

**STATE OF VERMONT
BOARD OF NURSING**

IN RE:	Tanya Rivera	)	PETITION FOR MODIFICATION
	Case No. NU57-0497	)	OF CONDITIONS
		)	

Introduction

The Board of Nursing held a hearing at Ms. Rivera's request regarding the above matter on January 10, 2000 at 81 River Street in Montpelier, Vermont. Board members Margaret Luce, Elayne Clift, Larry Kingsbury, Diane Dowgiewicz, Susan Farrell, Louise Lamphere, Linda Rice, Sue Cota and Louise Hamilton participated in the decision. Assistant Attorney General Robert Gagnon appeared for the State and Tanya Rivera ("the Petitioner") was present.

Findings of Fact

1. The Petitioner's license as a practical nurse was conditioned by a Board Order entered on May 11, 1998 ("the Order"). The discipline was based on numerous documentation errors and a single medication error.
2. The Order placed multiple conditions on the Petitioner's license, including a requirement that the conditions remain in place until the Petitioner completes one year of supervised nursing practice in which she works at least forty hours every two weeks in nursing. Part time hours shall be credited on a prorated basis. See the Order, Paragraph (C)(1).¹
3. On September 8, 1999, the Petitioner requested that the conditions in Paragraph 8 (requiring on-site supervision for the entire shift by a registered nurse in good standing) and 9 (prohibiting work as a charge nurse) of the Order be removed.
4. The Petitioner also asked the Board to consider allowing evaluations of her work at the end of her shift by the nurse coming on duty after her rather than requiring on-site supervision.

¹ The Order is inconsistent regarding the length of time conditions are imposed. Paragraph C indicates that the conditions will remain in place for a period of three years, while Paragraph (C)(1) states that the condition will remain in place for one year of supervised nursing practice. The Board decided to construe the inconsistency in favor of Ms. Rivera and chose (C)(1) as the governing language for the Order.

5. The request was preliminarily denied by letter dated October 20, 1999 based on the Petitioner's not having been employed long enough as a nurse to make a determination as to her ability to practice safely.
6. The Petitioner, by letter received by the Board of Nursing on November 8, 1999, requested a hearing before the Board to review its preliminary decision.
7. The Petitioner has experienced difficulty in obtaining employment as an LPN because of the conditions on her license.
8. The Petitioner has been employed by the Greensboro Nursing Home under her conditioned license, but did not provide specifics as to the number of hours worked that could be credited toward her fulfillment of the conditioned license period.
9. Employer reports submitted by the Greensboro Nursing Home indicate that the Petitioner has worked 304 hours with that facility, well short of the 1,040 hours required by the Order.
10. The employer reports further indicate that the Petitioner is still in need of supervision and is not yet ready for a charge nurse position.
11. Respondent is no longer employed by the Greensboro Nursing Home and has not worked in nursing since then.

Conclusions of Law

- A. Pursuant to 3 V.S.A. § 129(a)(6), the Board may reinstate or deny reinstatement of a license that has been conditioned.
- B. Based on the above findings, the Board concludes that the Petitioner has not met the requirements of the Order at Paragraph (C)(1) which would warrant removal of the conditions. Nor has the Petitioner practiced under supervision long enough to demonstrate to the Board her ability to practice nursing competently and safely and to warrant removal of the supervision requirement or charge nurse prohibition. The Petitioner's employer reports on file with the Board support this decision.

Order

In accordance with the above findings of fact and conclusions of law, the petition for modification of conditions is DENIED.

Appeal Rights

This is a final administrative determination by the Vermont State 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: Jan. 14, 2000

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 1-25-00

**STATE OF VERMONT
BOARD OF NURSING**

IN RE:	)	
TANYA M. RIVERA	)	Docket No.: NU57-0497
<u>License Number 25-6924</u>	)	

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through its Attorney General, and Respondent Tanya Rivera, who stipulate and agree as follows:

1. The Board of Nursing has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §129 and 129a, and 26 V.S.A. §§1574-1582.
2. Respondent Tanya Rivera, of St. Johnsbury, Vermont, is a licensed practical nurse holding license number 25-6924 issued by the State of Vermont.
3. At all times relevant Respondent was employed by Northeastern Vermont Regional Hospital in St. Johnsbury, Vermont.
4. The State filed its Specification of Charges alleging unprofessional conduct on or about December 26, 1997. A copy is attached and incorporated by reference.
5. Respondent admits Count 1 of the State's Specification of Charges.
6. Respondent admits Count 2 of the State's Specification of Charges.
7. The State dismisses Count 3 of its Specification of Charges.
8. Respondent admits the conclusions of unprofessional conduct as set forth below in the Board's Order

9. 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.

10. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

11. 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.

12. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.

13. Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.

14. Respondent voluntarily waives the right to a contested hearing before the Vermont Board of Nursing on the merits of the Specification of Charges.

15. Respondent agrees that the Board may set forth the order below.

ORDER

Based on the Stipulation above it is **ORDERED AND ADJUDGED** as follows:

A. By engaging in the conduct described in paragraphs 3 through 6 above (referencing Counts 1 and 2 of the State's Specification of Charges), Respondent violated Nursing Board Rule IV.B.4.e (failure to safeguard a patient from incompetent health care) which constitutes unprofessional conduct pursuant to 26 V.S.A. §1582(a)(7)(conduct likely to harm the public).

B. Upon approval by the Board of this Stipulation and Consent Order, Count 3 of the State's Specification of Charges is dismissed.

C. The Nursing Board **CONDITIONS** Respondent's license to practice nursing **for a period of three (3) years** commencing with the date this order is entered by the Board. The **CONDITIONS** on Respondent's license are as follows:

(1) Length of Time Conditions Imposed.

The conditions shall remain in place until respondent has completed one (1) year of nursing practice in which she works at least forty (40) hours every two (2) weeks in nursing. Part time hours of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis.

(2) Interview with the Board or its designee.

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

(3) Re-issue of License.

Within five (5) days of the date of entry of this Consent Order, Respondent shall submit her license to the Board of Nursing for a re-issued license labeled "conditioned".

(4) 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.

(5) 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.

(6) 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 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. In the event Respondent is attending a nursing program, 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 the conditions in the Consent Order during clinical experience.

(7) Reports from Employers/Nursing School

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 and accompanied by a cover letter on the employer's letterhead. In the event the Respondent attends nursing school, Respondent shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Respondent's 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.

Respondent shall authorize her employer and her nursing school administrator 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.

(8) 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.

(9) Prohibited Duties.

Respondent shall not work as a Charge Nurse.

(10) Types of Employment Prohibited.

Respondent shall not work for a nurse registry, travelling nurse agency, float-pool, home health care agency, temporary employment agency or as a personal care provider.

(11) 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.

(12) 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.

(13) Reevaluation of Conditions.

In the event Respondent does not work in nursing within one (1) year of the date of entry of this Consent Order, Respondent may appear before the Board for reevaluation of the conditions of this Consent Order.

(14) 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 demonstrate, 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 licensed nurse. Such proof shall include appropriate support from her employer 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.

Notwithstanding the requirements of this sub-section, the Board may review the supporting documentation submitted by Respondent, or submitted on

Respondent's behalf, during the conditional licensing period and automatically lift a condition or conditions, if appropriate, without further petition by Respondent at the end of the conditional licensing period.

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

E. 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)(7).

F. 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.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

Dated: 4/22/98

by: Annika Green
Annika Green
Special Assistant Attorney General

RESPONDENT
TANYA RIVERA

Dated: 4/20/98

by: Tanya Rivera
Tanya Rivera

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 5/11/98

by: Brenda B. Smith
Chairperson

Date of entry: 5-11-98

STATE OF VERMONT
BOARD OF NURSING

IN RE:)
TANYA M. RIVERA) Docket No.: NU57-0497
License Number 25-6924)

SPECIFICATION OF CHARGES

1. The Board of Nursing has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §129 and 129a, and 26 V.S.A. §§1574, 1582.

2. Respondent TANYA M. RIVERA, of St. Johnsbury, Vermont, is a licensed practical nurse holding license number 25-6924 issued by the State of Vermont.

3. At all times relevant Respondent was employed by Northeastern Vermont Regional Hospital in St. Johnsbury, Vermont.

4. The Board of Nursing received a mandatory report of unprofessional conduct from Northeastern Vermont Regional Hospital on or about April 16, 1997.

COUNT I
(inability to practice nursing competently)

5. Paragraphs 1 through 4 are incorporated.

6. During March, 1997, Respondent repeatedly made documentation errors including but not limited to the following:

Office of the
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GENERAL
109 State Street
Montpelier, VT
05609

a. Failed to document the amount of fluid infused by the end of her shift for patient W.M.

b. Failed to document the amount of fluid remaining for patient J.H. at the end of her shift.

c. Failed to document patient C.N.'s IV total and I & O's for two nights in a row.

d. Failed to document I & O's and vital signs on the graphics sheet for patient C.G.

7. The acts described above taken together or in any combination violate Nursing Board Rule IV.B.4.e (failure to safeguard a patient from incompetent health care) and constitute unprofessional conduct pursuant to 26 V.S.A. §1582(a)(7)(conduct likely to harm the public).

COUNT II

(inability to practice nursing competently)

8. Paragraphs 1 through 4 and 6 are incorporated.

9. During March, 1997, Respondent failed to follow physicians' orders, including, but not limited to the following:

a. Failed to document all vital signs and I & O's for new admission, J.H., when the physician's orders called for vitals every 4 hours.

b. Only documented patient D.M.'s vital signs once, when the physician's orders called for vitals every 4 hours.

c. Administered the drug Ativan IM to patient C.G., when the physician's orders were to administer Ativan by IV.

10. The acts described above taken together or in any

combination violate Nursing Board Rule IV.B.4.e (failure to safeguard a patient from incompetent health care) and constitute unprofessional conduct pursuant to 26 V.S.A. §1582(a)(7)(conduct likely to harm the public).

COUNT III
(inability to practice nursing competently)

11. Paragraphs 1 through 4, 6 and 9 are incorporated.

12. The acts, errors and omissions described in each and every count above, taken individually or together violate Nursing Board Rule IV.B.2 (defining inability to practice competently) and constitutes unprofessional conduct pursuant to 26 V.S.A. §1582(a)(3)(unable to practice nursing competently by reason of any cause).

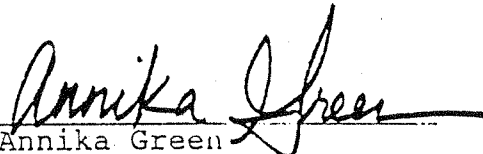
WHEREFORE the nursing license of TANYA M. RIVERA should be revoked, suspended or otherwise disciplined.

Dated at Montpelier, Vermont this 26th day of December, 1997.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

by:


Annika Green
Special Asst. Atty. General

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