

STATE OF VERMONT

SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

IN RE:)
VIRGINIA MAGUIRE) DOCKET No. NU37-1105
License No. 026-0012094)

STIPULATION AND CONSENT ORDER

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Virginia Maguire, R.N., 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, 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. Virginia Maguire (the "Respondent") of Castleton, Vermont is a licensed registered nurse holding license number 026-0012094, issued by the State of Vermont. The Respondent has held this license since at least March of 1991 and it is currently set to expire on March 31, 2007.

3. At all relevant times, Respondent was employed as a registered nurse at Eden Park Nursing Home (the "Facility") located in Rutland, Vermont.

4. On or about July 20, 2005 resident J.P. requested the Respondent's assistance to the bathroom. The Respondent raised her voice to J.P. telling her that she was "ad lib" (up as desired) and that she could do it herself. The Respondent apologized to J.P. after the incident.

5. On or about July 27, 2005, the Respondent was heard yelling at a patient whose bed sensor alarm had been activated, telling the patient that he could not get out of bed at that time. When two nursing assistants entered the patient's room, the Respondent began yelling at and reprimanding the nursing assistants, in the presence of the patient, because they had not gotten the patient out of bed earlier.

6. The Respondent received two written warnings regarding several reports that she was yelling at patients and staff. The Respondent received the first warning on or about March

STATE OF VERMONT



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23, 2005 and the second warning on or about August 1, 2005. The Respondent signed both warnings indicating that she read and understood them.

7. This Stipulation is neither an admission of liability by the Respondent nor a concession by the State of Vermont that its charges are not well founded. To avoid delay, uncertainty, inconvenience, and expense of protracted litigation of the charges above the Parties reach a full and final Stipulation pursuant to the Understandings and Order below.

Charges

8. The acts, omissions and/or circumstances described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:

(i) 26 V.S.A. § 1582(a)(3) (is unable to practice nursing competently by reason of any cause) which includes, but is not limited to, performing unsafe or unacceptable patient care and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(1) and (2); and

(ii) 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); and

(iii) 3 V.S.A. § 129a(b) (failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

Understandings

9. 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.

10. 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.

11. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

12. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.

13. 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.

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14. 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.

5. Respondent agrees that the Order set forth below may be entered by the Board.

ORDER

A. The Board of Nursing hereby **CONDITIONS** the Respondent's license to practice nursing for a minimum period of **ONE (1) YEAR** commencing with the date of entry of this Stipulation and Consent Order. The conditions are as follows:

(1) Re-issue of License.

Upon the commencement of these conditions, Respondent shall be issued a license labeled "conditioned."

(2) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed all conditions ordered. Respondent shall be subject to the conditions until Respondent completes **one (1) year** of supervised nursing practice in which she works forty (40) hours every two (2) weeks as a nurse. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis. Respondent shall be prohibited from working more than forty (40) hours per week.

(3) Anger Management and Communication Skills Course.

Respondent shall complete (i.e., receive a passing grade, if applicable) a course focusing anger management and communication skills, with prior approval by the Board or its designee, and then submit written documentation (certificate of completion, etc.) to verify same to the satisfaction of the Board or its designee. This course must be completed within six (6) months of the date of entry of this Stipulation and Consent Order.

(4) Adult Protective Services (APS) Conditions.

Respondent shall abide by any and all conditions imposed on her license by APS.

(5) Notification to Employers/Nursing School.

During the conditioned period, Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which Respondent practices as a nurse and inform them of Respondent's conditional license status.

Within ten (10) days of the date of commencement of these conditions or of any subsequent nursing employment, Respondent shall cause Respondent's immediate supervisor to write to the Board, on the employer's letterhead, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

In the event Respondent is attending a nursing program which has a clinical portion which involves actual patient care, she shall provide a copy of the Stipulation and Consent Order to the Program Director. Respondent shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Stipulation and Consent Order and ability of the program to comply with its conditions during clinical experience.

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(6) Practice Under Supervision.

Respondent shall practice only in a nursing setting where Respondent has on-site supervision for the entire shift by a licensed nurse who is in good standing with the Board.

(7) Types of Employment Prohibited.

Respondent shall not work as a supervising nurse. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency, or as a personal care provider during the effective period of this Consent Order.

(8) Out of State Practice/Residence.

Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board prior to Respondent leaving the State of Vermont. If Respondent fails to receive such approval before leaving the State, none of the time spent out-of-state will be credited toward the fulfillment of the terms and conditions of this Consent Order. The Board will approve out-of-state practice so long as the Respondent can still comply with the provisions of this Consent Order.

(9) Notification of Place of Employment/Personal Address/Telephone Number.

Within five (5) days of the date of entry of this Order, Respondent shall notify the Board, in writing, of her current place of employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in employment, personal address, or telephone number.

(10) License Renewal

If the Respondent's license expires while this Order is still in effect, this Order does not automatically extend the license. In that situation, in order to continue to practice nursing, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that she has otherwise complied with the requirements for license renewal.

11) Costs.

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

(12) Violation of this Order.

If the Respondent violates the terms of this Order in any respect, 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. 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.

(13) Completion of Conditional License Period.

After the conditional license period, the Respondent may petition the Board to remove any and all conditions on her license. The Respondent must present proof that she has full complied with the terms of this Order.

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

Dated: 7/6/06

STATE OF VERMONT
SECRETARY OF STATE

By: [Signature]
Edward G. Adrian
State Prosecuting Attorney

VIRGINIA MAGUIRE
RESPONDENT

Dated: 7/5/06

By: Virginia A. Maguire
Virginia Maguire

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: July 10, 2006

By: Susan Farrell
Chairperson

Date of Entry: 7/12/06

nu.maguire.stip

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IN RE:)
VIRGINIA MAGUIRE) **DOCKET No. NU37-1105**
License No. 026-0012094

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Virginia Maguire, R.N.:

Board Authority

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- (ii) 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); and
- (iii) 3 V.S.A. § 129a(b) (failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).

Relief Requested

WHEREFORE, the license of Virginia Maguire should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 3rd day of May, 2006.

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SECRETARY OF STATE

By:

Edward G. Adrian

State Prosecuting Attorney

nu.maguire.soc

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