

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

IN RE:
KATHLEEN R MCNAUGHTON
License No. 025.0008476

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Docket No. 2011-483

STIPULATION AND CONSENT ORDER

NOW COME the State of Vermont, by and through State Prosecuting Attorney Gabriel M. Gilman, and the respondent, Kathleen R. McNaughton, represented by Attorney Ethan McNaughton, who stipulate and agree as follows:

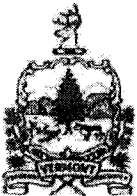
Board Authority

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. Kathleen McNaughton ("Respondent") of Springfield, Vermont is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025.0008476. This license was originally issued on or about March 17, 2004 and expires on or about January 13, 2014.
3. At all times relevant, the Respondent was employed as a Licensed Practical Nurse at Brookside Health and Rehabilitation (the "Facility") in White River Junction, Vermont.
4. On or about June 29 through the 30, 2011, M.M., R.N. was present at Brookside in part to consult with L.P.N.s and R.N.s in anticipation of an upcoming government inspection. During this time, M.M., R.N. conducted a Medication Pass Monitor with Respondent and determined that, according to her consulting criteria, Respondent did not adhere to minimum infection-control protocols. M.M., R.N. noted that the patient load was heavy during the Medication Pass Monitor. Respondent was keenly aware that her work was being closely scrutinized, and this scrutiny had the paradoxical effect of causing stress and distraction from clinical routine.

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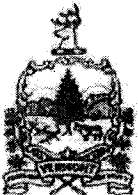
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05620-3602

5. Following this Medication Pass Monitor Respondent's supervisor, P.S., DON, had individuals observe Respondent intermittently during her shifts, without Respondent's knowledge. Those observers reported improvement in areas of concern raised by M.M., R.N.
6. On one occasion, Respondent applied ointment to the buttocks of a patient without wearing gloves. While applying the ointment, Respondent stated, "Don't try this at home kids." These actions occurred in the presence of D.P., LNA and E.F., LNA.
7. A particular point of concern was Respondent's attention to infection control protocol related to patients having MRSA and *clostridium difficile*. In July 2011, Respondent requested S.F.'s assistance with a patient with MRSA and *clostridium difficile*, and requested S.F. who was standing outside the threshold of the room to put gloves on and take the patient's water pitcher out of the room to refill it. When concerns about contamination were raised, water was brought into the room where the pitcher was filled.
8. On occasions, Respondent left her medication cart unlocked.
9. The parties agree that the described events arose from an experienced nurse responding to time pressure at the expense of minimum infection- and medication-control protocol. These issues are appropriately remedied by coursework responsive to the areas of deficiency, together with a brief period of supervision to ensure that refreshed skills are implemented in practice.

Violations

10. 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. 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
 - b. 26 V.S.A. § 1582 (a)(3) (Is unable to practice nursing competently by reason of any clause) which includes performance of 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).

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Understandings

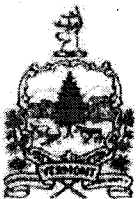
11. Respondent admits that the facts above are true and that the conditions below are to protect the public.
12. Respondent understands that the Nursing Board must review and accept the terms of the Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void; and inadmissible for any purpose in any later proceeding.
13. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement prejudice her rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board. Should this Stipulation be rejected by the Board, the State agrees not to rely on, refer to, or otherwise offer as evidence of culpability at any future hearing Respondent's offers of settlement, including Respondent's willingness to enter into this Stipulation.
14. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
15. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
16. 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.
17. Upon acceptance of the Stipulation and Consent Order by the Board, 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.
18. 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 **REPRIMANDS** Respondent's license.
- B. Respondent's license is hereby **CONDITIONED** for a period of not less than one year, as follows:
 - a. Skill Refreshment. Respondent shall, within one year of the date of entry of this Order, at her own expense, complete four courses pre-approved by the Board as reasonably related to nosocomial infection control, barrier precautions, medication control, or related aspects of nursing practice. The first course is to

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be completed within three months; the second within six months; the third within nine months; and the fourth within twelve months. Respondent shall supply verifying documentation as courses are completed. Failure to provide satisfactory documentation of timely course completion shall constitute a violation of this Order.

- b. Practice Setting. Until completion of four, pre-approved courses stated above, and the passage of one year of time, Respondent shall practice only in settings where she is supervised throughout each shift by a Registered Nurse in good standing with the Board. Respondent shall not practice in a home-care setting or other setting where she does not regularly encounter other nurses while providing care. Respondent may not work in a supervisory role.
 - c. Notice to Employers. Respondent shall provide a copy of this Order to all nursing employers for whom she works during the period her license is conditioned. Within two weeks of continuing or commencing nursing employment during the period her license is conditioned under this Order, Respondent shall cause each such employer to complete and return to the Board a verification form supplied by the Board.
 - d. Employer Reports. By the last day of each month that Respondent's license is conditioned under this Order, Respondent shall cause all nursing employers for whom she works to complete and return to the Board employer reports on forms supplied by the Board. Such reports shall comment specifically upon Respondent's performance with respect to medication administration and infection control. Failure to supply satisfactory reports during any period of employment while the license is conditioned indicating safe and appropriate nursing practice, including infection-control practices, shall constitute a violation of this Order.
 - e. Termination of Conditions. If Respondent has completed the skill refreshment specified herein and has supplied acceptable verifying documentation and acceptable employer reports as required herein, these conditions shall automatically terminate one year from the date of entry of this Order.
- C. Notwithstanding any provision above, Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- D. 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).
- E. This Stipulation and Consent Order will remain part of Respondent's licensing file and may, if appropriate, be used for purposes of determining sanctions in any future disciplinary matter.

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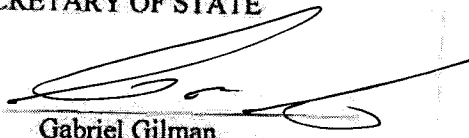


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AGREED TO:

Dated: February 28, 2013

STATE OF VERMONT
SECRETARY OF STATE

By: 

Gabriel Gilman
State Prosecuting Attorney

KATHLEEN R. McNAUGHTON
RESPONDENT

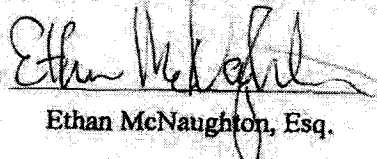
Dated: Feb 27, 2013

By: Kathleen McNaughton, LPN
Kathleen McNaughton, LPN

APPROVED AS TO FORM:

Dated: 2/28/2013

ATTORNEY FOR RESPONDENT

By: 

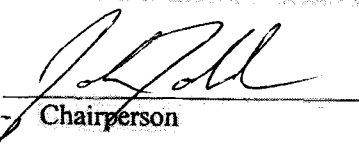
Ethan McNaughton, Esq.

APPROVED AND SO ORDERED:

Dated: 3/4/2013

Date of Entry: 3/4/13

VERMONT BOARD OF NURSING

By: 

Act. - Chairperson

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