

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

IN RE:)
JOYCE BARRETT PAQUETTE) Docket No. 2008-482 (NU73-1208)
License No. 025.0004445)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney Edward G. Adrian, and the Respondent, Joyce Barrett Paquette, 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.

Statement of Facts

2. Joyce Barrett Paquette (the "Respondent") of New Haven, Vermont is a 63 year old widow who is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025.0004445. This license is currently set to expire on or about January 31, 2010.
3. At all times relevant, Respondent was employed as a Licensed Practical Nurse at Porter Hospital (the "Facility") located in Middlebury, Vermont, where she had worked for almost 23 years.
4. On or about December 8, 2008 in a Mandatory Report of Unprofessional Conduct, Nurse Manager R.P. reported that Respondent was terminated from the Facility on or about December 4, 2008 due to alleged harassment of and retaliation against an employee who was recently involved in reporting a patient complaint against the Respondent.
5. On or about January 13, 2009 in an interview with State Investigator Jamie Palmisano, R.P. advised that Respondent's attitude and lack of communication skills had been addressed several times during her employment at the Facility, and that

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Respondent was terminated from the Facility due to alleged unprofessional conduct toward both a patient and a coworker.

6. A review of documentation regarding the events that led to Respondent's termination reveals in part the following:
 - a. On or about November 26, 2008, Resident P.A. reported to LPN K.M., "I was picked up and put in my chair roughly. It hurt my hip . . . I lost control of my bowels during the transfer and the nurse [Respondent] was very angry with me."
 - b. Rehabilitation Director/Admission Coordinator D.K. reported this incident to R.P.
 - c. On or about November 26, 2008, R.P. visited Resident P.A. regarding this complaint. P.A. is described as kind and oriented. P.A. stated that she had an incontinent episode and while being assisted to the commode by the Respondent, Respondent was rough with P.A. and angry at P.A.'s incontinence. P.A. advised that Respondent "tapped the bed" where the incontinence had occurred and said, "Bad bad bad." P.A. further advised that someone then knocked on the door and Respondent replied that she couldn't answer because she was "dealing with a pile of shit." P.A. further stated that Respondent "threw me in the chair and hurt my hip."
 - d. On or about December 4, 2008, after returning from a suspension due to the above-referenced complaint, Respondent approached D.K. at the charting desk and said, "Oh there is [D.K.]. She likes to cause trouble. She likes to spread rumors about me hurting patients . . . Thank-you for getting me sent home on Wednesday."
7. A review of Respondent's personnel file reveals in part the following:
 - a. On or about May 16, 2007, Respondent received counseling for inappropriate communication with a coworker regarding patients.
 - b. On or about November 5, 2007, Respondent received counseling for a patient complaint regarding an interaction between Respondent and a patient who was under her care. R.P. noted that this was the third complaint in the past six months. R.P. noted that based on these patient complaints, Respondent's patients are feeling that Respondent does not care for them and that she can be rude and gruff. As a result, Respondent was required to attend a communication skills outservice and review the Patient's Bill of Rights and Customer Service videos. Moreover, R.P. stated that she would be conducting on-site interviews of three to five of Respondent's patients per week for the next three months. Respondent was put on notice that any infraction regarding patients could result in disciplinary action, up to and including termination of employment. In written documentation of this counseling, R.P. noted, "It appeared to me [a]t the time that [Respondent] does

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not recognize there is a problem with her communication skills and I am not hopeful of her gaining knowledge about her problem.”

- c. On or about May 29, 2008, Respondent received counseling regarding two incidents involving patients. Respondent was counseled for an incident on or about May 23, 2008 where it was reported that Respondent did not communicate effectively with a patient's caregiver. Respondent was counseled regarding a second incident where a patient – who required a Hoyer lift for transfer – requested help to get on the commode and instead of using the Hoyer to do so, Respondent offered this patient a bedpan. Respondent was counseled that it is the patient's right to use the commode and that her job is to provide that care.
- 8. The Respondent would like the Board to know that she has been in nursing for over twenty (20) years and has served the public and her patients with honor and dignity.
- 9. However, at this time, the Respondent does not wish to pursue her career in nursing and would like her license status to be changed to Inactive-Conditioned.

Charges

- 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. 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

- 11. 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.
- 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.

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13. 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.
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. 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 changes Respondent's license status to **INACTIVE-CONDITIONED, commencing with the date of entry below.**
- B. If, in the future, Respondent requests reinstatement of her license, Respondent's license to practice as a Licensed Practical Nurse will be **CONDITIONED for a MINIMUM PERIOD OF ONE (1) YEAR.** The conditions will be 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 one (1) year 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. The Respondent shall be prohibited from working more than forty (40) hours per week during the conditioned period.

(3) Communication Course.

Respondent must successfully complete (i.e., receive a passing grade, if applicable) a communication course focusing on communication with prior approval by the Board or its designee, and then submit written documentation of completion (certificate of completion,

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etc.) to verify the same to the satisfaction of the Board or its designee. This course must be completed within ninety (90) days of the date of license reinstatement.

(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 during the conditioned period in which Respondent practices as a nurse and inform them of Respondent's conditional license status.

Within ten (10) days of the date of license reinstatement 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, Respondent 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.

(5) Reports from Employers/Program Directors.

Within one (1) month of the date of license reinstatement and **monthly** thereafter, Respondent shall cause every nursing employer Respondent has worked for during the relevant time period to submit to the Board an evaluation of Respondent's performance and attendance during that time period. This report shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance and attendance.

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. This report shall be submitted in writing on forms issued by the Board and accompanied by a cover letter on the school's letterhead. All Program Director reports shall indicate satisfactory performance 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 registered 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 during the effective period of this Consent Order.

(8) Out-of-State Practice.

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 before practicing nursing outside the State of Vermont, none of the time spent practicing

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nursing 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 nursing 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 license reinstatement, 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 fully complied with the terms of this Order.

- C. Notwithstanding any provision above, the 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 be used for purposes of determining sanctions in any future disciplinary matter.

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AGREED TO:

Dated:

10/12/09

STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

JOYCE BARRETT PAQUETTE
RESPONDENT

Dated: 10-7-09

By:

Joyce Barrett Paquette
Joyce Barrett Paquette

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 10-7-09

By:

George R. Vince, Esq.
George R. Vince, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 10-12-09

By:

Ellen Koff
Chairperson

Date of Entry:
nu.paquette.stip3

10/16/09