

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

IN RE:)
CATHLEEN D. SCRIBNER) Docket No. 2011-56 (NU)
License No. 025.0005320)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney S. Lauren Hibbert, and the Respondent, Cathleen D. Scribner, 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.

Facts

2. Cathleen Scribner, (the "Respondent") of North Bennington, Vermont is licensed by the State of Vermont as a Practical Nurse under license number 025.0005320. This license was originally issued on or about November 22, 1982 and expires on or about January 31, 2012.
3. At all times relevant, Respondent was employed to provide nursing services by the Bennington Family Practice (the "Facility") of Bennington, Vermont.
4. On or about January 13, 2011, the Vermont Board of Nursing received a Statement of Complaint from L.L., Father of the patient C.L., alleging that the Respondent administered an inoculation to the wrong patient and failed to identify the patient prior to administering the inoculation during an appointment at the Facility on or about December 6, 2010.
5. On or about April 19, 2011, in an interview with State Investigator Jeff Jones, F.L. stated that she took her Granddaughter, C.L., to the Facility for a back check-up on or about December 6, 2010. While in the waiting room F.L. and C.L. heard the

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Respondent call a name which they both understood to be C.L.'s and none of other three patients in the waiting room responded to the name called by the Respondent. Further, F.L. stated that the Respondent did not ask any qualifying questions that would positively identify C.L. as the patient the Respondent wished to treat. Additionally, F.L. stated that the Respondent discussed the administration of Gardasil and F.L. told the Respondent that she was not aware of any inoculation and mentioned to the Respondent that she had taken C.L. to the Facility about her back-pain issues. The Respondent proceeded to administer the inoculation and F.L. again mentioned that C.L. was to see the doctor about back-pain issues. F.L. stated that then the Respondent then left the room and returned shortly thereafter to advise them that the doctor would be in momentarily.

6. On or about April 19, 2011 in an interview with Investigator Jones, the Respondent stated that on or about December 6, 2010 the Respondent went to the door of the waiting room and called for a patient and F.L. and C.L. stood up and approached her. The Respondent then stated that she led F.L. and C.L. to the exam room where the Gardasil inoculation was already prepared and she said to C.L., "So, you're here for your Gardasil shot today?" F.L. then responded to this by saying that her granddaughter was there for a check-up regarding her back pain. Furthermore, the Respondent stated that she re-checked the chart of the patient she had called in the waiting room and assumed that C.L. had just not been told about the shot and then proceeded to inoculate. The Respondent stated that after the inoculation she realized that C.L. was not the correct patient. Respondent stated that she was very upset by the error and immediately notified Doctor R. of the error. The Respondent additionally states that since this incident the procedures of the facility have been updated to prevent this type of error.
7. The State maintains that the Respondent's failure to identify correctly a patient prior to administering an inoculation and ultimately giving that inoculation to the wrong patient constitutes unprofessional conduct because she performed unsafe and unacceptable patient care. The State also maintains that this conduct did not conform to the essential standards of acceptable and prevailing nursing practice and was a failure to comply with the rules governing the practice of profession.

Violations

8. The act(s), omission(s), and/or circumstance(s) described above are an adequate basis on which the Board can base a finding of unprofessional conduct, specifically for violations 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);

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- b. 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
- c. 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).

9. The Respondent maintains that her actions do not constitute unprofessional conduct.

Understandings

- 10. The Respondent agrees that the Board may enter a finding of unprofessional conduct against her and impose a public warning and conditions on her license as further set out below. By so agreeing, the Respondent does not admit that all the facts were as the State alleges or that her acknowledged error constituted unprofessional conduct. 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 if the charges were proven the discipline set forth below could be imposed as necessary to protect the public.
- 11. 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.
- 12. 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.
- 13. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- 14. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
- 15. 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.
- 16. 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.

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17. 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 issues Respondent a **WARNING** against her license based on the conduct alleged above. Additionally the Respondent must do the following within sixty (60) days of the date of entry of this order:
- a. NCSBN Continuing Education Online Course in Medication Errors.
Respondent must successfully complete (i.e., receive a passing grade, if applicable) a medication administration course with prior approval by the Board or its designee, and then submit written documentation of completion (certificate of completion, etc.) to verify the same to the satisfaction of the Board or its designee.
- 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

Dated: 10/24/11

By: S. Lauren Hibbert
S. Lauren Hibbert, Esq.
State Prosecuting Attorney

CATHLEEN D. SCRIBNER
RESPONDENT

Dated: 10/24/11

By: Cathleen D. Scribner
Cathleen D. Scribner

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APPROVED AS TO FORM:

Dated: 10/25/2011

ATTORNEY FOR RESPONDENT

By: *S. Crooker Bennett*

S. Crooker Bennett, Esq.

APPROVED AND SO ORDERED:

Dated: 11-14-11

VERMONT BOARD OF NURSING

By: *J. L. Lefebvre*

Chairperson

Date of Entry: 11/14/11

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