

VERMONT SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

In re Michael Dean Cross }
Docket NU 57-0108 }

FINDINGS OF FACT
CONCLUSIONS OF LAW & ORDER

Introduction:

On Monday 11 February 2007, this matter came before the Vermont Board of Nursing (the "Board") on a petition submitted by Michael Dean Cross ("Petitioner"). Petitioner asks the Board to reverse a preliminary denial of his application for licensure as a registered nurse.

Board members Kenneth W. Bush, Jeanine Carr, Ellen W. Leff, Donarae Metcalf, Sandra J. Norton, Linda M. Y. Rice (Chairperson), Deborah Robinson, Alan H. Weiss, DeAnn Welch and William White participated in the hearing of this matter. The Petitioner did not appear. Edward G. Adrian requested party status on behalf of the State of Vermont, which the Board granted. Board counsel Kevin F. Leahy presided.

Findings of Fact &
Conclusions of Law:

1. This appeal of a professional license preliminary denial is a contested case pursuant to the Vermont Administrative Procedure Act. Chapter 25, Title Three, *see* 3 V.S.A. §§ 809-814.
2. The Petitioner seeks reversal of the preliminary denial issued by the Office of Professional Regulation (OPR).
3. In response to Petitioner's application for a registered nursing license, OPR issued the preliminary denial on behalf of this Board.
4. OPR issued the pre-denial letter on 13 December 2007.
5. OPR based its preliminary denial on questions related to the Petitioner's licensing history in a foreign jurisdiction. Specifically, Petitioner's licensing records indicated that he may have faced disciplinary action in the State of Iowa.
6. An applicant bears the burden of proof. *See* 3 V.S.A. § 129(e).
7. To meet the burden of proof, a Petitioner must therefore demonstrate that he meets all requirements for licensure.

8. Petitioner requested this appeal hearing by letter dated 19 December 2007.
9. Petitioner did not appear for the hearing,
10. For reasons not in the record, the Petitioner did not make alternative arrangements (for instance to appear by telephone). Petitioner did not contact the Board to seek an extension or other accommodation in light of his apparent inability to attend the appeal hearing.
11. The Petitioner did not otherwise communicate with the Board or submit evidence in support of his Petition.
12. Absent evidence in support of his Petition seeking reversal of the preliminary denial, the Board is unable to grant the relief sought by Mr. Cross.
13. The Board will dismiss this appeal without prejudice.

ORDER

The Board of Nursing AFFIRMS the preliminary decision to deny Petitioner's application for a registered nursing license; and

Petitioner's registered nursing license application is DENIED; and

Petitioner's appeal is DISMISSED.

(signature page to follow)

Vermont Board of Nursing:

By: Linda Rice
Linda M. Y. Rice, APRN
Chairperson

Dated: 3/1/2008

OFFICE OF PROFESSIONAL REGULATION

DATE OF DOCKET ENTRY: 3/6/08

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 the decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Secretary of State's Office, National Life Building, FL2, 1 National Life Drive, Montpelier, Vermont 05602-3402 within 30 days of the entry of the order.

For more information about the procedure for filing an appeal, please see the Administrative Rules for the Office of Professional Regulation, which you can find at: <http://www.vtprofessionals.org/opr1/opr/admnrule.pdf> and the Rules are also available at the Office of Professional Regulation.

If you file an appeal, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The appellate officer will review the record (the tape recording, exhibits etc.) created before the board during the hearing of your case. In cases of alleged irregularities in procedure before the board, not shown in the record, proof related to that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.