

**STATE OF VERMONT
BOARD OF NURSING**

In re: Chidi Emeka Boston
License No. 026-30303

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Docket No. M2009-96

**Decision on Motion for Removal of Conditions,
Appeal from Preliminary Denial**

Participating Board Members:

Ellen W. Leff, RN, Chair
Alan Weiss
Sandra Norton, LNA
Deann Welch, LPN
Kenneth W. Bush, RN
William G. White Jr.
Deborah Robinson, RN
John Todd, ARPN

Appearances:

for Petitioner, State of Vermont: Edward G. Adrian
for Respondent: Lisa M. Werner
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 April 12, 2010 at the National Life Building in Montpelier, Vermont.

Mr. Boston bears the burden to convince the Board that the preliminary denial of his request to strike the conditions on his license should be reversed. 3 V.S.A. § 129(e).

Background

After a hearing on April 13, 2009 Mr. Boston's license was conditioned. He was permitted to petition the Board to have the conditions removed after six months if he has successfully met certain conditions and shown six months of satisfactory employer reports.

Mr. Boston satisfied the other conditions and asked that the conditions be removed. His request was preliminarily denied by letter dated December 18, 2009. The basis of the denial was that, "Your employer reports indicate that your performance continues to need improvement. Specifically 3 of the 7 employer reports including the one most recently received, reflect practice issue including failure to follow through with a physician order, documentation and transcription

errors, and communication skills that require improvement.” By letter dated December 20, 2009, Mr. Boston appealed that preliminary denial of his request for reinstatement. He stated that the review letters reflected the Director of Nursing’s “personal opinion/decision which is prejudiced and biased. Therefore not true.”

Findings of Fact

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

1. Mr. Boston is licensed as a registered nurse and is therefore subject to the regulatory authority of this Board. 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.
2. Mr. Boston has satisfied the other conditions imposed on his license last April.
3. The question in this hearing is whether Mr. Boston has shown six months of satisfactory employer reports. If so, the conditions on his license may be removed.
4. Mr. Boston has been working since the summer of 2009 at the Green Mountain Nursing home.
5. His employer reports have been generally good. One item noted more than once is, “Employee still needs to improve his communication skills.”
6. His reports indicate areas on which he can still improve. For example, he omitted on a “couple of occasions” initials on the MAR. Also noted was a transcription error. Mr. Boston provided an explanation of the error.
7. Mr. Boston’s Exhibit A shows that during the six month period Mr. Boston had been reliable and punctual. This document and the others admitted into evidence showed areas where Mr. Boston’s work could improve.
8. Mr. Boston received a raise from this employer. His communication with others is reported to be improving.
9. One report dated December 2009 stated that Mr. Boston had not followed a doctor’s order. Mr. Boston’s explained that the Order was not in the patient’s file.
10. While the employer reports were not perfect, they did appear to show that overall Mr. Boston’s employer finds his performance over six months to be satisfactory.

Conclusions of Law

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

1. Mr. Boston has met his burden to show that the preliminary denial of his request to remove conditions and restored his license without conditions should be reversed. 3 V.S.A. § 129(e).

Order

The Board’s preliminary denial of Mr. Boston’s request to remove conditions is **reversed**. The conditions on Mr. Boston’s license are removed.

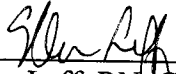
APPEAL RIGHTS

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 April 13, 2010

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 4/19/10