

**STATE OF VERMONT
BOARD OF NURSING**

In re: Jennifer Mathieu Muchler	}	Docket No. M2009-138 (NU16-0807)
License No. 026 25645	}	Preliminary Denial of
	}	Request to Modify Order

**Preliminary Denial Hearing
FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

Participating Board Members:

Jeanine Carr, RN, Vice Chair
Alan Weiss
Sandra Norton, LNA
Donarae Metcalf, LPN
William G. White Jr.
Deborah Swartz, RN
John Todd, APRN

Appearances: State of Vermont: Betsy Wrask
Applicant: Pro se

Presiding Officer: Larry S. Novins

The Vermont Board of Nursing held a hearing in the above matter on December 13, 2010 the National Life Building in Montpelier, Vermont.

Applicant bears the burden to convince the Board that the preliminary denial should be reversed and that her request to modify the Order previously issued should be granted. 3 V.S.A. § 129(e).

Background

By letter dated October 21, 2010 the Board's subcommittee on behalf of the Board denied Ms. Muchler's request to remove the condition requiring her to practice under direct supervision. The letter stated that there had been "repeated instances of non-compliance with Conditions" since the Order was entered.

Findings of Fact

Based on the evidence presented at the hearing and review of the file, the Board finds as follows:

1. Ms. Muchler, is a licensed registered nurse practicing on a conditioned license is 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. On December 10, 2007 the Board accepted a Stipulation and Consent Order in which Ms. Muchler admitted unprofessional conduct and which imposed for a minimum of three years, among other conditions, that Ms. Muchler practice "in a setting where Ms. Muchler has direct supervision for the entire shift by a registered nurse who is licensed and in good standing.
3. Ms. Muchler asked by letter dated August 3, 2010 that the supervision requirement be modified.
4. Ms. Muchler works at Rutland Healthcare and Rehabilitation with RN's and LPN's. She resumed practice one year ago. She is two years shy of the three years of supervised practice agreed to in the Stipulation and Order. She requests the modification because she believes she no longer needs direct supervision. The Board views direct supervision as a necessary rehabilitative tool.
5. Ms. Muchler admits that she has missed required calls to First Lab and failed to assure that the Board has received treating professional reports, employer reports, and medication audit reports as required by the Order. It appears that much of her reporting compliance problems result from her employer's relaxed attitude toward them.
6. There is no compelling reason to modify the agreement Ms. Muchler entered into three years ago.

Conclusions of Law

Ms. Muchler asks that an Order of this Board be modified. Modification of an Order is normally governed by V.R.C.P. 60 which requires some showing of legal harm to justify the modification. Ms. Muchler has not shown the Board that the Board her request to Modify her Stipulation and Consent Order is justified under the law or the facts of her case.

Order

The Board's preliminary denial of her request to modify the Stipulation and Consent Order is **affirmed**.

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, National Life Bldg., North, FL2, Montpelier, VT 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.

By: BOARD OF NURSING
Jeanine Carr
Jeanine Carr, RN, Vice Chair

Dated: October 11, 2010

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 12/16/10