

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

IN RE:)
SHARON M. O'MALLEY) Docket No. 2011-776
License No 025.0005857)

STIPULATION AND CONSENT ORDER

NOW COMES the State of Vermont, by and through State Prosecuting Attorney S. Lauren Hibbert, and the Respondent, Sharon M. O'Malley, LPN, who stipulate and agree as follows:

Board Authority

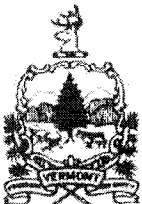
1. The Vermont State Board of Nursing (the "Board") has authority to issue warnings or reprimands; suspend, revoke, limit, or condition current licenses; or prevent the renewal of lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 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.

Stipulated Facts

2. Sharon M. O'Malley (the "Respondent") of Bennington, Vermont is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025.0005857. This license was originally issued on or about November 26, 1985 and expires on January 31, 2014.
3. At all times relevant, Respondent was employed as a Licensed Practical Nurse at Centers of Living and Rehabilitation (the "Facility") which is located in Bennington, Vermont.
4. On or about November 14, 2011, the Facility learned that Respondent intentionally withheld medication from two non-verbal residents for approximately two (2) months. The medications include Plavix for resident 1 and over the counter medications and vitamins for resident 2. Respondent documented that she administered the medications to resident 1 and resident 2.
5. Respondent admits that she withheld medications from two patients for approximately two months and admitted that she placed the medications in the sharps container.

Violations

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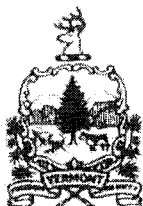
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6. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:
- a. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause) which includes performing unsafe or unacceptable patient care pursuant to ARBN Chapter 4, Subchapter 4, Rule II(B)(1); and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Subchapter 4, Rule II(B)(2);
 - b. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud or harm the public);
 - c. 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
 - d. 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. 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 these Understandings and the Order below. The Respondent does not dispute that the State could prove these charges by a preponderance of the evidence if this matter went to a hearing and agrees that the conditions below are necessary to protect the public.
8. 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.
9. 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.
10. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
11. 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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12. 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.
13. 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.
14. 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 **CONDITIONS** the Respondent's license to practice nursing **for two (2) years from the date of entry below**. The conditions are as follows:

(1) Re-issue of License.

Upon the imposition 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 a **minimum of two (2) years** of supervised nursing practice in which she works at least forty (40) hours every two (2) weeks as a nurse. Part time hours shall be credited on a prorated basis. The Respondent shall be prohibited from working more than forty (40) hours per week during the conditioned period.

(3) Course Work.

Respondent must successfully complete (i.e., receive a passing grade, if applicable) courses in:

- A. Ethics
- B. Patient's Rights.

Both courses must have prior approval by the Board or its designee. Respondent shall submit written documentation of completion (certificate of completion, etc.) within ninety (90) days of the date of entry of this Stipulation and Consent Order.

(4) Notification to Employers/Nursing School.

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.

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Within ten (10) days of the date of entry of this Consent Order or of any subsequent nursing employment, Respondent's immediate supervisor shall submit to the Board an employer agreement form approved by the Board.

In the event the Respondent is attending a nursing program which has a clinical portion that involves actual patient care, Respondent shall provide a copy of the Stipulation and Consent Order to the Program Director and the Program Director shall submit to the Board a nursing program agreement form approved by the Board.

(5) Reports from Employers/Program Directors.

Within one (1) month of the date of entry of this Order or within one (1) month of the commencement of nursing employment and **monthly** thereafter, Respondent shall cause every nursing employer the Respondent has worked for during the month to submit to the Board an evaluation of Respondent. In the event the Respondent is attending a nursing program, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of her performance and attendance.

These reports shall be submitted in writing on forms issued by the Board. All reports shall indicate satisfactory performance (ie., consistently meeting all standards of nursing practice) and attendance.

(6) Practice Under Supervision.

Respondent shall practice nursing only in a setting where Respondent has direct supervision for the entire shift by a nurse that is licensed and in good standing with the Board.

(7) Types of Employment Prohibited.

Respondent shall not work in a supervisory role. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency, or as a private duty nurse or personal care provider requiring a nursing or nursing assistant license during the effective period of this Consent Order.

(8) Out-of-State Practice and Discipline.

Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board prior to Respondent practicing nursing outside the State of Vermont. If Respondent fails to receive such approval, time spent practicing nursing out-of-state will not be credited toward the fulfillment of the terms and conditions of this Order.

If the Respondent receives discipline on a nursing license held in another state during the conditioned period, the Respondent must inform the Board of such, in writing, within ten (10) days of receiving such discipline.

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

Within ten (10) days of the date of entry of this Consent 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-

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eight (48) hours of any change in employment (including resignation or termination), personal address, or telephone number.

(10) Notification to Other States.

In the event that the Respondent is licensed in nursing in any other state(s), she must inform the nursing licensing board of the state(s) in which the Respondent is licensed of the conditional status of her Vermont nursing license within thirty (30) days of the date of entry of this Order. If the Respondent fails to provide such notification, it will be considered a violation of this Order.

(11) License Renewal.

Respondent is responsible for the renewal of Respondent's license while this Order is in effect.

(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 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.

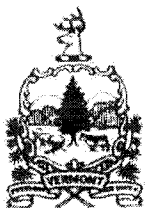
After the conditional license period, the Respondent may petition the Board to remove any and all conditions on this license. The Respondent must present proof of full compliance of this Order.

- 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:

STATE OF VERMONT
SECRETARY OF STATE

STATE OF VERMONT



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Dated.

2/4/13

By

S. Lauren Hibbert
S. Lauren Hibbert
State Prosecuting Attorney

SHARON M. O'MALLEY
RESPONDENT

Dated: 30 January 2013

By:

Sharon M. O'Malley
Sharon M. O'Malley

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated:

2/11/13

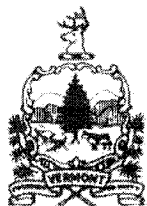
By:

Janine Carr
Chairperson

Date of Entry:

2/12/13

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