course regarding the ethics of nursing practice.
24. In an effort to resolve this matter, on or about August 3, 2010, Respondent completed a Board pre-approved course regarding reducing medical errors.

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Charges

25. 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. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause) which includes performance of unsafe or unacceptable patient care pursuant to ARBN Chapter 4, Subchapter 4, Rule II(B)(1); and failure to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Subchapter 4, Rule II(B)(2);
 - b. 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
 - c. 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

26. This Stipulation is neither an admission of liability by the Respondent nor a concession by the State of Vermont that its charges are not well founded. To avoid delay, uncertainty, inconvenience, and expense of protracted litigation of the charges above, the Parties reach a full and final Stipulation pursuant to these Understandings and the Order below. The Respondent does not dispute that the State could prove these charges by a preponderance of the evidence if this matter went to a hearing and agrees that the conditions below are necessary to protect the public.
27. 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.
28. 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.
29. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
30. 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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31. 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.
32. 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.
33. Respondent agrees that the Order set forth below may be entered by the Board.
34. Respondent understands that in order to fulfill the conditions ordered below, she must renew her Vermont registered nursing license.

ORDER

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

- A. The Board of Nursing hereby **CONDITIONS** Respondent's license to practice nursing for a **MINIMUM PERIOD OF ONE (1) YEAR from the date of entry below**. The conditions are as follows:

(1) Re-issue of License.

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 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. The Respondent shall be prohibited from working more than forty (40) hours per week during the conditioned period.

(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 nursing employment, Respondent shall cause Respondent's immediate supervisor to submit to the Board an employer agreement form approved by the Board, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

In the event the Respondent is attending a nursing program which has a clinical portion that 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 submit to the Board a nursing program agreement form approved by the Board,

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acknowledging receipt of the Stipulation and Consent Order and the ability of the program to comply with the conditions in the Consent Order during clinical experience.

(4) Reports from Employers/Program Directors.

Within one (1) month of the date of entry of this Consent Order or within one (1) month of the commencement of nursing employment and **monthly** thereafter, Respondent shall cause every nursing employer the Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance.

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. These reports shall be submitted in writing on forms issued by the Board. All nursing program reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance.

(5) Practice Under Supervision.

~~The Parties have not reached agreement as to the type of supervision under which Respondent shall practice during the conditioned period.~~ *EWL*

on site
The State's position is as follows: Respondent shall practice as a nurse only in a setting where Respondent has ~~direct~~ supervision for the entire shift by a licensed registered nurse that is in good standing with the Board.

At the time of the disposition hearing, Respondent may argue for a different limitation.

(6) Types of Employment Prohibited.

Respondent shall not work in a supervisory role. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency or as a private duty nurse or personal care provider requiring a nursing or nursing assistant license during the effective period of this Consent Order.

(7) Out-of-State Practice.

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

If the Respondent receives discipline on a nursing license held in another state during the conditioned period, the Respondent must inform the Board of such, *in writing*, within ten (10) days of receiving such discipline. *RECEIVED*

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

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Within ten (10) 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 employment (including resignation or termination), personal address, or telephone number.

(9) Notification to Other States.

In the event that the Respondent is licensed in nursing in any other state(s), she must inform the nursing licensing board of the state(s) in which the Respondent is licensed of the conditional status of her Vermont nursing 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 fee and demonstrate that she 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:

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SECRETARY OF STATE

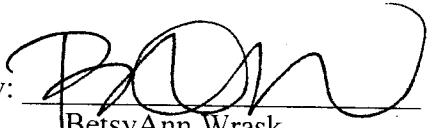
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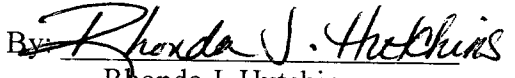
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Dated: 9.9.10

By: 
Betsy Ann Wrask
State Prosecuting Attorney

RHONDA J. HUTCHINS
RESPONDENT

Dated: 9/5/10.

By: 
Rhonda J. Hutchins

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 10-11-10

By: 
Chairperson

Date of Entry: 10/12/10
nu.hutchins.stip2

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