STATE OF VERMONT
BOARD OF NURSING

IN RE:	)	
Elizabeth A. Sulham	)	Case File No. NU09-0700
License No. 26-19542	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Introduction

The Vermont Board of Nursing ("the Board") held a hearing in this case on Monday, March 11, 2002, at 133 State Street in Montpelier, Vermont. Board members Pat Rock, Sandra Norton, Alan Weiss, Linda Rice, Larry Kingsbury, Susan Farrell, Laurey Tyo, Susan Cota, Elayne Clift and Diane Dowgiewicz participated in the decision. William Ahlers, Assistant Attorney General, appeared for the State. Elizabeth Sulham ("the Respondent") was present and was represented by Attorney Cassandra Edson. Chris Winters was the Presiding Officer.

The Board received copies of the Specification of Charges and the Respondent's Answer. In addition, State's Exhibits 1-12 and Respondent's Exhibits A-J were admitted as evidence at the start of the hearing. At the outset the Board also affirmed rulings denying the parties' separate motions to preclude evidence and the Respondent's motion to dismiss the Charges.

Findings of Fact

1. The Respondent is a registered nurse who holds license number 26-19542 issued by the State of Vermont.

2. Respondent, at all times relevant, was employed by Southwestern Vermont Health Care, formerly Weston Hadden and commonly referred to as the Centers for Living and Rehabilitation ("the Centers") in Bennington, Vermont.

3. On or about July 10, 2000, while employed at the Centers, the Respondent was assigned to work the subacute unit from 7:00 AM to 11:00 AM.

4. The Respondent was responsible for administering medications and providing treatments for ten patients that day. Among them were patients "K.W.", "W.B.", C.D." and "D. M.", also referred to as "D.E." in the Charges.

5. Patient K.W. was under physician's orders to receive lovenox twice daily, at 8:00 AM and 8:00 PM.

6. The Respondent did not administer the lovenox as ordered. She did not administer the lovenox to patient K.W. at all that shift.

7. The Respondent did initial the medication administration record as though the medication had been given.

8. Patient W.B. was under a physician's order to receive sinemet at 8:00 AM.

9. The Respondent did not administer the sinemet until approximately 11:40 AM.

10. Patient C.D. was under physician's orders to receive exelon twice daily, at 8:00 AM and 5:00 PM.

11. The Respondent did not administer the exelon at 8:00 A.M.

12. At approximately 11:30, the Respondent asked Sharon Long, LPN to administer the exelon, which nurse Long did shortly thereafter.

13. Patient D.M. had an ileostomy bag which required attention.

14. Theresa Kelly, LNA, asked the Respondent to attend to the bag, which was leaking.

15. The Respondent directed the LNA to ask Sharon Long, to tend to the bag. Long did not do so.

16. LNA Kelly asked the Respondent at least one more time to attend to the bag, which she did, changing the "wafer" and attempting to fix the leak.

17. The Respondent did not chart that the bag was leaking or had been changed.

18. A subsequent nurse on duty did chart that the Respondent had changed the "flange".

19. The Respondent was on limited duty due to a back injury. This was her first day returning to work since her most recent back injury.

20. Her limited duty included physician's instructions to work no more than 4 hours

per day and not push, pull, bend, twist, squat, climb.

21. The Respondent was not responsible for any direct patient care that would violate or implicate her work restrictions.

22. There were two nurses (The Respondent and Sharon Long, LPN) responsible for the subacute unit that shift, as well as a nurse manager, Alice Heuser.

23. On past days when the Respondent worked that unit, there had been between two and four nurses on the unit and also between two and four LNA's.

24. On the date in question, there were 23 patients on the unit. The unit has the capacity for 32 patients.

25. The Respondent was responsible for 10 patients. Sharon Long was responsible for 13 patients.

26. At some point in the Respondent's shift, a patient either fell or was eased to the floor, requiring the Respondent to go and make an assessment of the patient. When she did so, she reinjured her back.

27. The falling incident occurred no earlier than 10:30 AM.

28. The Respondent was interrupted several times when pouring medications.

Conclusions of Law

A. The Board of Nursing may revoke, suspend, discipline or otherwise condition the license of a nurse who engages in unprofessional conduct as defined by 26 V.S.A. §1582.

B. Respondent, by engaging in the conduct described above, has exhibited an inability to practice nursing competently by reason of any cause pursuant to 26 V.S.A. §1582(a)(3). Such conduct constitutes unacceptable patient care and a failure to conform to the essential standards of acceptable and prevailing nursing practice in violation of Board Administrative Rules Chapter 4, Rules (IV)(B)(2)(a) and (b).

C. More specifically, by failing to administer lovenox for patient K.W. as ordered and then documenting that it was administered, the Respondent committed unprofessional conduct in violation of 26 V.S.A. §1582(a)(3) and Nursing Board Administrative Rules Chapter 4, Rules (IV)(B)(2)(a) and (b).

D. By failing to administer the 8:00 A.M. dose of sinemet to patient W.B. until approximately 11:40 A.M., the Respondent committed unprofessional conduct

in violation of 26 V.S.A. §1582(a)(3) and Nursing Board Administrative Rules Chapter 4, Rules (IV)(B)(2)(a) and (b).

E. By failing to administer the 8:00 A.M. dose of exelon to patient C.D. until causing it to be administered by another nurse at approximately 11:30 A.M., the Respondent committed unprofessional conduct in violation of 26 V.S.A. §1582(a)(3) and Nursing Board Administrative Rules Chapter 4, Rules (IV)(B)(2)(a) and (b).

F. By failing to chart the tending and changing of a leaking ileostomy bag and wafer for patient D.M., which is a treatment, the Respondent committed unprofessional conduct in violation of 26 V.S.A. §1582(a)(3) and Nursing Board Administrative Rules Chapter 4, Rules (IV)(B)(2)(a) and (b).

Opinion

The Board appreciates that Ms. Sulham may have been in a difficult position due to her returning to wok on limited duty after a back injury. However, the Board does not find that the conditions were unreasonable or in any way extenuating enough to excuse or even mitigate the Respondent's failure to timely administer medications for ten patients or her failure to properly chart medications or treatments in one 5.25 hour shift. Further, the Respondent's reinjury of her back did not come until later in the shift when the medications should have already been administered.

The Respondent offered several other mitigating circumstances for the Board to consider in making its decision. However, the Board felt that many of these circumstances demonstrate the Respondent's difficulty with prioritization and personal responsibility with regard to actions for which she must be held accountable as a licensed professional in this state.

Order

A. In light of the above findings and conclusions, the Board hereby CONDITIONS the Respondent's license, effective as of the date of entry of this Order, below, as follows:

(1) Length of Time Conditions Imposed.

The conditions shall remain in place until Respondent has completed **twelve (12) months** of supervised 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) Re-issue of License.

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

(3) 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 notify the Board before beginning such practice. If Respondent fails to notify the Board before, none of the time spent in out-of-state practice will be credited toward the fulfillment of the terms and conditions of this Order.

(4) Notification of Place of Employment/ Personal Address/ Phone Number.

Within five (5) days of the date of entry of this Order, Respondent shall notify the Board, in writing, of her current place of nursing employment (if she is employed as a nurse), 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.

(5) Notification to Employers/Nursing School.

Respondent shall provide a copy of this 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 Order or of any such subsequent employment, Respondent shall cause her immediate supervisor to write to the Board, on the employer's letterhead, acknowledging receipt of the Order and the ability to comply with the conditions in the Order. In the event Respondent is attending a nursing program, Respondent shall provide a copy of the Order to the Program Director. Respondent shall cause the

Program Director to write to the Board, on school letterhead, acknowledging receipt of the Order and ability of the program to comply with the conditions in the Order during clinical experience.

(6) Reports from Employers/Nursing School

Within one (1) month of the date of entry of this Order and every month thereafter, Respondent shall cause every employer for which she has been employed as a nurse during that 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. 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.

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 Order is in effect.

(7) Types of Employment / Hours Prohibited.

Respondent shall not work as a charge nurse during the effective period of this Order. Respondent shall work only the day or evening shift during the effective period of this Order. Respondent shall not work the night shift during the effective period of this Order.

(8) Supervision Required.

The Respondent shall work only in a setting where she is supervised for the entire shift by a licensed nurse in good standing with the Board of Nursing. Supervision must be on site and on the unit for the entire shift.

(9) Costs.

Respondent shall bear all costs of complying with this Order.

(10) Violation of the Order.

If Respondent violates the terms of this 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. If a complaint or charges are filed against Respondent during the term of this Order, the conditional license period shall be extended until the matter is final.

(11) 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. Furthermore, Respondent must demonstrate, to the Board's satisfaction, that she can safely return to unrestricted practice, that she has safely and competently administered medications and that she has fully complied with all the terms of this Order.

B. This Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

C. This Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

Appeal Rights

This is a final administrative determination by the Vermont 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
Chair

Date: March 20, 2002.

OFFICE OF PROFESSIONAL REGULATION

Date of entry: 3/29/02