

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

IN RE:
RICKY ALAN VIERA
License No. 025.0009139

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Docket No. 2009-349

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, by and through State Prosecuting Attorney BetsyAnn Wrask, and the Respondent, Ricky Alan Viera, 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. Ricky Alan Viera (the "Respondent") of Claremont, New Hampshire is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025.0009139. This license was originally issued on or about March 13, 2007 and is currently scheduled to expire on or about January 31, 2012.
3. At all times relevant, Respondent was employed as a Licensed Practical Nurse at Southern State Correctional Facility (the "Facility") through Prison Health Services ("PHS").
4. On or about July 29, 2009, Respondent was caring for Inmate T.S., who had advised Respondent that he had fever, chills, and nausea over the past two (2) days. Respondent found T.S. to be warm to the touch. T.S. advised Respondent he had not had many fluids over the past two (2) days. Upon taking vital signs, Respondent found that this patient's blood pressure was low and his heart and respiratory rates were high. When Respondent took this patient's temperature, he found it to be 102.2. However, in part because Respondent had had problems with this thermometer in the past, Respondent did not feel this temperature reading was accurate. Respondent advised T.S. to increase his fluids, rest, and follow-up with the sick call nurse.

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Respondent did not fully document his findings in T.S.'s progress notes, as required by Facility policy.

5. By failing to consult with the registered nurse on duty regarding T.S.'s status, and by failing to fully document his findings in T.S.'s progress notes, Respondent committed unprofessional conduct in violation of 3 V.S.A. § 129a(b)(1) and (2).
6. On or about July 30, 2009, another nurse doing a random chart review found Respondent's progress note on T.S. T.S. was later examined and found to have a urinary tract infection.
7. Thereafter, on or about July 31, 2009, Respondent received a Written Employee Counseling Report regarding his care of T.S. It was reported in part that Respondent failed to consult with the registered nurse on duty regarding T.S.'s status and did not report the totality of the situation to the oncoming shift.
8. A review of Respondent's personnel file reveals in part the following:
 - a. On or about April 9, 2007, Respondent was found to have made a medication administration error on three (3) occasions, in that Respondent administered a patient Prednisone at bedtime on or about April 6, 7, and 8, 2007, when this patient was only supposed to receive this medication in the morning.
 - b. On or about September 4, 2008, Respondent received counseling for not completing duties on various occasions. However, Respondent did not agree with this evaluation.

Charges

9. 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. 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
 - b. 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).

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Understandings

10. 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.
11. 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.
12. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
13. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
14. 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.
15. 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.
16. 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 **WARNS** the Respondent's practical nursing license.
- B. 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).
- C. This Stipulation and Consent Order will remain part of the Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

AGREED TO:

Dated: 10-4-10 *gtw*
10/1/10

STATE OF VERMONT
SECRETARY OF STATE

By: *[Signature]*

Betsy Ann Wrask
State Prosecuting Attorney

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RICKY ALAN VIERA
RESPONDENT

Dated: 10/01/10

By: Ricky Alan Viera
Ricky Alan Viera

APPROVED AS TO FORM:

Dated: 10/4/10

ATTORNEY FOR RESPONDENT

By: John L. Pacht, Esq.
John L. Pacht, Esq.

APPROVED AND SO ORDERED:

Dated: 10-11-10

VERMONT BOARD OF NURSING

By: Ellen Laff
Chairperson

Date of Entry: 10/13/10
nu.viera.stip

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