

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

IN RE:)
ERNEST D. LAPIERRE) Docket No. 2012-119
License No. 101.0075954)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney S. Lauren Hibbert, and the Respondent, Ernest D. Lapierre, APRN, 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.

Stipulated Facts

2. Ernest D. Lapierre (the "Respondent") of Morrisville, Vermont is licensed by the State of Vermont as an Advance Practice Registered Nurse under license number 101.0075954. This license was originally issued on or about May 13, 2011 and expires on March 31, 2015. On or about November 1, 2012, Respondent applied for a Nursing Home Administrator license, that application has been assigned a tracking number of 027.0082408.

Facts re: Greensboro Nursing Home

3. At all times relevant, Respondent was training as a Nursing Home Administrator at Greensboro Nursing Home (the "Facility") located in Greensboro, Vermont.
4. In the period between November 2011 and January 2012, Respondent was repeatedly observed exhibiting inappropriate behavior including emotional outbursts with swearing and profanity. In one instance, he used profanity and presented a paranoid outlook while complaining about the nurses at the facility to the Doctor M.L, who is the Medical Director of the Facility. M.L. told him that he was not able to be at the Facility in his current condition and to go home. Additionally, in another instance Respondent used a derogatory term to describe people in Greensboro.

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Facts re: Treatment of S.S.

5. At all times relevant, Respondent was employed as an Advance Practice Registered Nurse practicing in Hardwick, Vermont.
6. From October 6, 2011 to February 7, 2012, Respondent treated S.S., a 52-year-old woman, who suffered from alcoholism, anorexia and bi-polar disorder.
7. On or about January 19, 2012, Respondent increased the prescription for Klonopin to 2mg, p.o. /4 hours after S.S. "pleaded" with him to do so. On or about January 20, 2012 Respondent received a telephone call from Dr. P.S. who was concerned about the amount of Klonopin Respondent had proscribed S.S. after he had observed S.S.'s behavior earlier that day. Dr. P.S. was concerned about S.S.'s high risk for an overdose due to her instability and mental illness. Respondent told Dr. P.S. that he had recently learned that S.S. had a problem with alcohol; however, his medical records demonstrate that she revealed that to him in her initial visit.
8. Prior to entering into this Stipulation and Consent Order, provided to the satisfaction of the investigatory team the following:
 - a. Proof of completion of a Psychopharmacology Conference (that constituted 22.25 Continuing Education Hours)
 - b. A letter from Dr. Zaur that he is fit to practice as an advanced practice registered nurse.

Violations

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. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause) which includes performing unsafe or unacceptable patient care pursuant to ARBN Rule 11.2(b)(1) and failure to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Rule 11.2(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).

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Understandings

10. Respondent admits the facts above are true and that the conditions below are necessary to protect the public.
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 Respondent's 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 of signature of 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 the right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
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 of Nursing hereby **CONDITIONS** the Respondent's license to practice nursing **for one (1) year from the date of entry below**. The conditions are as follows:
 - 1) **IF** Respondent returns to Advance Practice Registered Nursing practice that includes the direct treatment of patients, as opposed to administrative or educational practice, **Respondent must notify the Vermont Board of Nursing**. This requirement is placed on Respondent's practice in Vermont or elsewhere. The Board shall then issue Respondent a **CONDITIONAL** license to practice nursing **for six (6) months from the date of notification of intent to practice directly with patients regardless of when notification occurs in the year conditional period**. The conditions are as follows:

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- i. Term of Conditions: Upon the imposition of these conditions, Respondent shall be issued a license labeled "conditioned."
- ii. Practice Under Supervision. If Respondent opens or works at his own practice, he shall retain an independent supervisor, who shall be a medical doctor or advance practice registered nurse. This supervisor must be approved in advance by the Board.

If Respondent works in an existing practice he may be supervised by a medical doctor or an advanced practice registered nurse.

The supervisor shall be responsible for supplying the Board with reports during the conditional period. Reports shall be a review of current practice and must include a summary of the following:

- a) An audit of five (5) cases per month selected at random. This audit shall include a review of prescribing practices and long term treatment plan;
 - b) To discuss confidentially with applicable staff any practice or mental health concerns; and,
 - c) To discuss with Respondent any mental health or practice concerns.
- iii. Out-of-State Practice and Licensing. Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board. Failure to seek approval shall result in out-of-state practice not being credited toward the fulfillment of the terms and conditions 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.

- iv. Notification of Employment/ Personal Address/Telephone Number: Within ten (10) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of current employer, 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.

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- v. Notification to Other States: In the event that the Respondent is licensed in nursing in any other state(s), Respondent must inform the other nursing licensing boards of the conditional status of Respondent's Vermont license within thirty (30) days of the date of entry.
- vi. License Renewal and Costs: If the Respondent's license expires while this Order is still in effect, this Order does not automatically extend the license. Respondent must timely apply for renewal and pay the applicable fee. The Respondent shall bear all costs of complying with this Consent Order.
- vii. Violation of this Order: 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 due to violations of this Order. 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.
- viii. Completion of Conditional License Period. Respondent shall petition the Board for relief from these conditions and shall have the burden of proof.

- B. Notwithstanding any provision above, the Respondent must continue to meet all 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:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 11/18/13

By: S. Lauren Hibbert
S. Lauren Hibbert
State Prosecuting Attorney

ERNEST D. LAPIERRE
RESPONDENT

STATE OF VERMONT



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Dated: 11/15/13

By: [Signature]
Ernest D. Lapierre

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 11/15/13

By: [Signature]
Peter B. Joslin, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 11/18/13

By: [Signature]
Chairperson

Date of Entry: 11/18/13

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