

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

**In re: Michael A. Lancetta
Application Tracking No. LI-290306**

Docket No. 2018-102

APPEAL OF PRELIMINARY DENIAL

Appearances:

Prosecuting the case: Jennifer B. Colin, Esq.

Respondent: Michael Lancetta appeared by telephone

Board of Nursing:

Ellen Watson, APRN, Chair

Jill Duell, LPN

Virginia Hudson, RN

Kelly Sinclair, LNA

Douglas Sutton, RN

Deborah Swartz, RN

Luana Tredwell, LPN

Jeannine Carr, RN (*ad hoc* member)

William G. White, Jr., Public Member

Presiding Officer: Michael S. Kupersmith, Administrative Law Officer

Introduction

On or about September 21, 2018, Applicant Michael A. Lancetta, completed his application to be licensed by the State of Vermont as a Registered Nurse. On October 15, the Office of Professional Regulation issued an Amended Preliminary Denial of the application. The Applicant filed a timely appeal of the preliminary denial. Hearing on Applicant's appeal was conducted by the Board of Nursing on December 10, 2018. Based upon the pleadings and the credible evidence presented at hearing, the Board finds as follows:

Findings of Fact

The preliminary denial was based upon the Applicant's conduct in March, 2013 while licensed as a Registered Nurse in the State of New Jersey. Applicant's conduct was the basis for disciplinary proceedings which resulted in the issuance of a Consent Order by the New Jersey Board of Nursing. The circumstances which led to disciplinary proceedings and the Consent Order in New Jersey may be summarized as follows:¹

¹ The facts are derived from State's Exhibit #2.

Applicant was employed on the psychiatric unit of a hospital. In January, 2013 a patient whom the Applicant had previously known was admitted to the unit. The patient had a history of drug and alcohol addiction which was documented in hospital records. After the patient's discharge, the Applicant continued his prior relationship with her. He occasionally drank alcohol with her and she occasionally stayed overnight at his home.

Applicant was permitted to have a gun in his residence. He showed the patient where the gun was kept and told her that it was ready to shoot if she ever needed it for her protection. On March 24, 2013, the patient stayed at the Applicant's home while he worked the night shift at the hospital. When he arrived back home, he found the patient dead from a self-inflicted gunshot wound caused by his gun.

The New Jersey Board of Nursing found that the Applicant had engaged in a "boundary violation" for having an on-going relationship with a prior patient. The Board also found that Applicant "lacked critical thinking skills necessary to fundamental nursing practice."

The Consent Order, dated December 17, 2015, suspended the Applicant's license for a period of five years with 30 months served as an "active period" of suspension, and with the remaining 30 months to be served as a period of probation. The Consent Order also provided that the Applicant "shall attend and document satisfactory completion of a boundaries and ethics course, specifically the Professional/Problem Based Ethics (ProBE) Program provided by the Center for Personalized Education for Physicians [CPEP]," as well as a board-approved course in treating patients with substance abuse. Applicant failed to complete the boundaries and ethics course in May, 2016. His license remains under active suspension in New Jersey.²

At hearing, the Applicant testified and explained that he had completed the boundaries and ethics course except for the final essay. He asked CPEP if he could simply re-submit the essay, but he was advised that he would have to retake the entire course. For reasons not entirely clear to this Board, Applicant has delayed re-registering for the course and is now scheduled to take it in September, 2019. (He is wait-listed to take the course in February, 2019.)

At hearing, the Board reviewed Applicant's final essay which was admitted as a portion of State's Exhibit #3. The Board also reviewed other documents admitted as part of Exhibit #3, the ProBE Program Evaluation and Assessment Report and two letters from CPEP summarized the program results.

Conclusions of Law

The Prosecuting Attorney, on behalf of the Board of Nursing, issued a preliminary denial of Applicant's application. See Vt. Admin. Code 20-4-1100:1.6(a). On appeal of the preliminary denial, the burden on proof was on the Applicant to show that the preliminary denial was in error. Vt. Admin. Code 20-4-1100:1.6(b). The Board concludes that the Applicant has not sustained his burden of proof.

² Applicant's license was also suspended by the Commonwealth of Pennsylvania. According to the Applicant, Pennsylvania has reinstated his license albeit on probationary status.

The incident which gave rise to the suspension of the Applicant's license in the State of New Jersey would have resulted in disciplinary proceedings in Vermont as well. See Basis of Denial One (Applicant's conduct caused harm to the public); Basis for Denial Two (Applicant failed to exercise independent professional judgment in the performance of licensed activity); and Basis for Denial Three (Applicant failed to conform to the essential standards of acceptable and prevailing practice).

Based upon the Board's analysis of the ProBE final essay, the Board agrees with the ProBE evaluation report. The ProBE assessment may best be summarized by a single sentence: "Given the magnitude of the circumstances [which gave rise to disciplinary action], he does not sufficiently demonstrate that he is capable of applying the ethical decision making processes discussed during the ProBE seminar to the professional issues that confront him."

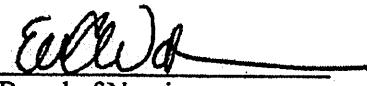
In view of the Applicant's failure to complete the boundaries and ethics course mandated by the New Jersey Board of Nursing, as well as his failure to have his license reinstated in New Jersey, the Applicant has failed to convince the Vermont Board of Nursing that he should be issued a license in the State of Vermont notwithstanding that failure. He presented neither facts nor reasoning that would suggest, must less compel, a conclusion that the preliminary denial of a Vermont license was issued in error.

Traditionally, though not automatically, the Board has deferred to disciplinary proceedings in sister states. At this time the Board of Nursing believes that, at a minimum, the Applicant must satisfy the requirements of the New Jersey Consent Order and must become reinstated in New Jersey. At that time, he may re-apply for licensure in Vermont.

ORDER

Applicant's appeal of the Preliminary Denial is *denied*.

It is SO ORDERED this 19th day of December, 2018,


Board of Nursing
By: Ellen Watson. APRN. Chair

Date of Entry: 1.3.19

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.

