**STATE OF VERMONT**
**BOARD OF NURSING**

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| In re: Barbara Wells<br>License No. 026-27344 | } | Docket No. 2009-135 |

**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.
John Todd, ARPN

**Decision on Unprofessional Conduct Charges**

Appearances:
for Petitioner, State of Vermont: Betsy Ann Wrask
for Respondent: Norman R. Blais

Presiding Officer: Larry S. Novins

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

The Vermont Board of Nursing held a hearing in the above matter on May 10, 2010 at the National Life Building in Montpelier, Vermont.

The prosecution has the burden of proof in this matter. To prevail on any unprofessional conduct charge, it must prove the charge by a preponderance of the evidence.

**Background**

The prosecution alleges in its Specification of Charges that Ms. Wells in violation of Vermont unprofessional conduct statutes failed to practice competently and is unable to practice competently. Ms. Wells denies the allegations.

**Findings of Fact**

Based on the evidence presented, the Board finds as follows:

1. Ms. Wells is licensed as a registered nurse and is therefore subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.
2. At all times relevant Ms. Wells worked as a registered nurse at the Northwestern Medical Center in St. Albans, Vermont. Her job assignment was fast paced. In some weeks she worked as many as 80 hours, some times more. It was exhausting, and Ms. Wells was sometimes unable to meet all the requirements of her job in the time allotted.
3. On March 5, 2009 an oxygen tubing extension for a nasal cannula for one of Ms. Wells' patients became disconnected through no fault of Ms. Wells.
4. On March 5, 2009 Ms. Wells failed to report hypotension on a patient being monitored and bolused with IV fluids for hypotension. She failed to repeat the taking of vital signs after obtaining a blood pressure with a systolic reading in the 80s. She failed to communicate to the charge nurse that the patient's vital signs were stable. This was a failure to meet acceptable and prevailing standards of nursing practice.
5. In 2007 Ms. Wells administered conscious sedation without knowledge of the medication's effects, side affects, possible adverse reactions or reversal agent. This was a failure to meet acceptable and prevailing standards of nursing practice. Though Ms. Wells testified she had administered the drug at a physician's request after she had given the syringe to the physician, there was insufficient evidence to show whether her conduct in that situation might be justified.
6. In the period leading up to July 15, 2008 Ms. Wells's charting was being done at the end of her shift. This resulted in missed charting (no assessments, vital signs, etc.) and not having the flow sheets available for the oncoming shifts. On occasions this resulted in the next shift not being able to start their work or give medications in a timely manner.
7. Ms. Wells frequently waited until the end of her shift to document administration, treatment, and observations regarding patients. The essential standards of acceptable and prevailing practice require a nurse to make notes at or near the time to later be placed in permanent patient records in a timely manner.
8. Ms. Wells admitted that she was having trouble keeping pace with her work assignments.
9. On or about March 1, 2009 Ms. Wells stuck her finger with a needle while preparing to obtain sterile urine from a Foley catheter. She did not notice that she had pricked her skin right away. When she did notice it, Ms. Wells responded appropriately.

## Conclusions of Law

Based on the evidence presented and Facts found above we conclude as follows:

1. **Re: Alleged Violation of 26 V.S.A. § 1582(a)(3):** We decline to conclude that Ms. Wells is unable to practice nursing competently by reason of any cause.

2. **Re: Alleged Violation of 3 V.S.A. § 129a(b)(1) and (2)**: The State has proved by a preponderance of the evidence that Ms. Wells failed to practice competently. We find that Ms. Wells's conduct as found above constituted (1) performance of unacceptable

patient or client care and (2) failure to conform to the essential standards of acceptable and prevailing practice. This is unprofessional conduct.

3. **Re: Alleged Violation of 26 V.S.A. § 129a(a)(3)**: 3 V.S.A. § 129a(a)(3) defines unprofessional conduct to include failing to comply with provisions of federal or state statutes or rules governing the practice of the profession. Any allegation of failure to comply with statutes or rules has been addressed above. This statute does not provide an independent grounds for discipline. There is no violation of this statute. This charge is dismissed.

## Discussion

As found above, Ms. Wells's failures to perform her duties were in large part attributable to the long hours and fast paced environment of her job. To assist her in any nursing position she may hold and to protect the public we impose the following necessary conditions on her license.

## Order

For the violations above, to protect the public, health, safety and welfare, Ms. Wells's licenses shall be **conditioned** as follows.

Ms. Wells's license shall be reissued labeled "conditioned." The conditions shall remain in place until Ms. Wells completes all requirements ordered and meets each condition.

Ms. Wells shall be subject to these conditions until Ms. Wells completes 2 years of supervised practice in which Ms. Wells works at least forty (40) hours every two (2) weeks as a registered nurse. Part-time work of less than forty (40) hours every two (2) weeks shall be credited on a prorated basis.

1) **Required Course:** Within 120 days Ms. Wells shall successfully complete a course, approved by the Board or its designee, in medication administration.

2) **Required Course:** Within 120 days Ms. Wells shall successfully complete a course, approved by the Board or its designee, in documentation.

3) **Limitation on Employment:** For a minimum of one year from the date of this Order, Ms. Wells may not work in an acute care position. At the end of one year, Ms. Wells may petition the Board to have this condition removed.

4) **Monthly Reports from Employers**: Within one (1) month of the date of entry of this Order and monthly thereafter, Ms. Wells shall cause every employer for whom Ms. Wells works during the relevant period as a registered nurse to submit to the Board an evaluation of Ms. Wells's performance during that period. This report shall be on forms issued by the Board.

**Completion of Conditional License Period:** After completing the required period of conditioned practice, Ms. Wells may request that the conditions on her license be removed. The Board will remove the conditions on Ms. Wells's license when Ms. Wells demonstrates that she has fully complied with all terms of this Order.

## 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, RN, Chair

Date May 11, 2010

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 5/14/10