

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

IN RE:
KAREN L. STAERKEL, R.N.
License No. 026-0015529

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Docket No: NU 53-0400

STIPULATION AND CONSENT ORDER

The Respondent, Karen Staerkel, RN, and the State of Vermont, by its Attorney General, William H. Sorrell, stipulate to the statements of Board Authority, Facts and Understandings set forth below and agree to the entry of the following Consent Order by the Vermont State Board of Nursing as a final order in this matter.

Board Authority

- 1) The Vermont State Board of Nursing ["the Board"] has authority to discipline Respondent if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. §129(a)(5); 3 V.S.A. §814(d); 26 V.S.A. §1582(a).
- 2) Failing to conform to the "essential standards of the acceptable and prevailing nursing" is unprofessional conduct in violation of the Administrative Rules of the Board of Nursing ("ARBN"). ARBN, Chapter 4, Rule IV(B)(2)(b); 3 V.S.A. §129a(a)(3).

Facts

- 3) The Respondent (whose address is listed in the database of the Office of Professional Regulation as 6 Cascade Court, Essex Junction, Vermont, 05452) is a Registered Nurse under License Number 026-0015529.
- 4) Respondent was originally licensed on April 4, 1984 and Respondent's license has a current expiration date of March 31, 2001.
- 5) At all times relevant, the Respondent was employed by Fletcher Allen Health Care ("FAHC") in Burlington, Vermont.
- 6) On September 17, 1999, Respondent relieved the circulating nurse that was responsible for counting the sponges during a gastroplasty and cholecystectomy for a 15 minute break in accordance with standard FAHC operating room practices.
- 7) Respondent relieved the circulating nurse after closing the peritoneum, but prior to completion of closing the skin.
- 8) Respondent states that upon entering the Operating Room, Respondent observed that the surgeon had already left the operating room and that all sponge bags had been thrown away, was advised by the circulating nurse on-duty that the counts were complete and that the scrub technician required dressings. Under these circumstances, Respondent failed to count the sponges at skin closure.
- 9) After approximately 15 minutes, the circulating nurse on-duty returned and resumed his responsibilities.

- 10) Around or about four (4) days later it was discovered that four (4) lap sponges had been left in the patient's abdominal cavity.
- 11) On October 1, 1999, the Attending Surgeon, Laurie Spaulding, M.D., wrote FAHC's Director of Operating Room Services that: "As the surgeon involved in the case, it was clear to me that Ms. Staerkel had no culpability in this event. She understood that the count was done and the appearance of the room conveyed that it was done as well."
- 12) Respondent's employer, Fletcher Allen Health Care, did not take action against Respondent "which significantly limits the licensee's privilege to practice or has led to suspension or expulsion." 3 V.S.A §128(a)

Charges

- 13) By failing to count the sponges following skin closure, the Respondent has:
- 14) Failed to comply with the provisions of state statutes or rules governing the practice of the profession in violation of 3 V.S.A. §129a(a)(3) which requires that Respondent conform at all times to the essential standards of acceptable and prevailing nursing practice. ARBN, Chapter 4, Rule IV(B)(2)(b).

Understandings

- A. The Respondent understands that the Board of Nursing must review and accept the terms of the Order set forth below and that if the Board rejects all or any portion of the Order, then this entire document shall be null and void.

- B. The Respondent has read and reviewed this entire document and agrees that it contains the entire settlement agreement between the parties.
- C. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.
- D. The Respondent agrees that she has had sufficient opportunity to consult with legal counsel before signing this document.
- E. The Respondent agrees to settle the charges against her on the terms set forth in this order and is voluntarily waiving her right to a contested hearing before the Board of Nursing.
- F. The Respondent agrees that the Order set forth immediately below may be entered by the Board of Nursing.

Consent Order

A. Based on the above stipulations, it is **ADJUDGED** as follows:

- (1) The "Facts" listed above are true; and
- (2) The Respondent has engaged in unprofessional conduct in that the Respondent has:
 - a) Failed to comply with the provisions of rules governing the practice of the profession in violation of 3 V.S.A. §129a(a)(3) and

B. Based on the above stipulation and on the above Findings and Conclusions of this Board, it is **ORDERED** follows:

C. The Respondent is hereby issued a **WARNING**.

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)(8).

F. This Stipulation and Consent Order will remain part of the Respondent's licensing file and may be used in determining sanctions in future disciplinary matters.

AGREED TO:

BY: KAREN STAERKEL
RESPONDENT

Date: 12/1/00

Karen Staerkel
Karen Staerkel

AND BY: STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

Date: 12/4/00

George C. Haegele IV
George C. Haegele IV
Assistant Attorney General

ACCEPTED AND SO ORDERED:

BOARD OF NURSING

Date: 12/11/00

Diane Dowiegiewicz
Chairperson

Dated entered: 12-13-00