

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

IN RE:

ERIN L. LEMAY

License No. 025-0008619

)

)

)

Docket No. NU00-0608/2009-100

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Edward G. Adrian, and the Respondent, Erin L. Lemay, LPN, 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.

Statement of Facts

2. Erin L. Lemay (the "Respondent") of Proctor, Vermont is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025-0008619. This license was originally issued on or about September 16, 2004 and is currently set to expire on or about January 31, 2010.
3. At all times relevant, Respondent was employed as a Licensed Practical Nurse at Haven Health Center (the "Facility"), located in Rutland, Vermont.
4. On or about June 16, 2008 in a Mandatory Report of Unprofessional Conduct, Director of Nursing K.F. stated that on or about June 15, 2008, Resident M.W. fell from the couch in her room and onto the floor and sustained no injuries except for two small bruises. K.F. stated this incident occurred as a result of Respondent not following M.W.'s Care Plan for falls in that no chain bed alarm was in place and M.W. was left unsupervised without access to a call bell. K.F. noted that Respondent did institute fifteen (15) minute checks on M.W. K.F. reported that as a result of Respondent's failure to follow M.W.'s Care Plan and complete necessary documentation, Respondent was terminated from the Facility.

5. On or about August 8, 2008 in a telephone interview with State Investigator Steve Kennedy, Respondent stated that on the night in question, Resident M.W. was adamant that she did not want to return to bed after using the toilet, so Respondent propped M.W. up as best as possible on the couch and set up monitoring. Respondent stated that she was aware M.W.'s Care Plan called for an alarm and call light; Respondent attempted to give M.W. access to the call light, but the call light would not reach the couch. Respondent admitted that she was responsible for M.W.'s fall, and stated that she is very sorry that it occurred.

Charges

6. 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 performance of unsafe or unacceptable patient care pursuant to ARBN Chapter 4, Rule IV(II)(B)(1); and failure to conform to the essential standards of acceptable and prevailing practice pursuant to ARBN Chapter 4, Rule IV(II)(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 whether actual injury to a patient, client, 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).

Understandings

7. 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.
8. 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.
9. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
10. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.

11. 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.
12. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
13. Respondent agrees that the Order set forth below may be entered by the Board.

ORDER

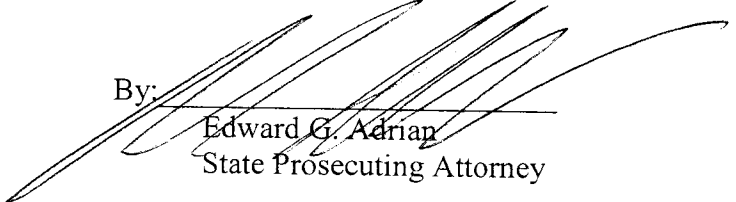
Based on the Stipulation above, it is **ORDERED AND ADJUDGED** as follows:

- A. The Board of Nursing hereby **WARNS** Respondent's license to practice practical 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

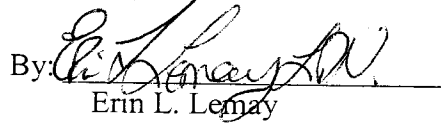
Dated: 3/23/09

By: 

Edward G. Adrian
State Prosecuting Attorney

ERIN L. LEMAY
RESPONDENT

Dated: 3/20/09

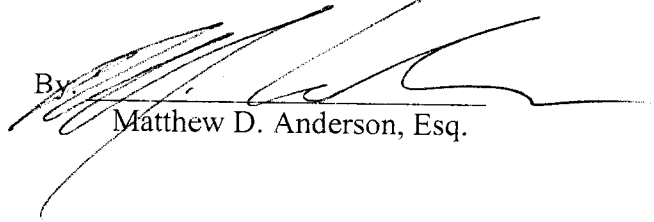
By: 

Erin L. Lemay

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 3/20/09

By: 

Matthew D. Anderson, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 4-29-09

By: Ellen Reff
Chairperson

Date of Entry: 5/1/09
nu.lemay.stip

LAW OFFICES
REIS, URSO, EWALD
& ANDERSON, PLLC
NORTH MAIN STREET
P. O. BOX 890
RUTLAND, VERMONT
05702-0890