

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

IN RE:

MELISSA A. LANE

License No. 026-0025787

Docket No. NU33-0907

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney Edward G. Adrian, and the Respondent, Melissa A. Lane, who stipulate and agree as follows:

Board Authority

1. The Vermont State Board of Nursing (the "Board") has authority to issue warnings or reprimands; 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 ("ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Melissa A. Lane (the "Respondent") of Randolph Center, Vermont is a licensed registered nurse holding license number 026-0025787, issued by the State of Vermont. The license was originally issued on or about August 3, 2000 and is currently set to expire on March 31, 2009.
3. At all times relevant, the Respondent was employed as a registered nurse at the Vermont State Hospital (the "Facility") located in Waterbury, Vermont.
4. On or about September 7, 2007, Patient R.P. was in belt and wristlet restraints and was required by Facility policy to have a face-to-face assessment with a physician at 3:30a.m.
5. It is Facility policy that a patient that is restrained shall be seen by a nurse within thirty (30) minutes and by a physician within thirty (30) minutes thereafter. The physician shall order either the patient out of restraints or enter the need for continuing emergency restraint beyond that point in time.
6. On or about September 7, 2007 at or about 3:30a.m., Dr. C.B. spoke with the Respondent and requested to assess R.P. later in the morning due to C.B. having

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Prosecuting Attorney
Office of
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9 Baldwin Street
Montpelier, VT
05609-1107

trouble sleeping. The Respondent offered to perform the face-to-face assessment, fill out the required Certificate of Need ("CON"), and send the CON to C.B. to sign, to which C.B. agreed.

7. Thereafter, the Respondent performed the face-to-face assessment, filled out the CON, and sent the CON to C.B., which C.B. signed.
8. As a result of the Respondent performing the face-to-face assessment and garnering C.B.'s signature, the Respondent created the appearance that C.B. had actually performed the face-to-face assessment himself.
9. As a result of the actions of Respondent and C.B., R.P. was left in restraints longer than he should have been without being examined by a physician.

Charges

10. 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: (1) performance of unsafe or unacceptable patient care; and (2) failure to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(1) and (2);
 - b. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud or harm the public);
 - c. 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice or the profession; willfully impeding or obstructing the proper making or filing of reports or records or willfully failing to file the proper reports or records);
 - d. 3 V.S.A. § 129a(a)(13) (Performing treatments or providing services which the licensee is not qualified to perform or which are beyond the scope of the licensee's education, training, capabilities, experience, or scope of practice);
 - e. 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

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- f. 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

11. 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.
12. 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.
13. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
14. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
15. 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.
16. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing.
17. 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 hereby **WARNS** the 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: 7/29/08
8/11/08

By [Signature]

Edward G. Adrian
State Prosecuting Attorney

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MELISSA A. LANE
RESPONDENT

Dated: 7/30/08

By: Melissa A. Lane
Melissa A. Lane

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 8/11/08

By: Linda Rice
Chairperson

Date of Entry: 8/13/08

nu.lane.stip

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IN RE:
MELISSA A. LANE
License No. 026-0025787

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Docket No. NU33-0907

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Melissa A. Lane, R.N.:

Board Authority

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 - b. 3 V.S.A. § 129a(a)(13) (Performing treatments or providing services which the licensee is not qualified to perform or which are beyond the scope of the licensee's education, training, capabilities, experience, or scope of practice);
 - c. 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
 - d. 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).

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Relief Requested

WHEREFORE, the license of Melissa A. Lane should be revoked, suspended, reprimanded, conditioned, or otherwise disciplined.

DATED at Montpelier, Vermont this 26 day of June, 2008.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

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