

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

IN RE:

CHRIS TYLER

License No. 025.0008602

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Docket No. 2009-77 (NU99-0109)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney BetsyAnn Wrask, and the Respondent, Chris Tyler, 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.

Statement of Facts

2. Chris Tyler (the "Respondent") of Swanton, Vermont is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025.0008602. This license was originally issued on or about August 27, 2004 and is currently set to expire on or about January 31, 2012.
3. At all times relevant, Respondent was employed as a Licensed Practical Nurse at Franklin County Rehabilitation (the "Facility"), located in St. Albans, Vermont. Respondent was hired in or around September 2008 and terminated on or about January 13, 2009.
4. On or about January 29, 2009, Director of Nursing L.B. reported that Respondent was terminated from the Facility for falsely documenting that he performed glucose monitoring finger sticks (glucose level readings) for three (3) residents, which in reality he did not perform; falsely documenting results for those glucose level readings, which were fictitious since the readings were never obtained; and for administering insulin based on those fictitious reading results. L.B. was able to uncover Respondent's false documentation by checking the memory function of the glucometer on the unit in which Respondent worked. Moreover, Respondent

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administered a medication to a resident without an order. Respondent's conduct was in violation of the Facility's code of conduct.

5. On or about January 7, 2009, Respondent administered Benadryl to Resident L.P., without a doctor's order for this medication.
6. Diabetic residents at the Facility are supposed to have their glucose levels checked four (4) times per day, and they receive insulin on a sliding scale according to their glucose level readings. During Respondent's shift, he was to perform glucose readings twice for each diabetic resident.
7. Blood glucose levels can fluctuate considerably hour to hour, which necessitates consistent and constant monitoring to avoid potential, serious health risks.
8. On or about January 9, 10, and 11, 2009, Respondent was to have performed two (2) glucose readings each night for Residents S.B., C.R., A.B., and D.B., for a total of twenty-four readings. Of the twenty-four (24) glucose readings Respondent was supposed to perform, only six (6) readings were actually performed; two (2) readings he failed to document at all; and sixteen (16) he falsely documented as performed.
9. For the two (2) glucose readings Respondent failed to document at all, Respondent did not perform glucose readings and did not administer insulin.
10. For the sixteen (16) glucose readings Respondent falsely documented he performed, Respondent also documented fictitious glucose reading results, and either administered or did not administer insulin pursuant to the glucose level sliding scale, based on those fictitious amounts.
11. The six (6) glucose readings Respondent did perform were all for the same resident, S.B. Respondent performed all necessary glucose readings for S.B. S.B. is younger and more aware than the other three residents, for whom Respondent did not perform glucose readings.

Charges

12. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:
 - a. 26 V.S.A. § 1582(a)(3) (Is unable to practice nursing competently by reason of any cause) which includes performance of unsafe or unacceptable patient care pursuant to ARBN Chapter 4, Subchapter 4, Rule II(B)(1); and failure 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. 26 V.S.A. § 1582(a)(7) (Engages in conduct of a character likely to deceive, defraud, or harm the public) which includes falsifying or altering clinical records or making inaccurate or misleading entries pursuant to ARBN Chapter 4, Subchapter 4, Rule II(D)(3);
- c. 3 V.S.A. § 129a(a)(7) (Willfully making or filing false reports or records in the practice of the profession; willfully impeding or obstructing the proper making or filing of reports or records; or willfully failing to file the proper reports or records);
- d. 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
- e. 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).

Understandings

- 13. Respondent admits that the facts above are true and that the conditions below are necessary to protect the public.
- 14. Respondent understands that the 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.
- 15. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
- 16. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- 17. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
- 18. 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.
- 19. Respondent voluntarily waives his 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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20. Respondent agrees that the Order set forth below may be entered by the Board.

ORDER

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

- A. The Board of Nursing hereby **INDEFINITELY SUSPENDS** the Respondent's license to practice nursing for a **MINIMUM OF SIX (6) MONTHS from the date of entry below**. Before applying for reinstatement, Respondent must: 1) successfully complete (i.e., receive a passing grade, if applicable) courses in: a) medication administration; b) documentation; and c) ethics, all with prior approval by the Board or its designee; and 2) submit written documentation of completion of those courses (certificate of completion, etc.) to verify the same to the satisfaction of the Board or its designee. The Respondent's license shall not be reinstated until these prerequisites are met, regardless of whether more than six (6) months have passed since the suspension went into effect. Once reinstated, Respondent's license will be **CONDITIONED FOR A MINIMUM OF TWO (2) YEARS** commencing with the date of reinstatement. The conditions will be as follows:

(1) Re-issue of License.

Upon the commencement of these conditions, Respondent shall be issued a license labeled "conditioned."

(2) Length of Time of 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 a **minimum of two (2) years** of supervised nursing in which he 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. Respondent shall be prohibited from working more than forty (40) hours per week during the conditioned period.

(3) 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 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 the Respondent is attending a nursing program which has a clinical portion that involves actual patient care, 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 the ability of the program to comply with the conditions in the Consent Order during clinical experience.

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(4) Reports from Employers/Program Director.

Within one (1) month of the date of reinstatement or within one (1) month of the commencement of nursing employment and **monthly** thereafter, Respondent shall cause every nursing employer the Respondent has worked for during the month to submit to the Board an evaluation of Respondent's work performance and attendance during that month. Moreover, within three (3) months of the date of reinstatement or within three (3) months of the commencement of nursing employment and **quarterly** thereafter, Respondent shall cause every nursing employer the Respondent has worked for during the quarter to submit to the Board results of the employer's quarterly audits of Respondent's charting. These reports shall be submitted in writing on forms issued by the Board. All employer reports shall indicate satisfactory performance and attendance.

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 his performance and attendance; and on a quarterly basis, the results of the Program Director's audit of Respondent's charting. These reports shall be submitted in writing on forms issued by the Board and accompanied by a cover letter on the school's letterhead. All nursing program reports shall indicate satisfactory performance and attendance.

(5) Practice Under Supervision.

Respondent shall practice as a practical nurse only in a setting where Respondent has direct supervision for the entire shift by a registered nurse that is licensed and in good standing with the Board.

(6) Types of Employment Prohibited.

Respondent shall not work in a supervisory role. Respondent shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency or as a private duty nurse or personal care provider requiring a nursing or nursing assistant license during the effective period of this Consent Order.

(7) Interview with the Board or its Designee.

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

(8) Out-of-State Practice.

Before any out-of-state practice can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Board prior to Respondent practicing nursing outside the State of Vermont. If Respondent fails to receive such approval before practicing nursing outside the State of Vermont, none of the time spent practicing nursing 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 nursing 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 Consent Order, Respondent shall notify the Board, in writing, of his current place of employment, personal address, and telephone

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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) Notification to Other States.

In the event that the Respondent is licensed in nursing in any other state(s), he must inform the nursing licensing board of the state(s) in which the Respondent is licensed of the conditional status of his Vermont nursing license within thirty (30) days of the date of entry of this Order. If the Respondent fails to provide such notification, it will be considered a violation of this Order.

(11) 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 as a nurse, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that he has otherwise complied with the requirements for license renewal.

(12) Costs.

The Respondent shall bear all costs of complying with this Consent Order.

(13) 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.

(14) Completion of Conditional License Period.

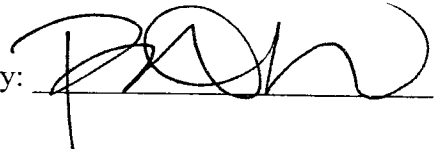
After the conditional license period, the Respondent may petition the Board to remove any and all conditions on his license. The Respondent must present proof that he has fully complied with the terms of this Order.

- 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.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

Dated: 4.9.10

By: 

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9 Baldwin Street
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BetsyAnn Wrask
State Prosecuting Attorney

CHRIS TYLER
RESPONDENT

Dated: 04/08/10

By: Chris Tyler
Chris Tyler

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 4/8/10

By: Norman R. Blais, Esq.
Norman R. Blais, Esq.

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 5-10-10

By: Ellen Reff
Chairperson

Date of Entry: 5/12/10
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