

VERMONT SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

In re Stacy F. Lickert }
 Pre-Denial Petition }

NU 31-0907

APPLICATION FOR NURSING LICENSE AND
RE-ENTRY APPLICATION APPEAL ORDER

Findings of Fact

Conclusions of Law & Order:

1. On Monday 21 September 2007, this matter came before the Vermont Board of Nursing on a petition submitted by Stacy F. Lickert ("Petitioner").
2. Board members Kenneth W. Bush, Susan O. Farrell (Chairperson),¹ Ellen Leff, Donarae Metcalf, Sandra Norton, Linda Rice, Laurey M. Tyo, DeAnn Welch and Alan Weiss participated in the hearing of this matter. The State of Vermont received party status and was represented by Edward Adrian. The Petitioner appeared on her own behalf. Board counsel Kevin F. Leahy presided
3. Petitioner is appealing, and seeks the reversal of, the preliminary denial of her "Application for Re-Entry into Nursing Practice."
4. The Office of Professional Regulation ("OPR"), acting on behalf of the Board, denied Petitioner's application in August 2007 based on discipline taken against Petitioner's license in the State of Florida.
5. For the reasons set forth below, the Board vacates the preliminary denial and will grant the Petitioner's application with conditions.
6. A review committee designated by the Board preliminarily denied the Petitioner's application.
7. The Board's designee cited, as reason for denying the re-entry application, concerns over disciplinary action taken in Florida against Petitioner. *See In re Stacy Deramo [Lickert]*, Fla. Dep't of Health, Case No. 99-19524 (docketed 19 July 1999); and *In re Stacy Deramo [Lickert]*, Fla. Dep't of Health, Case No. 99-61177 (docketed 9 Aug. 2000).
8. This appeal followed.
9. A Petitioner bears the burden of proof. 3 V.S.A. § 129(e).
10. It is therefore incumbent upon the Petitioner to demonstrate to the Board that she otherwise meets the qualifications to satisfy her application for re-entry.

¹ Susan O. Farrell's term expired at the end of 2007. She participated in the deliberation of this matter and the consideration of the Board's order.

11. The Board reviewed and considered the evidence presented at the hearing by the Petitioner including her testimony, licensing records from Florida, letters of recommendation and her employment history.
12. Based on a review of the additional evidence supplied in support of the license application and the entire record in this case, the Board finds the Petitioner qualifies for a state license.
13. Petitioner demonstrated her qualification to receive approval of the re-entry application she filed with this Board.
14. In granting Petitioner's application, this Board also respects the order made by the nurse licensing agency of the State of Florida.
15. The Board further observes that several issues related to Petitioner's Florida disciplinary action remain unresolved.
16. In granting Petitioner's application, the Board will therefore do so with conditions to insure public health, safety and welfare.
17. This Board will require Petitioner's Vermont license carry conditions consistent with the Florida discipline.
18. Petitioner's license conditions shall meet the following conditions in addition to the terms set forth in the appendix to this order.
19. The Florida order requires that the Petitioner take a course relating to legal or regulatory aspects of the practice of the profession of nursing.
20. If the Petitioner has not yet satisfied this requirement of the 1999 Florida Dep't of Health order, Petitioner shall take a similar course or one of functional equivalency as approved by the Vermont Board or its designee.
21. The Petitioner's disciplinary actions in the State of Florida indicate that she has one or more unpaid administrative fines.
22. If Petitioner has not satisfied outstanding obligations levied by the 1999 or 2000 Florida orders, she must do so, or make plans to do so acceptable to the Florida Board, within 90 days from the entry of this order and submit proof to this Board or its designee.
23. The license conditions shall remain in place until Petitioner successfully completes and complies with all conditions set forth in this order and demonstrates rehabilitation to the Board.

ORDER

The Board of Nursing VACATES the August 2007 preliminary decision to deny Petitioner's "Application for Re-Entry Into Nursing Practice." The Board GRANTS the Petitioner's application pursuant to the conditions set forth in this order and its appendix.

(- End -)
(signature page to follow)

Vermont Board of Nursing:

By: Linda Rice
Linda M. Y. Rice
Chairperson

Dated: 3-19-08

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 3/24/08

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.

APPENDIX
(In re Stacy Lickert)

1. Issuance of License.

Upon entry of this order, Stacy Lickert (Petitioner) shall be issued a license labeled "conditioned."

2. Length of Time Conditions Imposed (3 years).

The conditions shall remain in place until Petitioner completes three (3) years of supervised nursing practice in which Petitioner works forty (40) hours every two (2) weeks as a licensed registered nurse. Petitioner shall receive credit for part-time work (*i.e.* work that is less than forty (40) hours every two (2) weeks) on a prorated basis. The Petitioner may not work more than forty (40) hours per week. Petitioner's re-entry program shall count toward the three year requirement.

3. Completion of Drug and Alcohol Abuse Counseling and Treatment Plan.

Petitioner shall enter into and continue drug and alcohol abuse counseling with a treating professional approved by the Board until the treating professional certifies that counseling is no longer necessary. Petitioner shall comply with the substance abuse treatment plan approved by the Board and the treating professional.

4. Notification to Treating Professional.

Petitioner shall provide a copy of this Order to Petitioner's substance abuse treating professional and cause Petitioner's treating professional to inform the Board, in writing and on professional letterhead, of receipt of the Order and the treating professional's ability to comply with the conditions related to treatment and with all other terms of this Order.

5. Reports from Treating Professional.

Petitioner shall authorize and cause Petitioner's treating professional to submit evidence of satisfactory progress with the treatment plan during the effective period of this Order. These reports shall be submitted on forms issued by the Board. The first report is due commencing the month after the date of the commencement of the conditions and subsequent reports are due every month thereafter.

Petitioner shall authorize Petitioner's treating professional to provide information requested by the Nursing Board while this Order is in effect.

6. Notification to Employers/Nursing School.

Petitioner shall provide a copy of this Order to all employers in any current or future setting in which Petitioner practices nursing and inform them of Petitioner's conditional license status.

Within ten (10) days of the date of entry of this Order or of any subsequent nursing employment, Petitioner shall cause Petitioner's immediate supervisor to write to the Board, on the employer's letterhead, acknowledging receipt of the Order and acknowledging the ability to comply with its conditions. In the event Petitioner attends a nursing program, Petitioner shall cause the Program Director to write to the Board, on school letterhead, acknowledging receipt of the Order and ability of the program to comply with the conditions in the Order during clinical experience.

7. Reports from Employers.

Within one (1) month of the date of entry of this Order or within one (1) month of the commencement of nursing employment and monthly thereafter, Petitioner shall cause every nursing employer for which Petitioner worked during that month to submit an evaluation of Petitioner's work performance and number of days worked. This report shall be submitted in writing on forms issued by the Board.

In the event the Petitioner is attending a nursing program, Petitioner shall cause the Program Director to submit to the Board, on a monthly basis, a written evaluation of Petitioner's performance and days attended. This report shall be submitted in writing on forms issued by the Board and accompanied by a cover letter on the school's letterhead.

8. Practice Supervision.

Petitioner shall practice only in a setting where Petitioner has direct supervision for the entire shift by a licensed registered nurse who is in good standing.

9. Administration of Medications

Petitioner may not administer controlled substances. The Petitioner may petition to have this condition removed or modified after completing twelve (12) weeks of work as a nurse. A petition seeking removal or modification of this condition must demonstrate to the Board, or its designee for monitoring condition compliance, that Petitioner can safely administer controlled substances. Support for the petition shall include an explanation of Petitioner's employer/school administrator inventory control procedures, and the Board may also require documented support for removing this condition from any applicable treating professional.

10. Interview with Board or Board Designee

Petitioner shall cooperate in good faith and appear for interviews or phone calls from Board investigators or other designees.

11. Participation in Recovery Group.

Petitioner shall participate in a substance abuse recovery group as recommended by Petitioner's treating professional.

12. Random Drug and Alcohol Testing.

Petitioner shall submit to random drug and alcohol screenings at the request of the Board or its designee pursuant to Board procedures. Testing shall be random. Urine specimens collected for tests shall be collected in an observed setting. All screens shall be negative.

13. Abstain from Drug and Alcohol Use.

Petitioner shall abstain completely from the consumption or possession of alcohol and drugs with the exception of prescribed medications while these conditions are in place.

14. Drug Use Exception.

The Petitioner may only use lawfully prescribed medications. Petitioner shall inform the Board in writing of a prescribing, physician, dentist, or nurse practitioner's identity within forty-eight (48) hours of the establishment of the practitioner/patient relationship. Petitioner shall ensure that the prescribing health care professional confirms, in writing and on appropriate letterhead, knowledge of Petitioner's substance abuse history within one (1) week of entering into the practitioner/patient relationship. Petitioner shall inform the Board in writing of all scheduled medications prescribed, including the name of the prescribing health care professional, within forty-eight (48) hours of receiving the prescription medication.

The Board or its designee may request that the Petitioner's health care practitioner document the continued necessity for scheduled/controlled medications prescribed for an extended term.

15. Records.

Petitioner shall keep a record of all medications that the Petitioner takes including over-the-counter medications, and Petitioner shall produce the record upon reasonable request of the Board or its designee.

16. Types of Employment Prohibited.

Petitioner shall not work in a supervisory role with the exception of supervising unlicensed assistive persons. Petitioner shall not work for a nurse registry, traveling nurse agency, float-pool, home health care agency, temporary nursing employment agency or as a personal care provider during the effective period of this Order.

17. Out of State Practice/Residence.

Before the Board credits any out-of-state practice or residence toward fulfillment of these terms and conditions, Petitioner must obtain Board approval prior to Petitioner leaving the State of Vermont. If Petitioner fails to receive approval, the Board will not credit time spent out-of-state toward the fulfillment of the terms and conditions of this Order. The Board will approve out-of-state practice so long as the Petitioner can still comply with the provisions of this Order.

18. Notification of Place of Employment/Personal Address/Telephone Number.

Within five (5) days of the date of entry of this Order, Petitioner shall notify the Board, in writing, of Petitioner's (a) current place of employment, (b) personal address, (c) email address and (d) telephone number. Petitioner must notify the Board, in writing, within forty-eight (48) hours of any change in (a) employment or any change in (b-d) contact information.

19. Notification to Other States.

If the Petitioner holds a nursing license from another jurisdiction(s), Petitioner must inform the nursing licensing board of the jurisdiction(s) in which licensed of the conditional status of Petitioner's Vermont nursing license within thirty (30) days of the date of entry of this Order.

20. License Renewal.

Petitioner must timely apply for renewal and otherwise comply with the requirements for license renewal.

21. Release of Information Forms.

In fulfilling the conditions of this Order, the Petitioner must authorize various persons indentified in this order to report information or to discuss the Petitioner with the Board. This includes treating professionals and employers. The Petitioner must execute a consent form that allows disclosure to the Board or its designee.

22. Violation of this Order.

If the Petitioner violates the terms of this Order, the Board, after giving the Petitioner notice and an opportunity to be heard, may impose additional disciplinary actions.

23. Completion of Conditional License Period.

After the conditional license period, the Petitioner may petition the Board to remove the license conditions. The Petitioner must present proof that Petitioner has complied with the terms of this Order. The Petitioner must also present proof of successful rehabilitation in order to be reinstated.

(- END -)