

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

In re: ANN BARTON-SULLIVAN	}	
License No. 026.0013365	}	Docket No. 2014-404 (RN)
	}	M2015-82

Participating Board Members:

Jennifer Laurent, APRN, Acting Chair
William G. White, Jr., Public Member
Luana Tredwell, LPN
Kelly Sinclair, LNA
Jill Duel, LPN
Virginia Hudson, RN
Douglas Sutton, RN

Appearances:

Prosecutor: Rachel Allen, Esq.
Petitioner: Appeared *pro se*

Hearing Officer: George K. Belcher

Exhibits:

Petitioner's Exhibit A: Letter of 1/6/17 from current employer

ORDER DENYING PETITION FOR MODIFICATION OF CONDITIONS

The Vermont Board of Nursing held a hearing in the above matter on January 9, 2017 at the Office of Professional Regulation in Montpelier, Vermont. The State was represented by Rachel Allen, Esq. Petitioner attended and was not represented by counsel.

Findings of Fact

1. Petitioner is licensed as a Licensed Registered Nurse and is therefore subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 26 V.S.A. Chapter 28, and the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.
2. The Petitioner stipulated to a Stipulation and Consent order on November 6, 2015. The Order was approved by the Board on November 9, 2015. The stipulated order called for conditions upon the license of the Petitioner for a minimum of one year including a minimum of one year of supervised practice (paragraph 2 of order). At the end of the conditional period, the Petitioner could, by the terms of the order, petition for removal of the conditions, but, "[Petitioner] must present proof that Respondent has fully complied

- with the terms of this Order.” (See Paragraph 15 of Order.)
3. The Petitioner has worked under supervision as required by the Order since March of 2016 and has filed 9 monthly reports as required by the Order.
 4. The Petitioner requested the Board to remove the conditions early (three months early) so that she can apply for jobs as a nursing instructor. She has recently received her Master’s Degree of Nursing and would like to apply for teaching positions but the existing conditions are an obstacle to her applications for these positions.
 5. The State objected to the removal of the conditions, arguing that the terms of the Order were voluntarily agreed to by the Petitioner, that she understood them in advance, and that the integrity of the Board’s orders of conditional licenses would be at risk if Respondents could modify conditions for personal needs.

Conclusions of Law and Discussion

Once a nursing license is conditioned by the Board following a disciplinary proceeding, the conditions are removed and the license is fully reinstated if the licensee has “... first [met] the conditions...” see Board of Nursing Rule 11.4. In the discretion of the Board conditions may be modified or removed if the Petitioner shows good cause to do so. Usually this occurs because of a substantial change in material facts which are unknown at the time the stipulation and order is made. Cf. J.L. v. Miller, 158 Vt. 601, 614 A.2d 808 (1992). Here, there is an inadequate showing of a substantial change in facts which were unknowable at the time of the stipulated judgment. Moreover, the benefit to the public of the predetermined period of supervised practice will not be realized if it is cut short without a persuasive reason. Such persuasive reason has not been shown by the Petitioner.

Order

The Board DENIES the Petitioner’s request to modify the Order.

Vermont Board of Nursing

By: Jennifer Laurent
Jennifer Laurent, APRN, Acting Chair
Vermont Board of Nursing

Date: 1.10.2017

OFFICE OF PROFESSIONAL REGULATION

1/13/17
Date of Entry

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, 89 Main St., Fl. 3, Montpelier, VT 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.