

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

In re: FANIA OXY
License No. 025.0009379

}
} Docket No. M2017-3 (2011-445) (LPN)
}

**Decision on
Respondent's Petition for Modification of Conditions**

Participating Board Members:

Ellen Watson, APRN, Vice Chair
William G. White, Jr., Public Member
Virginia Hudson, RN
Kelly Sinclair, LNA
Jennifer Laurent, APRN
Jill Duell, LPN

Appearances:

Prosecuting the case: Elizabeth St. James, Esq.
Respondent: *pro se* (by telephone)

Presiding Officer: George K. Belcher

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

The Vermont Board of Nursing held a hearing in the above matter on April 10, 2017 in Montpelier, Vermont. The State was represented by Elizabeth St. James, Esq. The Respondent appeared *pro se* by telephone. On February 8, 2017 the Respondent filed a letter with the Board of Nursing (1) expressing an interest in reinstating her Vermont LPN license and (2) asking the Board whether the Respondent will be able to enroll in further nursing classes and (3) what would be the procedure for the Respondent to remove the stipulations from her license. (See letter of Respondent dated February 2, 2017 and filed on February 8, 2017.) The State filed an Objection to Respondent's Request for Reinstatement dated February 24, 2017.

Findings of Fact

Based on the evidence presented and the documents in the Respondent's file, the Board finds as follows:

1. The facts of this case are substantially uncontested. Fania Oxy, (the "Respondent") was a

- licensed practical nurse licensed in Vermont and was therefore subject to the regulatory authority of this Board, pursuant to 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. Her license was originally issued on or about December 17, 2007.
2. Because of a problem with her initial education which was the basis of her initial license, her license was subject to an order dated April 12, 2010 in which her license was changed to "Inactive-Conditioned". Under this order she was given two years in which to complete an approved nursing program.
 3. Thereafter, on May 2, 2011 the Respondent submitted an LPN Education Verification Form which contained forged documents and transcripts from Sierra Allied Health Academy. The documents were created by Abu Marah, Director of Admissions at the Sierra Allied Health Academy, who later stated in an affidavit that he had provided fraudulent transcripts to the Respondent at her request. The Sierra Allied Health Academy had no record that the Respondent had ever attended that school. Following discovery of these facts, The Vermont Board of Nursing revoked the LPN license of the Respondent by order dated May 13, 2013. The Respondent stipulated to the facts and the order of revocation.
 4. The Respondent would now like to secure nursing education in order to reapply for her Vermont LPN license. However, she testified that when she applies to nursing schools her name is reported on licensing discipline lists such that she is not admitted for entry into the nursing schools. She also testified that her ability to work in a facility which receives Medicaid would also be limited; this, in turn, restricts her ability to pursue nursing education.
 5. The Respondent does not want to engage in the expense and time of additional education unless she stands a chance of licensure.
 6. The Respondent asked in her letter, "[I] would like to know if I will be granted permission to enroll in classes before I submit the Petition [for reinstatement]." She also asked, "Also, I am inquiring about the procedure to remove the stipulations from my license which hinder me from attending the nursing program." See Respondent's letter of February 2, 2017.
 7. The State objected to what it considered a request for reinstatement. The State argued that the Respondent stipulated to her license revocation in 2013 and the Respondent has "not demonstrated indications of trustworthiness in her past dealings with the Board". See State Objection.

Conclusions of Law

Based on the evidence presented and the facts found above we conclude as follows:

1. The Vermont Board of Nursing has authority to revoke the license of a nurse following a finding of unprofessional conduct. 26 VSA Sec. 1582. A Board may deny reinstatement of a license which has been revoked. 3 VSA Sec. 129(a)(5). The burden to establish that a licensee is entitled to reinstatement of a revoked license is upon the licensee.
2. The Vermont Board of nursing is unable to advise the Respondent concerning what steps the Respondent might take in order that she might continue her nursing education or have successful enrollment in nursing schools. Enrollment decisions are made by the various

nursing schools throughout the country and are not made by this Board. Likewise, the Board is not able to predict or speculate as to whether a petition to renew or reinstate her license at some future time will be granted or not. Thus, the Board cannot answer those questions which were put forth in Respondent's letter.

3. The Board can, of course, decide whether the revocation order (and its findings) of May 13, 2013 should be revised or amended. The Board declines to revise or amend that revocation order. In addition, the Board finds that the Respondent has not met her burden of proof and has not persuaded the Board that her license should be reinstated.

Order

Respondent's Request for Reinstatement of her license is DENIED.

Vermont Board of Nursing

By: 
Ellen Watson, APRN, Vice-Chair

Date: April 12, 2017

DATE OF ENTRY

4/17/17

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.

