

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

IN RE:
DALE E. WALSH
License No. 026.0022805

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Docket No. 2011-750

STIPULATION AND CONSENT ORDER

Stipulation

NOW COME the State of Vermont, by and through State Prosecuting Attorney Gabriel M. Gilman, and the Respondent, Dale E. Walsh, RN, who stipulate and agree as follows:

Board Authority

1. The Vermont State Board of Nursing ("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 (ARBN); and the Rules of the Office of Professional Regulation.

Stipulated Facts

2. Dale E. Walsh ("Respondent") of St. Albans, Vermont is licensed by the State of Vermont as a Registered Nurse under license number 026.0022805. This license was originally issued on or about May 21, 1996 and expires on March 31, 2015.
3. At all times relevant, Respondent was employed as a Registered Nurse at Franklin County Home Health Agency (the "Agency") in St. Albans, Vermont.
4. On October 4, 2011, Respondent documented performing a Recertification Reassessment of patient K.C.. The Reassessment included a physical assessment of lung sounds, heart sounds, peripheral pulses, skin, abdomen, and pain.
5. On or about October 24, 2011, patient K.C. contacted the Agency questioning why she had not received a home visit from a nurse since September 28, 2011. Patient K.C. denied seeing Respondent on October 4, 2011.
6. Respondent states and has always maintained that she visited K.C. on October 4, 2011. The Facility was unable to verify whether Respondent saw K.C. on October 4.
7. On or about March 19, 2012, in an interview with Investigator Jeffrey Jones, Respondent stated that she saw patient K.C. on October 4, but did not perform a physical examination of K.C. on that visit. Respondent stated that she filled in the documentation for that visit

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based on notes made by the last RN to visit K.C.. Respondent acknowledged that falsifying the Recertification Reassessment was wrong. Respondent attributed the conduct to work culture and management expectations.

8. During its own internal investigation, the Agency discovered thirty-four records for visits by Respondent that did not comply with billing requirements, inasmuch as the records were blank or insufficiently complete to allow verification that skilled nursing services were rendered.

Violations

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. 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 Rule 11.2(d)(3);
 - b. 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);
 - c. 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

10. Respondent admits that the facts above are true and that the conditions below are necessary to protect the public.
11. 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.
12. 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.
13. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
14. Respondent is not under the influence of any drugs or alcohol at the time she signs this Stipulation and Consent Order.
15. 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.

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16. Respondent voluntarily waives her right to a contested hearing before the Board of Nursing and waives any right to appeal from this Stipulation and Consent Order.
17. 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 **REPRIMANDS** the Respondent's license.
- B. Respondent's license is **CONDITIONED** as follows:
 - a. Respondent shall, within ninety days of this Order, at her own expense, complete two remedial courses pre-approved by the Board. One course must be reasonably related to nursing ethics. The second course must be reasonably related to documentation. Failure to complete such courses within the prescribed timeframe shall constitute a violation of this Order.
 - b. Upon receipt of satisfactory evidence that Respondent has completed the described course, the Board or its designee shall terminate the conditions upon Respondent's license and restore the license to unencumbered status.
- C. Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- 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).
- 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.

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AGREED TO:

Dated: 6/6/2013

STATE OF VERMONT
SECRETARY OF STATE

By: 
Gabriel M. Gilman
State Prosecuting Attorney

DALE E. WALSH
RESPONDENT

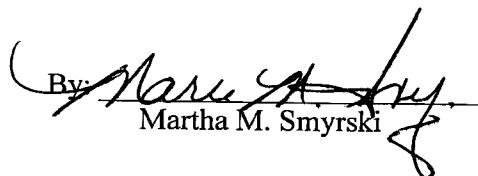
Dated: 6/3/2013

By: 
Dale E. Walsh

APPROVED AS TO FORM:

MARTHA SMYRSKI, ESQ.
ATTORNEY FOR RESPONDENT

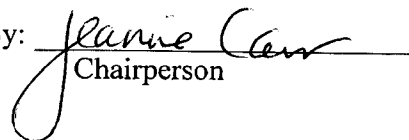
Dated: 6/5/2013

By: 
Martha M. Smyrski

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 6/10/13
Date of Entry: 6/10/13

By: 
Chairperson

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