

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

IN RE:)
BARBARA TURNER) Docket No: NU36-1005
License No. 025-0006871)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and the Respondent, Barbara Turner, L.P.N., 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, 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 (ARBN); and the Rules of the Office of Professional Regulation.

Statement of Facts

2. The Respondent, Barbara Turner, is licensed in the State of Vermont as licensed practical nurse under license number 025-0006871. This license was originally issued on or about October 21, 1992 and is currently set to expire on January 31, 2008.

3. At all times relevant, the Respondent was employed as a licensed practical nurse at Copley Manor (the Facility) located in Morrisville, Vermont.

4. On or about September 1, 2005, resident N.B. fell during the 7:00 a.m. to 3:00 p.m. shift. The nurse manager for this shift, T.L., initiated the assessment procedure for N.B.'s neurological and vital signs. T.C. then handed over the floor supervision to the Respondent, who was scheduled to work the 3:00 p.m. to 11:00 p.m. shift that day. T.C. informed the Respondent that N.B. would require continual assessment of neurological and vital signs throughout the shift due to the fall that occurred earlier that day.

5. On the nursing notes for N.B. on the night in question, the Respondent documented that she had assessed N.B. The neurological and vital sign record for N.B. also indicated that the Respondent conducted three (3) assessments and initialed the bottom of the record.

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6. In an interview with State Investigator Derek Everett conducted on or about March 29, 2006, the Respondent indicated that she had performed three neurological assessments on N.B. on the night in question. The Respondent stated that she performed the evaluations in such a way that N.B. may not have known she was being assessed. The Respondent related the following regarding the evaluations:

a. Regarding the first evaluation, the Respondent advised that N.B. was sitting on her bed. A "goose neck" style reading lamp was turned on beside the bed. The Respondent advised that the lamp provided enough light to evaluate N.B.'s eyes. On N.B.'s neurological and vital sign record, the Respondent charted that she had performed a full pupil assessment.

b. The Respondent indicated that she returned to N.B.'s room after dinner for a second evaluation. The Respondent advised that again she turned N.B. towards the reading lamp and noted that N.B.'s pupils were properly reactive. On N.B.'s neurological and vital sign record, the Respondent charted that she had performed a full pupil assessment.

Charges

7. The acts, omissions and/or circumstances described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:

(i) 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 and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(1) and (2);

(ii) 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. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and

(iii) 3 V.S.A. § 129a(a)(3) (failing to comply with the provisions of state statutes or rules governing the practice of the profession).

Understandings

8. 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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9. 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.
10. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
11. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
12. 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.
13. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing and waives any appeal from this Stipulation and Consent Order.
14. Respondent agrees that the Order set forth below may be entered by the Board.
15. The Respondent does not admit that the agreed to facts as listed above constitute unprofessional conduct, but does not dispute that if this matter went to hearing the State could prove that the facts constitute unprofessional conduct by a preponderance of the evidence and that the Board could make such a conclusion based on the State's proof.
16. All factual allegations contained in the Specification of Charges that are not listed in the Statement of Facts above are dismissed.

ORDER

Based upon the stipulation above, it is **ORDERED AND ADJUDGED** as follows:

A. The Board of Nursing hereby **CONDITIONS** Respondent's license to practice nursing for a **MINIMUM PERIOD OF ONE (1) YEAR** commencing with the date of entry of this Consent Order. The conditions are 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 **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.

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(3) Assessment Course.

Respondent must successfully complete (i.e.: receive a passing grade, if applicable) a course focusing on patient assessment with prior approval by the Board or its designee, and then submit written documentation (certificate of completion, etc.) to verify same to the satisfaction of the Board or its designee. This course must be completed within ninety (90) days of the date of entry of this Stipulation and Consent Order.

(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 entry of this Consent Order 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, she 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.

Within one (1) month of the date of entry of this Order 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.

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.

(6) Practice Under Supervision.

Respondent shall practice only in a nursing setting where Respondent has on-site supervision for the entire shift by a registered nurse who is licensed and in good standing with the Board.

(7) Types of Employment Prohibited.

Respondent shall not work as a supervising nurse. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency, or as a personal care provider during the effective period of this Consent Order.

(8) 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

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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. The Board will approve out-of-state 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 entry of this Order, 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.

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.

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AGREED TO:

Dated: 2/15/07

STATE OF VERMONT
SECRETARY OF STATE

By: [Signature]

Edward G. Adrian
State Prosecuting Attorney

BARBARA TURNER
RESPONDENT

Dated: 2/13/07

By: [Signature]

Barbara Turner

APPROVED AS TO FORM:

Dated: February 14, 2007

ATTORNEY FOR RESPONDENT

By: [Signature]

J. Scott Cameron, Esq.

APPROVED AND SO ORDERED:

Dated: March 12, 2007

VERMONT BOARD OF NURSING

By: [Signature]

Chairperson

Date of Entry: 3/16/07

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IN RE:)
BARBARA TURNER) **Docket No: NU36-1005**
License No. 025-0006871)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Barbara Turner, L.P.N.:

Board Authority

1. The Vermont State Board of Nursing ("the Board") has authority to issue warnings or reprimands, suspend, revoke, limit, 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 ("ARBN"); and the Rules of the Office of Professional Regulation.

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3. At all times relevant, the Respondent was employed as a licensed practical nurse at Copley Manor (the "Facility") located in Morrisville, Vermont.

4. On or about September 1, 2005, resident N.B. fell during the 7:00 a.m. to 3:00 p.m. shift. The nurse manager for this shift, T.L., initiated the assessment procedure for N.B.'s neurological and vital signs. T.C. then handed over the floor supervision to the Respondent, who was scheduled to work the 3:00 p.m. to 11:00 p.m. shift that day. T.C. informed the Respondent that N.B. would require continual assessment of neurological and vital signs throughout the shift due to the fall that occurred earlier that day.

5. On the nursing notes for N.B. on the night in question, the Respondent documented that she had assessed N.B. The neurological and vital sign record for N.B. also indicated that the Respondent conducted three (3) assessments and initialed the bottom of the record.

6. In an interview with State Investigator Derek Everett conducted on or about March 29, 2006, the Respondent indicated that she had performed three neurological assessments on N.B. on the night in question. The Respondent stated that she performed the evaluations in

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such a way that N.B. may not have known she was being assessed. The Respondent related the following regarding the evaluations:

- a. Regarding the first evaluation, the Respondent advised that N.B. was sitting on her bed. A "goose neck" style reading lamp was turned on beside the bed. The Respondent advised that the lamp provided enough light to evaluate N.B.'s eyes. On N.B.'s neurological and vital sign record, the Respondent charted that she had performed a full pupil assessment.
- b. The Respondent indicated that she returned to N.B.'s room after dinner for a second evaluation. The Respondent advised that again she turned N.B. towards the reading lamp and noted that N.B.'s pupils were properly reactive. On N.B.'s neurological and vital sign record, the Respondent charted that she had performed a full pupil assessment.

7. On or about June 22, 2005, the Respondent administered one tablet of Ativan .5mg to resident M.M. due to M.M.'s increased level of agitation during the Respondent's shift. After the Ativan was administered, the resident became lethargic and unresponsive. The Respondent failed to conduct a follow-up assessment of M.M. after administering the Ativan and to document the change in M.M.'s condition in her chart. The Respondent also failed to notify a physician of the change in M.M.'s condition after the Ativan was administered.

Charges

8. The acts, omissions and/or circumstances described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:

- (i) 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 and failing to conform to the essential standards of acceptable and prevailing nursing practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(1) and (2);
- (ii) 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. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient care; or (2) failure to conform to the essential standards of acceptable and prevailing practice); and
- (iii) 3 V.S.A. § 129a(a)(3) (failing to comply with the provisions of state statutes or rules governing the practice of the profession).

Relief Requested

WHEREFORE, the license of Barbara Turner should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

DATED at Montpelier, Vermont this 8th day of November 2006.

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By: _____

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