

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

IN RE:)
JAMES A. LAPIERRE) **Docket No. NU 50-0104**
License No: 026-0022552)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, James A. Lapierre, R.N., who stipulate and agree as follows:

Board Authority

The Vermont State Board of Nursing ("the Board") has authority to approve consent orders, issue warnings or reprimands, suspend, revoke, limit, condition or prevent the renewal of current or 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 ("ARBN"); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. The Respondent, James A. Lapierre, is licensed in the State of Vermont as a Registered Nurse under License Number 026-0022552.
3. The Respondent was originally licensed on November 17, 1995 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 Registered Nurse at Fletcher Allen Health Care ("the Facility") located in Burlington, Vermont.
5. It has been alleged that, on or about January 11, 2004, the Respondent was rough with patient E.B. while repositioning E.B.
6. F.D., an L.N.A. at the Facility, would testify that he observed the Respondent being rough while repositioning E.B.

7. F.D. would also testify that he heard the Respondent use inappropriate language in the presence in E.B. after E.B. rang the call bell for assistance several times
8. M.D., an R.N. at the Facility who had worked with the Respondent on the day of the incident, advised State Investigator Brenda Tetrault that on that day the Respondent “seemed to be a little forceful” with E.B. and that the Respondent “was frustrated the whole day”.
9. After the incident, E.B. informed her mother, P.S., that E.B. was afraid of the Respondent.
10. P.S. advised Investigator Tetrault that the Respondent had stated to P.S. on the day of the incident that he was having “a bad, stressful day”.
11. The Respondent acknowledges that, if this matter were the subject of a full hearing, the Board might find that he had engaged in unprofessional behavior.
12. The Respondent further acknowledges that as a professional nurse it is his responsibility to avoid conduct that might lead others to reasonably believe that he had treated a patient roughly or used inappropriate language in the presence of a patient.

Charges

13. The acts, omissions and/or circumstances described above constitute grounds for discipline because Respondent violated:
 - 26 V.S.A. §1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes the performance of unsafe or unacceptable patient care pursuant to ARBN, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN, Chapter 4, Rule IV(II)(B)(2); and
 - ii. 26 V.S.A. §1582(a)(7) (engaging in conduct of a character likely to deceive, defraud or harm the public); and
 - iii. 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 specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
16. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
17. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
18. 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.
19. Respondent voluntarily waives his right to a contested hearing before the Board of Nursing.
20. Respondent agrees that in order to resolve this matter the Order set forth below may be entered by the Board.

ORDER

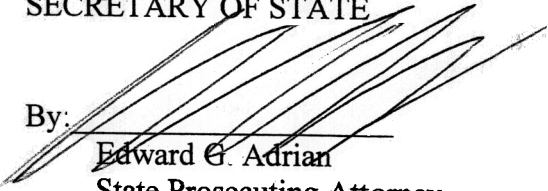
Based on the Stipulation above, it is **ORDERED AND ADJUDGED** as follows:

- A. The Respondent's license to practice nursing is hereby **WARNED**. Further, the Respondent is required to make a **ONE THOUSAND DOLLAR (\$1,000) donation to the Ronald McDonald House of Burlington, Vermont** and submit proof of payment to the Board or its designee within ninety (90) days of the entry of this Order.
- 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:

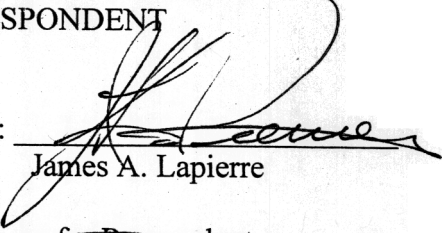
Dated: 12/11 04

STATE OF VERMONT
SECRETARY OF STATE

By: 
Edward G. Adrian
State Prosecuting Attorney

JAMES A. LAPIERRE
RESPONDENT

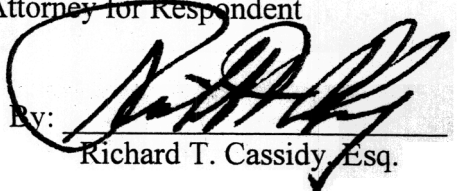
Dated: 11/

By: 
James A. Lapierre

Approved as

Attorney for Respondent

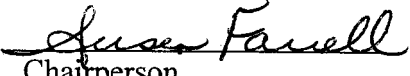
Dated:

By: 
Richard T. Cassidy, Esq.

APPROVED

VERMONT BOARD OF NURSING

U U
Date of Entry: 1/13 0

By: 
Chairperson

nu.lapierre.stip

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

IN RE:)
JAMES A. LAPIERRE) **Docket No. NU 50-0104**
License No: 026-0022552)

SPECIFICATION OF CHARGES

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

Board Authority

- 1) The Vermont State Board of Nursing ("the Board") has authority to approve consent orders, issue warnings or reprimands, suspend, revoke, limit, condition or prevent the renewal of current or 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 ("ARBN"); and the Rules of the Office of Professional Regulation.
- 2) 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).
- 3) The inability to practice nursing competently includes the performance of unsafe or unacceptable patient care pursuant to ARBN, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN, Chapter 4, Rule IV(II)(B)(2).
- 4) Engaging in conduct of a character likely to deceive, defraud or harm the public is unprofessional conduct upon which the Board can impose disciplinary action. 26 V.S.A. §1582(a)(7).
- 5) 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).

Facts

- 6) The Respondent, James A. Lapierre, is licensed in the State of Vermont as a Registered Nurse under License Number 026-0022552.
- 7) The Respondent was originally licensed on November 17, 1995 and the Respondent's license is currently set to expire on March 31, 2005.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

- 8) At all times relevant, the Respondent was employed as a Registered Nurse at Fletcher Allen Health Care ("the Facility") located in Burlington, Vermont.
- 9) On or about January 11, 2004, the Respondent was rough with patient E.B. while the Respondent was tending to E.B.
- 10) F.D., an L.N.A. at the Facility, observed the Respondent being rough while repositioning E.B.
- 11) F.D. also heard the Respondent use inappropriate language in the presence in E.B. after E.B. rang the call bell for assistance several times.
- 12) M.D., an R.N. at the Facility who had worked with the Respondent on the day of the incident, advised State Investigator Brenda Tetrault that on that day the Respondent "seemed to be a little forceful" with E.B. and that the Respondent "was frustrated the whole day".
- 13) After the incident, E.B. informed her mother, P.S., that E.B. was afraid of the Respondent.
- 14) P.S. advised Investigator Tetrault that the Respondent had stated to P.S. on the day of the incident that he was having "a bad, stressful day".

Charges

15) The above 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 the performance of unsafe or unacceptable patient care pursuant to ARBN, Chapter 4, Rule IV(II)(B)(1), and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN, Chapter 4, Rule IV(II)(B)(2); and
- ii. 26 V.S.A. §1582(a)(7) (engaging in conduct of a character likely to deceive, defraud or harm the public); and
- iii. 3 V.S.A. §129a(a)(3) (failing to comply with the provisions of state statutes or rules governing the practice of the profession).

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Relief Requested

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

Dated at Montpelier, Vermont this 22 day of July 2004.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian

State Prosecuting Attorney

nu.lapierre.soc

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602