

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

IN RE:	)	
DEBORAH MOBBS, L.P.N.	)	Docket No: NU 67-0301
License No. 026-0005062	)	

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, through Attorney General William H. Sorrell, and Respondent, Deborah Mobbs, L.P.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 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).
2. Engaging in conduct of a character likely to deceive, defraud or harm the public is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(7).
3. Conduct likely to deceive, defraud or harm the public, specifically failing to take appropriate action to safeguard a patient from incompetent health care is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(7); Board of Nursing Administrative Rule Chapter 4, Rule IV, (B)(4)(e);
4. Conduct likely to deceive, defraud or harm the public, specifically, leaving a nursing assignment without properly advising appropriate personnel is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(7); Board of Nursing Administrative Rule Chapter 4, Rule IV, (B)(4)(f).
5. In the course of practice, gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent professional engaged in similar practice under the same or similar conditions, whether or not actual injury to a client, patient or customer has occurred is unprofessional conduct upon which the Board can base disciplinary action. 3 V.S.A. §129(a)(10).

6. Conduct that demonstrates an inability to practice nursing competently by reason of any cause, specifically, failure to conform to the essential standards of acceptable and prevailing nursing practice is unprofessional conduct upon which the Board can base disciplinary action. 26 V.S.A. §1582(a)(3); Board of Nursing Administrative Rule Chapter 4, Rule IV, (B)(2)(b).

Facts

7. The Respondent is a Licensed Practical Nurse under License Number 025-0005062.
8. Respondent was originally licensed on May 19, 1981 and Respondent's license is currently extended.
9. At all times relevant to these Charges, the Respondent was employed by the Visiting Nurse Association in Colchester, Vermont.
10. Respondent admits:
 - a) On or around March 11, 2001, the Respondent was scheduled to work at a residence.
 - b) On or around March 11, 2001, the Respondent telephoned her employer to notify them that she would be arriving late at the family's home.
 - c) By way of history, Respondent then telephoned the family and notified them that she would not be working that night.
 - d) By way of history, the family then telephoned the employer to notify them about what the Respondent had stated to them concerning her not working that date.
 - e) As a result of the conduct which occurred on or about March 11, 2001, the Respondent was not replaced by another nurse and the client had no care provider other than family.
 - f) On or around March 12, 2001, the same patient's family member telephoned Respondent's employer, twice, to notify them that Respondent had not yet arrived at the home.
 - g) When the employer telephoned Respondent, Respondent told employer that Respondent had overslept and did not have transportation, and therefore would not be working as scheduled.
 - h) As a result of the conduct that occurred on or about March 12, 2001, the Respondent was not replaced by another nurse and the client had no care provider other than family.

- i) As a result of the conduct that occurred on or about March 11 and 12, 2001, the Respondent was terminated.
- j) While providing care to the client, Respondent used the family telephone for personal telephone calls.
- k) By way of history, on one occasion, Respondent was arguing with her boyfriend using the telephone in the client's room when the family was sleeping. Respondent's voice and tone woke the parent.
- l) Subsequent to the two incidents of abandonment above, Respondent improperly telephoned the family that she was providing care for and discussed with them her termination for abandonment.

Charges

11. By abandoning her patient(s) the Respondent has:

- a) Committed conduct likely to deceive, defraud or harm the public, specifically failing to take appropriate action to safeguard a patient from incompetent health care. 26 V.S.A. §1582(a)(7); Board of Nursing Administrative Rule Chapter 4, Rule IV, (B)(4)(e); and
- b) Committed conduct likely to deceive, defraud or harm the public, specifically, leaving a nursing assignment without properly advising appropriate personnel. 26 V.S.A. §1582(a)(7); Board of Nursing Administrative Rule Chapter 4, Rule IV, (B)(4)(f).

12. By violating the proper boundaries and telephoning the family to discuss non-medical and non-care related issues, the Respondent has:

- a) In the course of practice, gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent professional engaged in similar practice under the same or similar conditions, whether or not actual injury to a client, patient or customer has occurred in violation of 3 V.S.A. §129a(a)(10); and
- b) Committed conduct that demonstrates an inability to practice nursing competently by reason of any cause, specifically, failure to conform to the essential standards of acceptable and prevailing nursing practice. 26 V.S.A. §1582(a)(3); Board of Nursing Administrative Rule Chapter 4, Rule IV, (B)(2)(b).

Understanding

- A. The Respondent understands that the Board of Nursing must review and accept the terms of the Order set forth below and that if the Board rejects all or any portion of the Order, then this entire document shall be null and void.
- B. The Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- C. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.
- D. The Respondent agrees that she has had sufficient opportunity to consult with legal counsel before signing this document.
- E. The Respondent is voluntarily waiving her right to a contested hearing before the Board of Nursing.
- F. The Respondent agrees that the Order set forth immediately below may be entered by the Board of Nursing.

Consent Order

G. Based on the above stipulations, it is **ADJUDGED** as follows:

- (1) The "Facts" listed above are true; and
- (2) The Respondent has engaged in unprofessional conduct in that the Respondent has:
 - (a) shown she is unable to practice nursing competently by reason of any cause, in violation of 26 V.S.A. §1582(a)(3), specifically Respondent:
 - i) performed unsafe or unacceptable patient care; and
 - ii) failed to conform to the essential standards of acceptable and prevailing nursing practice.

H. Based on the above stipulation and on the above findings and conclusions of this Board, it is **ORDERED** follows:

- (1) The Board hereby **CONDITIONS** Respondent's license to practice nursing **for a minimum period of eighteen (18) months**. The **CONDITIONS** on Respondent's license would be as follows:

(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 eighteen (18) months of supervised nursing practice in which she works at least 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-eight (48) hours per week. Respondent's license is additionally conditioned as follows.

(3) Interview with the Board or its designee.

Respondent shall appear in person for interviews with the Board or its designee upon request.

(4) Re-issue of License.

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

(5) 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.

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

Within five (5) days of the date of entry of this Consent Order, Respondent shall notify the Board, in writing, of her current place of nursing employment, personal address, and telephone number. Respondent shall further notify the Board, in writing, within forty-eight (48) hours of any change in nursing employment, personal address, or telephone number. Respondent shall provide a copy of this Consent Order to all employers, current and future, and shall inform them of the conditional status of her license.

(7) Notification to Employers.

Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which she practices as a nurse and inform them of her conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any subsequent employment, Respondent shall cause her 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.

(8) Reports from Employers.

Within one (1) month of the date of entry of this Consent Order and every month thereafter, Respondent shall cause every employer she has worked for during the month to submit to the Board an evaluation of Respondent's performance and attendance during that month. This report shall be submitted in writing on forms issued by the Board. In the event the Respondent is attending a nursing program, she shall provide a copy of the Consent Order to the Program Director. Respondent shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Consent Order and ability of the program to comply with the conditions in the Consent Order during clinical experience.

Respondent shall sign a consent, upon request of the Board, to authorize her employer to provide all information requested by the Nursing Board, or its designee, either orally or in writing, at any time during the period the Consent Order is in effect.

(9) 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.

(10) Types of Employment Prohibited.

Respondent shall not work for a nurse registry, travelling 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.

(11) Prohibited Duties.

Respondent shall be prohibited from being a Charge Nurse during the effective period of the Consent Order.

(12) License Renewal.

In the event Respondent's license is scheduled to expire during the period this Consent Order is in effect, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualifications to practice nursing in the State of Vermont.

(13) Costs.

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

(14) 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.

(15) 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. Respondent, however, must present proof, to the satisfaction of the Nursing Board, that she poses no danger to the practice of nursing and that she can safely and competently perform the duties of a nurse. Such proof shall include appropriate support from her employer and/or nursing school administrator. Furthermore, Respondent shall demonstrate, to the Board's satisfaction, that she fully complied with all the terms of this Consent Order.

J. Notwithstanding any provision above, Respondent must meet all Nursing Board requirements for license renewal and license reinstatement.

K. 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).

L. This Stipulation and Consent Order will remain part of the Respondent's licensing file and may be used in determining sanctions in future disciplinary matters.

AGREED TO:

**BY: DEBORAH MOBBS
RESPONDENT**

Date: 2-8-02

Deborah J Mobbs
Deborah Mobbs

approved as to form:

Cynthia L. Broadfoot
Cynthia Broadfoot, Esq.

**AND BY: STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL**

Date: 2/11/02

George C. Haegle IV
George C. Haegle IV
Assistant Attorney General

ACCEPTED AND SO ORDERED:

BOARD OF NURSING

Date: 2.11.02

Susan Farrell
Chairperson

Dated entered: 2/11/02