

IN RE:

Case File No. NU35-0101

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Vermont Board of Nursing ("the Board") held a hearing in this case on Monday, November 4, 2002 at 81 River Street in Montpelier, Vermont. Board members Alan Weiss, Sandra Norton, Susan Farrell, De-Ann Welch, Elayne Clift, Laurey Tyo and Susan Cota participated in the decision. George Haegele, Assistant Attorney General, appeared for the State. Ruth LeBlanc ("the Respondent") was present. Chris Winters was the Presiding Officer.

Findings of Fact

1. The Respondent is a Registered Nurse holding license number 26-10104 issued by the State of Vermont.
2. At all times relevant, the Respondent was employed by Fletcher Allen Health Care ("FAHC") in Burlington, Vermont as the nurse manager of the dermatology unit.
3. As part of her job, the Respondent was responsible for all programs within the dermatology unit, including the laser programs. Respondent would have been responsible for ensuring that the laser program was safe for patients and staff.
4. FAHC's policies in place at that time, allowed only credentialed persons to operate a laser. This policy has been in place since the early 1990's.
5. Under the policy, only physicians were able to obtain credentialing, through the medical staff office.

6. Operation of a laser to perform a procedure involves necessary knowledge as to the wavelength of the laser, tissue targeting, power levels, exposure time, and how the tissue will respond.
7. From approximately November 2000 to April 2001, the Respondent performed laser procedures on ten FAHC employees.
8. The Respondent deems these patients "volunteers" and was not paid for any of her services.
9. The Respondent performed laser procedures for hair removal and treatment of minor vascular lesions.
10. The Respondent performed these procedures after consulting with two physicians who have written her letters of support.
11. The physicians were present for the initial treatments but were not always present in the room.
12. Patients were, at times, left alone in the room with the laser in standby mode.
13. The Respondent is well educated in dermatological nursing.
14. The Respondent had plans to submit a proposed policy to FAHC to allow nurses to perform laser procedures.
15. The Respondent's plan was to train and become competent on the laser and then ask FAHC to create a policy.
16. The Respondent states that it is questionable whether she is an Advanced Practice Registered Nurse. She has never filed for such credentialing with the Board of Nursing.

Opinion

While there may have been an air of confusion/collusion around nurses practicing laser techniques at FAHC caused by the physicians who enabled the Respondent to perform laser procedures, the institutional policy was clear and was known to the Respondent. This is evidenced by the Respondent's desire to change that policy. The Respondent went well beyond her scope of practice. Despite her extensive interest and training in dermatology, she was not authorized to exceed her scope of licensed practice. Respondent's actions endangering volunteers in the clinical setting are indicative of a serious lack of judgment and ignorance of the boundaries of her practice.

Conclusions of Law

- A. Pursuant to 26 V.S.A. § 1574 and 3 V.S.A. § 129, The Board of Nursing may revoke, suspend, discipline or otherwise condition the license of a nurse who engages in unprofessional conduct as defined by 26 V.S.A. § 1582 and 3 V.S.A. § 129a and its Administrative Rules.
- B. The Respondent committed unprofessional conduct by exceeding her scope of practice as a registered nurse when she performed laser procedures on patients in violation of 26 V.S.A. § 1582(a)(7) and Board Administrative Rules Chapter 4, Rule IV(B)(4)(A) (engaging in conduct of a character likely to harm the public and performing acts beyond the limits of statutory definitions of the practice of nursing).
- C. The Respondent committed unprofessional conduct by failing to comply with the policies of her employer when she performed laser procedures on patients in violation of 26 V.S.A. § 1582(a)(3) and Board Administrative Rules Chapter 4, Rule IV(B)(2) (failing to conform to the essential standards of acceptable and prevailing nursing practice).

Order

A. In light of the above findings and conclusions, the Board hereby REPRIMANDS the Respondent and further CONDITIONS her license as follows:

(1) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed **three (3) months** of supervised nursing practice in which she works at least forty (40) hours every two (2) weeks in nursing [Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis].

(2) Reports from Employers

Within one (1) month of the date of entry of this Consent Order and two months thereafter for a total of three months, Respondent shall cause every employer for which she has been employed as a nurse during that month to submit to the Board an evaluation of Respondent's performance and attendance during that month, with an emphasis on reporting whether or not the Respondent has remained within her scope of practice and has complied with institutional policies. This report shall be submitted in writing on forms issued by the Board.

(3) Practice Under Supervision.

Respondent shall practice only in a setting where she has on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing.

(4) Ethics Course

The Respondent must attend and successfully complete a Board-approved course in legal ethics in nursing. The Respondent must obtain approval of the course prior to attending. Approval may be given by the Board or its designee.

(5) Costs.

Respondent shall bear all costs of complying with this Consent Order.

(6) Violation of the Consent Order.

If Respondent violates the terms of this Consent Order in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke the terms of the conditional license and take further disciplinary action. If a complaint or charges are filed against Respondent during the term of this Consent Order, the conditional license period shall be extended until the matter is final.

(7) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on her license and after formal review by the Board, Respondent's nursing license may be fully restored by appropriate Board action. Furthermore, Respondent must demonstrate, to the Board's satisfaction, that she can safely return to unrestricted practice and that she has fully complied with all the terms of this Consent 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.

Appeal Rights

This is a final administrative determination by the Vermont Board of Nursing. You may appeal by sending a notice of appeal in writing to the Director of the Office of Professional Regulation within 30 days of the date of entry of this order. If you wish to request a stay of the Board's decision, please refer to the attached stay instructions.

By: Susan Farrell
Susan Farrell, RN
Chair

Date: Nov. 18, 2002

OFFICE OF PROFESSIONAL REGULATION

Date of entry: 11/22/02