

**STATE OF VERMONT
BOARD OF NURSING**

In re: Simone Milien
License No. 025-9434

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Docket No. NU97-0109(2009-75)

**Decision on
Request to Extend Reinstatement Time**

Participating Board Members:

Alan Weiss, Public Member
Donna Rae Metcalf, LPN
Sandra Norton, LNA
William G. White, Jr., Public Member
Deborah Swartz, RN
John Todd, APRN
Douglas Sutton, RN
Ellen Watson, APRN
Sheila Davis, LPN

Appearances:

for Petitioner, State of Vermont: Gabriel Gilman
for Respondent: Pro se (by telephone)

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 September 10, 2012 at the Capitol Plaza Conference Room in Montpelier, Vermont.

Background

By Stipulation and Consent Order dated April 12, 2012 Ms. Milien's license was changed to **inactive conditioned**. According to the Order, Ms. Milien was to complete a pre-approved nursing program within two years after which her license could be reinstated. Ms. Milien wrote to the Board asking that she be granted additional time to meet her reinstatement requirements.

Findings of Fact

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

1. Ms. Milien was issued a license as a practical 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. Ms. Milien is under an Order of this Board (attached hereto) dated April 12, 2010 which required her to take a pre-approved nursing program within two years. The two years ended in April, 2012.
3. Ms. Milien did not complete a pre-approved program. On May 11, 2012 she did complete a program which was not pre-approved.
4. Ms. Milien's program did not meet the standards set by this Board's rules for an LPN program. It lacked 40 hours of social behavioral sciences.
5. The evidence presented at the hearing raised several questions about the program Ms. Milien attended. Some documents received from the program appeared to contradict other information the program provided to the Board. There may be other deficiencies in the program.
6. It appears to the Board that a more thorough review of the program is necessary to determine whether and to what extent it may be acceptable.
7. We cannot at this time make a definitive finding and determine what, if any, additional steps Ms. Milien must take to meet the requirements of the Order.
8. Paragraph A of the Order permits the Board to impose additional prerequisites to obtaining a license if Ms. Milien did not complete an approved nursing program within two years. Whether, as permitted by Paragraph A of the Stipulation and Consent Order, other pre-conditions are now appropriate before Ms. Milien's license may be reinstated cannot be determined at this time.

Conclusions of Law

As noted above, the Board does not have sufficient information to make a final decision on Ms. Milien's request. There is no need to decide whether she should be allowed more time to meet the Order's reinstatement prerequisites.

Order

This matter is **remanded** to the Investigative team or Board staff who shall:

1. Complete a thorough review of Ms. Milien's program and determine whether and to what extent it may meet the requirements of the Stipulation and Consent Order in this case.
2. Determine whether other pre-conditions to reinstatement are necessary. The Investigative Team or Board staff shall determine whether, given the passage of time since Ms. Milien took the NCLEX exam, re-taking that examination is appropriate.
3. Provide Ms. Milien a preliminary notice advising her of its findings and what additional steps, if any, the Investigative Team and Board staff feel she must take to

reinstate her license. If Ms. Milien does not agree with the notice, she may request a hearing before the Board. Her request for hearing must be submitted within 30 days of the notice. If she is willing to abide by the Investigative Team and Board staff recommendation, no further action by the Board will be necessary.

This is not a final administrative determination of the Board of Nursing. If it was, the following notice of appeal rights would apply. It is provided here so that Ms. Milien will know what remedies are available when a final Board decision is made.

APPEAL RIGHTS

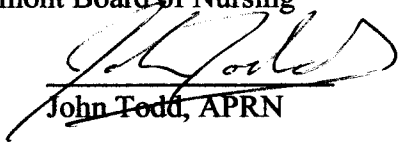
This is a final administrative determination by the Vermont Board of Nursing. A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, Office of Professional Regulation, 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:


John Todd, APRN

Date September 11, 2012

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 9-19-12