

STATE OF VERMONT
BOARD OF NURSING

In re: Dwight F. Walker
License No. 02506936

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Docket No. (LPN)

Decision on
UNPROFESSIONAL CONDUCT CHARGE

Participating Board Members:

Ellen W. Leff, RN, Chair
Jeanine Carr, RN, Vice Chair
Alan Weiss
Sandra Norton, LNA
Donarae Metcalf, LPN
De-Ann Welch, LPN
Kenneth W. Bush, RN
William G. White Jr.
Deborah Swartz, RN
John Todd, APRN

Presiding Officer: Larry S. Novins

ORDER

The Vermont Board of Nursing held a hearing in the above matter on May 9, 2011 at the National Life Building in Montpelier, Vermont.

Background

Respondent requested that the three words "on the unit" in the Stipulation and Consent Order previously accepted by the Board be deleted. Paragraph B(6) practice under supervision, as originally imposed, states,

"Practice Under Supervision. Respondent shall practice only in a setting where he has on-site supervision *on the unit* for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing." (Emphasis added).

The Board was informed that the Investigative Team and prosecuting attorney recommend that the three words be eliminated. It appears appropriate to grant this requested change.

Order

Respondent's request to change condition (B)(6) is **granted**.
It shall now read:

"Practice Under Supervision. Respondent shall practice only in a setting where he has on-site supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing."

The remainder of the Stipulation and Consent order shall remain in effect as originally imposed.

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Nursing. A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, Office of Professional Regulation, National Life Bldg., North, FL2, Montpelier, Vermont 05620-3402 within 30 days of the entry of this Order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.

To request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Nursing

By: Ellen Leff
Ellen Leff, RN, Chair

Date May 10, 2011

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 5/16/11

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

IN RE:

DWIGHT F. WALKER

License No. 025.0006936

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Docket No. M2009-231

MODIFICATION STIPULATION AND CONSENT ORDER

NOW COME the State of Vermont, by and through State Prosecuting Attorney BetsyAnn Wrask, and the Respondent, Dwight F. Walker, 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. Dwight F. Walker (the "Respondent") of Colchester, Vermont is licensed by the State of Vermont as a Licensed Practical Nurse under license number 025.0006936. This license was originally issued on or about April 14, 1993 and is currently set to expire on or about January 31, 2012.
3. Respondent's license is currently conditioned pursuant to a Stipulation and Consent Order (the "Order") entered by the Board on or about December 9, 1997. Attachment A. Since that time, Respondent's license lapsed, but Respondent subsequently successfully completed a Board-approved re-entry program. Respondent had his license reinstated on or about August 4, 2010.
4. One of the conditions currently required pursuant to the Order prohibits Respondent from practicing nursing during the night shift. Attachment A.
5. On or about September 24, 2010 in a letter to the Board, Respondent requested that the Board modify that specific condition. Respondent advised that he has been unable to obtain LPN employment for day and evening positions, and has been advised by potential employers that they would only be able to offer him a night shift position.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

6. On or about October 20, 2010, a subcommittee of the Board reviewed Respondent's request and recommended that the night shift prohibition on Respondent's conditioned license be removed.

ORDER

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

- A. The Board of Nursing hereby **MODIFIES** the Stipulation and Consent Order contained in Attachment A by **removing** the condition entitled Prohibited Hours of Work found in Order B., Condition (9). All other conditions imposed by the Stipulation and Consent Order contained in Attachment A shall remain unchanged.
- 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:

Dated: 11-4-10

STATE OF VERMONT
SECRETARY OF STATE

By: [Signature]
Betsy Ann Wrask
State Prosecuting Attorney

DWIGHT F. WALKER
RESPONDENT

Dated: 11/2/10

By: [Signature]
Dwight F. Walker

APPROVED AND SO ORDERED:

Dated: 11-8-10

VERMONT BOARD OF NURSING

By: [Signature]
Chairperson

Date of Entry: 11/9/10
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Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

STATE OF VERMONT
VERMONT BOARD OF NURSING

In Re:)
Dwight F. Walker) Docket No. NU01-0795
License No 25-6936)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the State of Vermont, through Attorney General William H. Sorrell, and Respondent Dwight F. Walker, who stipulate and agree as follows:

1. The Board of Nursing has jurisdiction to investigate complaints of unprofessional conduct and approve consent orders pursuant to 3 V.S.A. §129, and 26 V.S.A. §§1574, 1582.
2. Respondent is a licensed practical nurse licensed by the State of Vermont holding license number 25-6936.
3. At all times relevant to this stipulation and consent order, Dwight F. Walker was employed by the Bel-Aire Quality Care Nursing and Rehabilitation Center of Newport, Vermont.
4. Respondent admits that he committed a number of medication errors during the time between September 1994 and April 1995 and these included omission of the anticoagulant coumadin, giving the wrong dosage of a medication, and failing to properly document medical procedures.
5. Respondent admits the conclusions of unprofessional conduct as set forth below in the Board's Order.

Office of the
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GENERAL
Montpelier,
Vermont 05609

6. 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.

7. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.

8. Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.

9. Respondent voluntarily waives the right to charges and a contested hearing before the Board of Nursing.

10. 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. Respondent's actions described in paragraph 4 are grounds for discipline pursuant to 26 V.S.A. §1582(a)(3)(unable to practice nursing competently by reason of any cause) and Vermont Nursing Board Rule IV.B.2. since they constitute unacceptable patient care and fail to conform to the essential standards of acceptable and prevailing nursing practice.

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B. Dwight F. Walker's license is CONDITIONED for a minimum period of one (1) year commencing with the date of entry of this Stipulation and Consent Order and subject to the following terms and restrictions:

(1) Length of Time Conditions Imposed.

These conditions shall remain in place until respondent has completed one (1) year of supervised nursing practice in which he 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) Notification of Place of Employment/Personal

Address/Telephone Number.

Within five (5) days of the date of entry of this Stipulation and Consent Order, Respondent shall notify the Board, in writing, of his current place of nursing employment, if any, 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.

(3) Medication Course

Within ~~three (3)~~ ^{four (4)} months of the date of entry of this Stipulation and Consent Order,

Respondent shall complete, and provide proof of satisfactory completion to the Board, the theory portion of a medication course. Prior to his enrollment in the course, Respondent shall obtain approval from the Board that the course is appropriate for the purposes of this consent order.

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Office of the
ATTORNEY
GENERAL
Montpelier,
Vermont 05609

(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 in which he practices as a nurse and inform them of his conditional license status. Within ten (10) days of the date of entry of this Stipulation and Consent Order or of any subsequent employment, Respondent shall cause his 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 its conditions. In the event Respondent is attending a nursing program, he 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/Nursing School

Within one (1) month of the date of entry of this Stipulation and Consent Order and every month thereafter while the conditions are in place, Respondent shall cause every nursing employer he has worked for during the 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 and accompanied by a cover letter on the employer's letterhead. In the event the Respondent attends nursing school, he shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of his 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. In the event Respondent is not

employed in nursing or attending school during any month or portion thereof, he shall submit to the Board, in writing, a self-report describing other employment or activities.

(6) Practice Under Supervision.

Respondent shall practice only in a setting where he has on-site supervision on the unit for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing.

(7) Prohibited Duties.

Respondent shall not work as a Charge Nurse.

(8) Types of Employment Prohibited.

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

(9) Prohibited Hours of Work.

Respondent shall work only the day or evening shift during the effective period of this Stipulation and Consent Order. Respondent shall not work the night shift during the effective period of this Stipulation and Consent Order.

(10) Violation of the Stipulation and Consent Order.

If Respondent violates the terms of this Stipulation and Consent Order in any respect, the Board, after giving him 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 Stipulation and Consent Order, the conditional license period shall be extended until the matter is final.

(11) Reevaluation of Conditions.

In the event Respondent does not work in nursing within one (1) year of the date of entry of this Stipulation and Consent Order, he may appear before the Board for reevaluation of the conditions of this Stipulation and Consent Order.

(12) Re-issue of License.

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

(13) Out of State Practice/Residence.

Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, it must be first approved by the Board. If Respondent fails to receive such approval none of the time spent out-of-state will be credited toward the fulfillment of the terms and conditions of this Stipulation and Consent Order.

(14) Completion of Conditional License Period.

Upon completion of the conditional license period, Respondent may petition the Board to remove any and all conditions on his license and after formal review by the Board, his nursing license may be fully restored by appropriate Board action. Respondent shall demonstrate, to the Board's satisfaction, that he fully complied with all the terms of this Stipulation and Consent Order.

Notwithstanding any provision above, Respondent must meet all Nursing Board requirements for license renewal and license reinstatement.

C. By signing this Stipulation and Consent Order, Respondent authorizes his employer and 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 this Stipulation and Consent Order is in effect.

D. 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)(7).

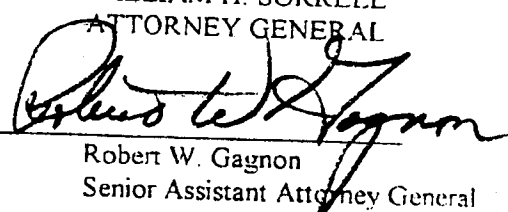
E. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

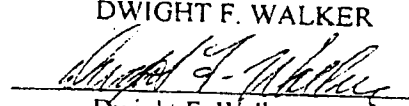
Dated: 9-30-97

by:

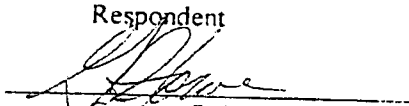

Robert W. Gagnon
Senior Assistant Attorney General

DWIGHT F. WALKER

Dated: 11-7-97


Dwight F. Walker
Respondent

APPROVED AS TO FORM

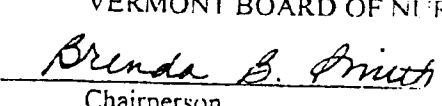

Gregory P. Howe, His Attorney

APPROVED AND SO ORDERED:

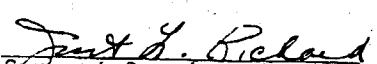
VERMONT BOARD OF NURSING

Dated: 12/8/97

by:


Brenda B. Smith
Chairperson

Date of entry: 12-9-97

ATTEST: 
Support Services Coordinator