

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

In re: CANDY RUTH BALLOU
License No. 025.0009620

}
} Docket No. M2016-42 (2008-438) (LPN)
}

**Decision on
Respondent's Petition for Reinstatement of License**

Participating Board Members:

Ellen Watson, APRN, Vice Chair
Deborah Swartz, RN
Virginia Hudson, RN
Kelly Sinclair, LNA
Jennifer Laurent, APRN
Jill Duell, LPN
Douglas Sutton, RN
Luana Tredwell, LPN

Appearances:

Prosecuting the case: Jennifer Colin, Esq.
Respondent: appeared *pro se*

Presiding Officer: George K. Belcher

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

The Vermont Board of Nursing held a hearing in the above matter on July 10, 2017 in Montpelier, Vermont. The State was represented by Jennifer Colin, Esq. The Respondent appeared *pro se*. On May 24, 2017 the Respondent filed a letter with the Board of Nursing seeking to reinstate her Vermont LPN license. The State filed an Objection to Respondent's Request for Reinstatement dated June 7, 2017.

Findings of Fact

Based on the evidence presented and the documents in the Respondent's file, the Board finds as follows:

1. The facts of this case are substantially uncontested. Candy Ballou, (the "Respondent") was a licensed practical nurse licensed in Vermont and was therefore subject to the

regulatory authority of this Board, pursuant to 3 V.S.A. §§ 129, 129a, 26 V.S.A. § 1582(a), the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation. Her license was originally issued on or about September 20, 2008.

2. By Order of the Vermont Board of Nursing, the Respondent's Vermont license was indefinitely suspended on May 11, 2009.
3. In November of 2008 the Respondent was charged with several felony offenses in New Hampshire, including marijuana cultivation and possession of morphine. In addition she was charged with several misdemeanors associated with marijuana and drug paraphernalia.
4. Her Vermont LPN license was summarily suspended.
5. Eventually her New Hampshire criminal charges were reduced to two misdemeanor convictions (Possession of a Controlled Drug- Marijuana) and (Control of Premises- Illegal Control of Premises where Morphine was Illegally Kept).
6. The Respondent has completed her sentence associated with these convictions and would like to resume nursing. At the time of her convictions she was required to participate in drug testing as part of her probation. She is currently in drug and alcohol treatment associated with an alcohol/driving matter which she hopes will resolve shortly.
7. The Respondent has not worked as a nurse since her summary suspension in February of 2009.
8. The State of Vermont opposed reinstatement of the Respondent's LPN license until she had satisfied certain pre-requisites (independent evaluation recommending her ability to practice safely and three clean drug tests performed at random).

Conclusions of Law and Discussion

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

1. The Vermont Board of Nursing has authority to suspend the license of a nurse following a finding of unprofessional conduct. 26 VSA Sec. 1582. A Board may deny reinstatement of a license which has been suspended. 3 VSA Sec. 129(a)(5). The burden to establish that a licensee is entitled to reinstatement of a suspended license is upon the licensee.
2. The Respondent was commended for her efforts to resolve her past drug convictions and substance use.
3. It was the decision of the Board to deny the Respondent's current request for reinstatement, but to allow her to again petition for reinstatement provided she satisfies certain prerequisites. The prerequisites are set forth in more detail in the following order but essentially they are that the Respondent: (a) have an independent evaluation which states that the Respondent is safe to practice as a Licensed Practical Nurse; (b) have completed three (3) random urine screens; (c) provide to the Board records of her satisfactory completion of her New Hampshire probation or parole; and (d) provide a letter from her most recent treating alcohol and drug counselor concerning her current status in recovery. Such prerequisites shall be completed within 120 days from the date of this order and a request for reinstatement shall be filed with the Board within that same time period. If the prerequisites are satisfied, then the Board may respond to a request for

reinstatement with additional conditions, including passage of a refresher course. The above prerequisites to reinstatement are deemed necessary to protect the public.

Order

Respondent's Request for Reinstatement of her license is **DENIED** in part. The Respondent's license shall continue to be **INDEFINITELY SUSPENDED** until reinstated by the Board. The Respondent must petition for such reinstatement. Within forty-five (45) days of requesting reinstatement, Respondent must, at her own cost:

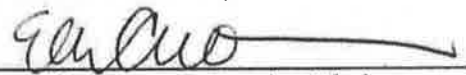
- (a) Obtain an independent evaluation report by a pre-approved licensed professional specializing in drug and alcohol abuse ("Independent Evaluator") who has verified receipt of this Order and the 2009 Specification of Charges. The results of the Independent Evaluation must indicate that Respondent does not present a risk to the safety, health or welfare of Respondent's potential patients;
- (b) Submit to the Enforcement Unit Case Manager the results of a minimum of three (3) random urine analyses:
 - (i) When Respondent is ready to petition for reinstatement, Respondent shall contact the Enforcement Unit Case Manager at the Office of Professional Regulation to set up the urine analysis process and receive instructions. Once registered with the pre-approved person or entity, Respondent will have 45 days to submit to a minimum of three (3) random urine analyses. The process by which Respondent learns whether the Respondent is selected to provide a sample on any given day will be governed by the policy of the pre-approved person or entity conducting the testing at that time;
 - (ii) The urine analyses must be collected in an observed setting, administered by a pre-approved lab qualified to analyze samples for forensic purposes, the results of which shall be negative;
 - (iii) Failure to appear for, refusal to provide, adulteration of, dilution of, or tampering with a sample for any urine analysis shall cause that screen to be presumed positive;
- (c) If recommended by an Independent Evaluator, enter into a treating professional agreement and substance abuse treatment plan with a pre-approved treating professional(s) and follow all recommendations.
- (d) The Respondent shall submit to the Board with any request for reinstatement a copy of her probation and/or parole records associated with her New Hampshire convictions showing successful completion of probation or parole conditions and results of drug screens associated with probation or parole.
- (e) The Respondent shall submit to the Board with any request she may file for reinstatement a letter from her current drug and alcohol treatment professional concerning her status in recovery.
- (f) A request for reinstatement by the Respondent pursuant to this order shall be filed with the Board within one hundred and twenty (120) days from the date of this order.

If reinstated, Respondent's license **SHALL BE CONDITIONED** pursuant to whatever terms are reasonable at the time of Respondent's reinstatement request, taking into account the

independent evaluation, urine analysis results, the facts contained in the prior Orders, and any other relevant factors at that time.

Vermont Board of Nursing

By:


Ellen Watson, APRN, Vice-Chair

Date: July 18, 2017

DATE OF ENTRY

7/26/17

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, 89 Main Street, Fl. 3, 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.