

'00

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

IN RE:)
DEA COLOUTTE WATERHOUSE)
License Number 26-12963)

Docket No.: NU68-0698

SECOND STIPULATION AND CONSENT ORDER

STIPULATION

NOW COME the Respondent, Dea Coloutte Waterhouse, and the State of Vermont, by its Attorney General, William H. Sorrell, and stipulate to the following:

Board Authority

1. The Vermont State Board of Nursing ["the Board"] has authority to issue warnings or reprimands, suspend, revoke, limit, condition or prevent the renewal of licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. §129(a)(5); 26 V.S.A. §1582(a).
2. The Board also has authority to reinstate or deny reinstatement of a license which has been revoked, suspended, limited or conditioned. 3 V.S.A. §129(a)(6).
3. And, the Board has authority to adopt consent orders approving a settlement which has been agreed to and submitted by a respondent and the investigating committee. 3 V.S.A. §129(a)(3).

Facts

4. Respondent Dea Coloutte Waterhouse, of Fair Haven, Vermont, was a registered nurse holding license number 26-12963 issued by the State of Vermont.
5. Based on a Stipulation and Consent Order approved and ordered by the Board on October 12, 1998, the Respondent's license was suspended.
6. The October, 1998 Order allowed the Respondent to apply for reinstatement of her license by submitting proof that she had taken and successfully completed educational offerings in gerontology and chronic care which had to have been pre-approved by the Board or its designee.
7. The October, 1998 Order provided that the Board, in considering a petition to lift the suspension, may require a period of probation, along with supportive or restrictive conditions, to ensure that the patients and the public are protected.
8. The Respondent has successfully completed educational offerings that satisfy the requirements of the October, 1998 Order.

Understandings

9. The Respondent understands that the Nursing Board must review and accept the terms of the Order set forth below and that if the Board rejects all or any portion of the Order, then this entire document shall be null and void.
10. The Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
11. The Respondent is not under the influence of any drugs or alcohol at the time this document is being signed.
12. The Respondent agrees that she has had sufficient opportunity to consult with legal counsel before signing this document.
13. The Respondent is voluntarily waiving her right to a contested hearing before the Board.
14. The Respondent agrees that the Order set forth immediately below may be entered by the Board.
15. The Respondent understands that this entire document is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a)(8).
16. The Respondent understands that this Second 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.

ORDER

A. Based on the above Stipulation, it is **ADJUDGED** as follows:

Findings and Conclusions

- 1) The "Facts" listed in paragraphs 4 – 8 are true.
- 2) Based on the above findings and on the circumstances set out in the October, 1998 Stipulation and Order it is necessary to condition the reinstatement of Respondent's license as set out below.

Reinstatement and Conditions on the Reinstated License

B. It is **ORDERED** as follows:

- 1) The Respondent's license to practice nursing is **REINSTATED**.

- 2) The Respondent may function under her license as a Director of Nursing only if, for at least the equivalent of one year of full-time work and until this condition is lifted by the Board:
- a) The Respondent submits to the Board for approval both the name of a qualified consultant and a Consultation and Oversight Plan, proposed by that consultant, that is designed to provide oversight and supervision of the respondent and is designed to ensure that the Respondent practices nursing competently while functioning as a Director of Nursing.
 - b) Before the consultant's name is submitted, the Respondent provides a copy of the October, 1998 Stipulation and Order and a copy of this Second Stipulation and Order to the consultant.
 - c) The Respondent submits, with the proposed Plan, a signed statement from the consultant, on the consultant's letterhead, that the consultant has received a copy of the October, 1998 Stipulation and Order and a copy of this Second Stipulation and Order and that the consultant is able and willing to comply with reporting and cooperation conditions in the subparagraphs below.
 - d) The Board approves the consultant and the Plan, or, if the Board does not approve the proposed consultant or the proposed Plan, the Respondent, within two (2) weeks of being notified of the non-approval(s), again submits for approval the name of a qualified consultant, the statement required by paragraph B(2)(c), and a new Plan, proposed by that consultant, all of which satisfy all deficiencies identified by the Board, and the Board approves that consultant and the new Plan.
 - e) The Respondent then enters into, participates in and complies with the Consultant and Oversight Plan as approved.
 - f) The Respondent authorizes the consultant to submit, and takes all reasonable steps to ensure that the approved consultant does submit, to the Board monthly reports, due by the end of the following month, detailing the Respondent's participation in and compliance with the approved Plan during the previous month and, in general, whether the Respondent is practicing nursing competently while functioning as a Director of Nursing.
 - g) The Respondent authorizes the consultant to respond, and takes all reasonable steps to ensure that the approved consultant does respond, to all requests of the Board, or its designee, to discuss and further document the Respondent's participation in, and compliance with, the approved Plan and, in general, whether the Respondent is practicing nursing competently while functioning as a Director of Nursing.
 - h) The Respondent obtains prior approval from the Board of any change in consultant or the approved Plan.

- 3) The Respondent may function under her license as a staff or charge nurse only if, for at least the equivalent of one year of full time work and until the this condition is lifted by the Board:
 - a) The Respondent has supervision for the entire shift by a registered nurse in good standing with the Vermont Board of Nursing; the supervisor may be the Director of Nursing at a facility. Said supervisor need not be on site.
 - b) The Respondent authorizes her supervisor to submit, and takes all reasonable steps to ensure that her supervisor does submit, to the Board monthly reports, due by the end of the following month, providing a list of the hours worked as a staff or charge nurse, summarizing the Respondent's performance and detailing all instances that raise any concerns on behalf of the supervisor regarding the Respondent's maintenance of the standards of adequate nursing practice.
 - c) The Respondent authorizes her supervisor to respond, and takes all reasonable steps to ensure that her supervisor does respond, to all requests of the Board, or its designee, to discuss and further document the Respondent's performance as a staff or charge nurse, including all instances that raise any concerns on behalf of the supervisor regarding the Respondent's maintenance of the standards of adequate nursing practice.
- 4) Limitations on Practice
 - a) The Respondent shall not work for a nurse registry, travelling nurse agency, float-pool, home health care agency, temporary employment agency or as a personal care provider.
 - b) The Respondent shall not work night shifts.
- 5) 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.
- 6) Release of Information Forms In fulfilling the conditions of this Order which require the Respondent to authorize various persons to report information or to discuss the Respondent with the Board or its designee, the Respondent must execute a consent to disclose form which meets the requirements of 42 C.F.R. §2.31. The authorization must allow the information to also be provided to the Office of Professional Regulation investigators and to the Attorney General's Office. Any revocation by The Respondent of such a consent to disclosure during the term of this Order shall be considered a violation of this Order.
- 7) Costs The Respondent shall bear all costs of complying with this Order.

- 8) 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.
- 9) 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 fully complied with the terms of this Order. The Respondent must also present proof, to the satisfaction of the Nursing Board, that she poses no danger to the public or the practice of nursing and that she can safely and competently perform the duties of a registered nurse.
- 10) Notwithstanding any provision above, the Respondent must continue to meet all Nursing Board requirements for maintaining a license, license renewal and license reinstatement.
- 11) This Stipulation and 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).
- 12) This Stipulation and Order will remain part of the Respondent's licensing file and may be used in determining sanctions in any future disciplinary matter.

AGREED TO:

BY: DEA COLOUTTE WATERHOUSE
THE RESPONDENT

Date: 1/20/2000

Dea Coloutte Waterhouse
Dea Coloutte Waterhouse

AND BY: STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

Date: 1-22-00

Michael McShane
Michael McShane
Assistant Attorney General

ACCEPTED AND SO ORDERED:

BOARD OF NURSING

Date: 2/23/00

Luise Thompson
Chairperson

Dated entered: 2-24-00

'99

STATE OF VERMONT
BOARD OF NURSING

IN RE:)
DEA COLOUTTE WATERHOUSE)
License Number 26-12963)

Docket No.: NU68-0698

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, through its Attorney General, William H.

Sorrell, and Respondent Dea Coloutte Waterhouse, who stipulate and agree as follows:

1. The Board of Nursing has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by nurses pursuant to 3 V.S.A. §§129, 129a, and 26 V.S.A. §§1574, 1582.
2. Respondent Dea Coloutte Waterhouse, of Fair Haven, Vermont, is a registered nurse holding license number 26-12963 issued by the State of Vermont.
3. At all times relevant Respondent was employed as Director of Nursing Services at Sager Nursing Home in Fair Haven, Vermont.
4. Respondent admits that on or about May 18, 1998, the Department of Aging and Disabilities of the Vermont Agency of Human Services conducted a survey of Sager Nursing Home and numerous deficiencies were noted, particularly in the areas of quality of care and nursing services.
5. Respondent admits that on or about June 8, 1998, the Department of Aging and Disabilities conducted a follow-up survey of Sager Nursing Home and found that several of the deficiencies discovered in the May, 1998 survey were not corrected and new deficiencies were found, including, but not limited to:
 - a. On or about May, 15, 1998, nurse's notes for resident E.B. showed that E.B.

had difficulty urinating, was straining to void, and made frequent requests to use the bathroom. Based on record review, a physician was not notified of E.B.'s urinary problems until June 4, 1998. Lab results reported on June 5, 1998 were positive for urinary tract infection.

b. On or about May 21, 1998, resident R.L. was admitted from home with no skin problems or bruises. Since admission, R.L. received multiple bruises to arms, thighs, hips, and armpits. No investigation has occurred to determine the cause of the bruises. No physical therapy evaluation has been conducted to evaluate for safe transfer techniques and proper positioning for R.L.

c. On or about May 23, 1998, nurse's notes for resident D.O. stated "bruise over right abdomen near hip approximately 3 cm long and 1 cm wide. Etiology unknown." No investigation has been conducted to determine the cause of the bruise and no incident report was found.

d. On or about June 8, 1998, residents M.N. and A.B. were isolated in their rooms from 8:30 AM to 4:30 PM without access to a call bell or any other means of summoning staff if needed.

e. Resident L.P., admitted in January, 1998, and identified as needing extensive assistance with ambulation, experienced several falls upon trying to stand independently. Records show L.P. walked 10-75 feet two times a day during April, 1998. Record review in June, 1998 showed L.P. was coded as nonambulatory, yet no intervention has been conducted to reduce or prevent the resident's ambulation to prevent falls.

f. On or about June 8, 1998, resident F.H. was observed to have pinpoint open areas on the coccyx area with a small amount of bloody drainage. An assessment completed on May 7, 1998 stated that a pressure relieving device was to be used on F.H.'s

bed and his care plan called for repositioning at least every two hours when out of bed. On June 8, 1998, no pressure relieving device was found in F.H.'s bed. Also on June 8, 1998, F.H. was assisted out of bed at 11:30 AM and, as of 4:00 PM, had not been repositioned.

g. On or about June 8, 1998, residents L.P., J.G., V.L., F.H., and E.S. were all observed being transferred improperly when staff lifted and suspended them by their upper arms when they could not bear full weight.

6. Respondent asserts that she did not personally commit any of the conduct described in paragraph 5 above.

7. Respondent does not admit, but does not contest the conclusions of unprofessional conduct as set forth below in the Board's Order.

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.

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

10. 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.

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 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 the right to charges and a contested hearing before

the Board of Nursing.

14. Respondent agrees that the Board may set forth the order below.

ORDER

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

- A. By engaging in the conduct described in paragraphs 3 through 5 above, the Board concludes Respondent violated Nursing Board Rule IV.B.4.b (performing duties and assuming responsibilities when competence has not been achieved or maintained) and Board Rule IV.B.4.e (failing to take appropriate action to safeguard a patient from incompetent healthcare) which constitutes unprofessional conduct pursuant to 26 V.S.A. §1582(a)(7)(conduct likely to harm the public). The Board also concludes that Respondent's above conduct violated Nursing Board Rule IV.B.2.b (failure to conform to the essential standards of acceptable and prevailing nursing practice) which constitutes unprofessional conduct pursuant to 26 V.S.A. §1582(a)(3) (inability to practice nursing competently).
- B. Respondent's license is **SUSPENDED** until she has submitted proof, to the Board's satisfaction, that she has taken and successfully completed educational offerings in gerontology and chronic care and until she has petitioned the Board to lift the suspension as described below.
- C. The educational offerings described above in paragraph B shall be pre-approved by the Board or its designee.
- D. Respondent shall immediately surrender her nursing license to the Vermont Board of Nursing. Failure to surrender the license within 5 days of the date of entry of this Order shall be considered a violation of this Order.
- E. Respondent may petition the Board to lift the suspension no earlier than successful completion of the educational offerings referenced in paragraph B above.

F. The Board, in considering a petition to lift the suspension, may require a period of probation, along with supportive or restrictive conditions, to ensure that the patients and the public are protected.

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

H. 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).

I. 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: 10/7/98

by: Annika Green
Annika Green
Special Assistant Attorney General

RESPONDENT
DEA COLOUTTE WATERHOUSE

Dated: 10/16/98

by: Dea Coloutte Waterhouse
Dea Coloutte Waterhouse

APPROVED AND SO ORDERED:

VERMONT BOARD OF NURSING

Dated: 10-12-98

by: Margaret Allen
Chairperson

Date of entry: 10-13-98