

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

IN RE:

MARY T. KENDALL

License No. 026-0022911

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Docket No: NU 83-0504

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and Respondent Mary T. Kendall, 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)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a); Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.

Facts

2. The Respondent, Mary T. Kendall, is licensed in the State of Vermont as a registered nurse under license number 026-0022911.

3. The Respondent's license was originally issued on July 8, 1996 and the Respondent's license is currently set to expire on March 31, 2005.

4. At all times relevant, the Respondent was employed as a Nurse Manager by Correctional Medical Services ("the Facility") located in Springfield, Vermont. The Respondent was terminated from employment at the Facility on February 19, 2004.

5. In or about January 2004, J.B., an L.N.A. at the Facility, notified the Respondent of an incident where R.V., an L.P.N., gave patient A.S. two pills of Glucophage 1000 mg when only one had been prescribed.

6. In or about January 2004, S.F., an L.P.N. at the Facility, notified the Respondent of an incident where R.V. gave patient P.D. a medication at 4:00 p.m. when it was scheduled to be given at 8:00 p.m.

7. On or about January 15, 2004, C.P., an L.N.A. at the Facility, notified the Respondent that after conducting a narcotic count, R.V. would throw out pills to make the count

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Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

correct. C.P. also advised that R.V. was constantly rude to patients and called them inappropriate and foul names.

8. In around early 2004, G.O., an L.P.N. at the Facility, notified the Respondent that patients had been telling G.O. that R.V. would give them the wrong medications. G.O. also advised the Respondent that R.V. was short with the inmates and have been calling them inappropriate names to their faces.

9. In around early 2004, C.K., an R.N. at the Facility, notified the Respondent that C.K. had to "get on" R.V. to fill out the MAR sheets because R.V. would sign things out and forget to fill in the entries.

10. On March 31, 2004, Diane Updyke, Clinical Director at the Facility, advised State Investigator Steve Kennedy that in early 2004, the Respondent was allowing the narcotics count not to be done everyday.

11. The Respondent failed to follow-up with either staff training or disciplinary action after being notified of R.V.'s nursing practice violations. In addition, even though the Respondent was aware that nursing staff were not doing end-of-shift narcotic counts, the Respondent failed to do anything to rectify the problem.

12. Although the Respondent does not admit to the truth of the facts above, the Respondent does not contest that the State would be able to present evidence to prove these facts by a preponderance of the evidence at a hearing.

Charges

13. The 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 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

14. 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.

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

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16. Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.

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

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

ORDER

Based upon the stipulation above, it is **ORDERED AND ADJUDGED** as follows:

A. Respondent's actions as alleged above demonstrate 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 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).

B. The Board of Nursing hereby issues a **WARNING** against the Respondent's license to practice nursing.

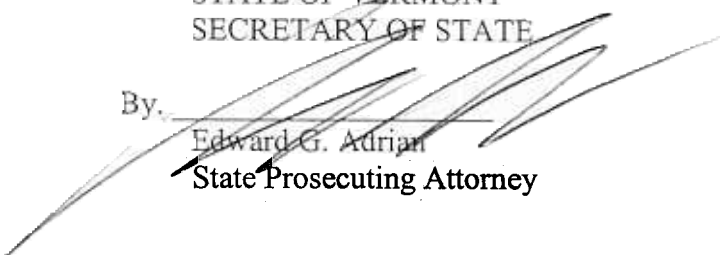
C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

D. This Stipulation and Consent Order will remain part of the Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

Dated: 2/4/05

STATE OF VERMONT
SECRETARY OF STATE

By: 

Edward G. Adrian
State Prosecuting Attorney

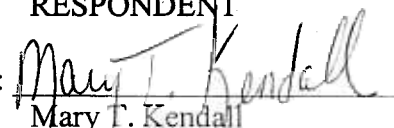
STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Dated: 02/01/05

MARY T. KENDALL
RESPONDENT

By: 

Mary T. Kendall

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: Feb. 14, 2005

By: Susan Farrell
Chairperson

Date of Entry: 2/22/05

nu.kendall.stip

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SECRETARY OF STATE
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IN RE:

**MARY T. KENDALL
License No. 026-0022911**

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Docket No: NU 83-0504

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Mary T. Kendall, 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)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a); Administrative Rules of the Board of Nursing; and the 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 competently 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 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, Mary T. Kendall, is licensed in the State of Vermont as a registered nurse under license number 026-0022911.
6. The Respondent's license was originally issued on July 8, 1996 and the Respondent's license is currently set to expire on March 31, 2005.
7. At all times relevant, the Respondent was employed as a Nurse Manager by Correctional Medical Services ("the Facility") located in Springfield, Vermont. The Respondent was terminated from employment at the Facility on February 19, 2004.

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10. On or about January 15, 2004, C.P., an L.N.A. at the Facility, notified the Respondent that after conducting a narcotic count, R.V. would throw out pills to make the count correct. C.P. also advised that R.V. was constantly rude to patients and called them inappropriate and foul names.
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12. In around early 2004, C.K., an R.N. at the Facility, notified the Respondent that C.K. had to "get on" R.V. to fill out the MAR sheets because R.V. would sign things out and forget to fill in the entries.
13. On March 31, 2004, Diane Updyke, Clinical Director at the Facility, advised State Investigator Steve Kennedy that in early 2004, the Respondent was allowing the narcotics count not to be done everyday.
14. The Respondent failed to follow-up with either staff training or disciplinary action after being notified of R.V.'s nursing practice violations. In addition, even though the Respondent was aware that nursing staff were not doing end-of-shift narcotic counts, the Respondent failed to do anything to rectify the problem.

Charges

15. The 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 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).

Relief Requested

STATE OF VERMONT



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Office of
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Montpelier, VT 05602

WHEREFORE, the license of Mary T. Kendall should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 5 day of November 2004.

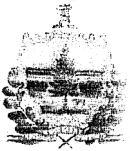
STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

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