

**STATE OF VERMONT
BOARD OF NURSING**

IN RE:

Linda Oliver

License No. 26-23840

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Case File No. NU35-1102

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ORDER

The Vermont Board of Nursing ("the Board") held a hearing in this case on Monday, February 9, 2004, at 81 River Street in Montpelier, Vermont. Board members Elayne Clift, Laurey Tyo, Donarae Metcalf, Susan Farrell, Alan Weiss and Ellen Leff participated in the decision. Edward Adrian, Prosecuting Attorney, appeared for the State. Linda Oliver ("the Respondent") was present, and was represented by Attorney Gregory Howe.

The parties submitted a Stipulation and Consent Order ("Stipulation"), attached, for the Board's approval, but left three paragraphs open for argument and discussion, asking the Board to decide what would be appropriate. The three conditions were regarding the allowable hours the Respondent could work per week at paragraph (J)(2) of the Stipulation and regarding supervision at paragraphs (J)(5) and (J)(6).

Typically, in cases of assessment problems or medication errors, the Board will limit the Respondent's practice to a certain number of hours worked per week (40) and will require supervision as follows:

Respondent shall practice only in a setting where the Respondent has on-site supervision for the entire shift by a Registered Nurse in good standing with the Board.

In those same cases, the Board will prevent certain types of employment which are unstructured and lack the necessary supervision to adequately protect the public. Language normally includes:

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 Order.

The Respondent argues in this case that she be allowed to continue her practice as a public health nurse for the Department of Health. It is her contention that the unique aspects of her position do not pose a significant threat to the public and that the Stipulation could be tailored according to her specific request.

After careful consideration, the Board accepted the Respondent's proposal, in part, and will allow her to deviate from the terms of the Stipulation and Consent Order, as those deviations are set forth below, and for her current employment only. Should the Respondent change employment or continue to work in her per diem position with the Department of Corrections or seek other nursing employment, she would have to comply with the terms of the Stipulation as they are drafted, including a limit on the number of hours worked, a structured setting with supervision, and the prohibition from certain types of employment.

Regarding Paragraph (J)(2), the Respondent may work in her current position as a public health nurse an additional 10 hours in any given month beyond the Stipulation limit of 40 hours per week.

Regarding Paragraphs (J)(5) and (J)(6), the Respondent may continue to work in her current position as a public health nurse, provided that if she does perform medication administration, it must be under the direct supervision of a nurse in good standing with the Board, in full compliance with the terms of the Stipulation. This applies to administering vaccines and does not apply to emergency situations.

Regarding reinstatement, employment in her current position will be credited toward fulfilling the terms of this Stipulation provided that the Respondent takes and successfully completes courses in assessment and medication administration, approved in advance by the Board or its designee.

Accordingly, the Board adopts the above as its order to be included and incorporated by reference in the Stipulation and Consent Order approved by the Board on February 9, 2004.

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, R.N.
Chair

Date: Feb. 18, 2004

OFFICE OF PROFESSIONAL REGULATION

Date of entry: 3/3/04

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

IN RE:

LINDA G. OLIVER

License No.: 026-0023840

Docket No.: NU35-1102

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney, Edward G. Adrian, and Respondent Linda G. Oliver, who stipulate and agree as follows:

Board Authority

1. The Board of Nursing has jurisdiction to investigate complaints of unprofessional conduct and to approve consent orders pursuant to 3 V.S.A. §§ 129 and 129a and 814; 26 V.S.A. §§ 1574 and 1582.
2. Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is unprofessional conduct and is a basis upon which the Board may impose disciplinary action. 3 V.S.A. §129a(a)(3).
3. 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, 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 and is a basis upon which the Board may impose disciplinary action. 3 V.S.A. §129a(a)(10).
4. Failure to conform to the essential standards of acceptable and prevailing practice is unprofessional conduct and is a basis upon which the Board can impose disciplinary action. 3 V.S.A. §129a(b)(2).

Facts

5. Linda G. Oliver ("Respondent") of Derby, Vermont is a Registered Nurse holding license number 026-0023480 issued by the State of

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Prosecuting Attorney
Office of
Professional Regulation
Montpelier, VT 05602

Vermont. Respondent's license was issued on March 9, 1998 and is currently set to expire on March 31, 2005.

6. At all times relevant to these charges, the Respondent was practicing as a Registered Nurse at North Country Hospital & Health Care Center, Inc. in Newport, Vermont.
7. On or about October 1, 2002, Respondent failed to notify the treating physician when a "critical patient" had a low urine output and a low hematocrit and hemoglobin. The mistake resulted in the delay of a blood transfusion, requiring frequent emptying of Jackson Pratt, and monitoring of urine drainage tubes.
8. On or about October 23, 2002, Respondent was to administer Demerol 50mg and Vistaril 25mg to patient S.M.
9. On or about October 23, 2002, Respondent administered in error Morphine 4mg instead of Demerol 50mg.
10. The Respondent has admitted to this medication error.
11. Although the Respondent does not admit to the truth of the facts above, the Respondent does not contest that the Board could find these facts to be true by a preponderance of the evidence if this matter went to hearing.

Understandings

- A. Respondent does not contest the truth of the facts above and agrees that the conditions below are necessary to protect the public.
- B. 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.
- C. 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.
- D. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- E. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.

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- F. 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.
- G. Respondent voluntarily waives her right to charges and a contested hearing before the Board of Nursing. As outlined below, the State and the Respondent agree to a majority of the conditions and will have the opportunity to argue before the Board on the conditions where an agreement has not been reached.
- H. 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:

- I. Respondent consents to the following conditions to protect the general public.
- J. Based on the above Stipulation and the Findings and Conclusions of this Board, it is **ORDERED** that **CONDITIONS** shall be imposed on any license to practice nursing issued to Respondent and the conditions shall remain **FOR A MINIMUM PERIOD OF ONE (1) YEAR** from the date of entry of this Order. The conditions are as follows:

- (1) License to be labeled "Conditioned".

Any license issued to the Respondent by this Board shall be 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 direct 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. The State argues that the Respondent shall be prohibited from working more than forty (40) hours per week. At the Stipulation Hearing, the Respondent is free to argue for this time to be increased to fifty (50) hours per week.

- (3) 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 Respondent practices as a nurse during the conditioned period and

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inform them of Respondent's conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any subsequent 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.

(4) Reports from Employers.

Within one (1) month of the date of entry of this Consent Order and monthly thereafter, Respondent shall cause every employer Respondent has worked for during the relevant time period to submit to the Board an evaluation of Respondent's performance (i.e. indicating that the patient documentation Respondent submits is sufficient, etc.) and attendance during that time period. This report shall be submitted in writing on forms issued by the Board.

In the event the Respondent is attending a nursing program, 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 Respondent's 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.

(5) Practice Under Direct Supervision.

The State argues that the Respondent shall practice only in a setting where Respondent has on-site direct supervision by a registered nurse that is licensed and in good standing and where any patient documentation must be reviewed by the supervisor. At the Stipulation Hearing, the Respondent is free to argue for alternative forms of supervision.

(6) Types of Employment Prohibited.

The State argues that the 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. At the Stipulation Hearing, the Respondent is free to argue that her present employment is acceptable under the terms of this paragraph.

(7) Prohibited Duties.

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

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(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 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.

(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) Release of Information Forms.

In fulfilling the conditions of this Order which require the Respondent to authorize various persons to report information or to discuss the Respondent with the Board, the Respondent must execute a consent to disclose form. The authorization must allow the information to also be provided to the Office of Professional Regulation investigators. Any revocation by The Respondent of such a consent to disclosure during the term of this Order shall be considered a violation of this Order.

(12) Costs.

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

(13) 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

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Prosecuting Attorney
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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.

(14) 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 fully complied with the terms of this Order. Respondent must also prove to the satisfaction of the Nursing Board, that she poses no danger to the public or the practice of nursing and that she can safely and competently perform the duties of a Registered Nurse.

- K. Notwithstanding any provision above, The Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- L. 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).
- M. 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.
- N. As to the provisions of this Stipulation where the Respondent is free to argue for a different sanction than the State requests, both the State and the Respondent agree that the decision of the Board as to appropriate sanctions shall be binding and final. In addition, the parties agree not to challenge the decision of the Board in any forum.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 1/23/04

By: [Signature]

Edward G. Adrian
State Prosecuting Attorney

LINDA G. OLIVER
RESPONDENT

Dated: 1/22/04

By: [Signature]

Linda G. Oliver

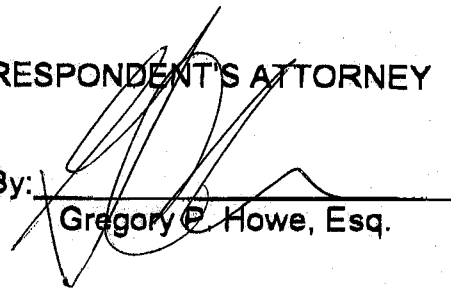
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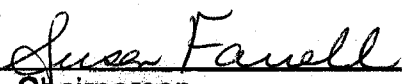
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Approved as to Form:

RESPONDENT'S ATTORNEY

Dated: 1/22/04By: 
Gregory E. Howe, Esq.

APPROVED AND SO ORDERED: VERMONT BOARD OF NURSING

Dated: February 9, 2004By: 
ChairpersonDate of Entry: 3/3/04

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