

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

In re: SARAH G. STANLEY
License No. 026.0041682

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}
} Docket No. 2011-501

Participating Board Members:

Ellen Watson, APRN, Chair
Jennifer Laurent, APRN,
William G. White, Jr., Public Member
Deborah Swartz, RN
Luana Tredwell, LPN
Virginia Hudson, RN
Douglas Sutton, RN
Daniel Coane, *ad hoc* member

Appearances:

Prosecutor: Elizabeth St. James, Esq.
Petitioner: Appeared *pro se*

Hearing Officer: George K. Belcher

Exhibits:

Petitioner's Exhibit 1: Letter from January Reichert, RN, Director of Nursing,
Gill Odd Fellows Home dated 2/11/19
Petitioner's Exhibit 2: Omnicare Pharmacy Procedures Manual Excerpt
Petitioner's Exhibit 3: Letter from Gail Lesure, LADC, dated 2/11/19

ORDER GRANTING PETITION FOR MODIFICATION OF CONDITIONS

The Vermont Board of Nursing held a hearing in the above matter on February 11, 2019 at the Office of Professional Regulation in Montpelier, Vermont. The State was represented by Elizabeth St. James, Esq. Petitioner attended and was not represented by counsel.

Findings of Fact

1. Petitioner is licensed as a Licensed Registered Nurse and is therefore subject to the regulatory authority of this Board. 3 V.S.A. §§ 129, 129a, 26 V.S.A. Chapter 28, and the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.
2. The Petitioner stipulated to a Reinstatement Stipulation and Consent order on June 10, 2016. The Order was approved by the Board on June 13, 2016. The stipulated order

- called for conditions upon the license of the Petitioner for a minimum of three years including a minimum of three years of supervised practice and a restriction limiting her ability to pass narcotic medications. The condition concerning supervised practice was modified by this Board by Order dated January 13, 2017 (M-2013-57).
3. Condition A10 of the 2016 order prohibits the Respondent from administering any controlled substances until she has practiced as a registered nurse for six month. That condition also requires that the Respondent submit appropriate support, in writing, from Respondent's treating professional and employer as well as a description of the documentation and inventory control procedures in place at any employment if she were to petition to remove the condition prohibiting administration of controlled substances. In addition, Paragraph 4 of the order required that the Respondent participate in random drug and alcohol testing by "... a person or entity that has been pre-approved by the Board or its designee". See paragraph 4 of Order.
 4. On or about December 18, 2018 the Respondent filed a letter with the Board asking that her "... license be cleared to pass narcotics." When she filed the letter she did not file any supporting document from her employer or her treating professional.
 5. On or about January 2, 2019, the State filed an objection to the requested modification based upon the failure to provide the supporting documentation and the Respondent's failure to comply with the random drug testing as administered by the pre-approved testing entity of the Board.
 6. The Respondent received the objection which had been filed by the State.
 7. Despite being made aware of the objection, the Respondent appeared at the hearing on February 11, 2019 without written support from her treatment provider. She testified that she had procured written support from her employer on the date of the hearing. (Respondent's Exhibit 1).
 8. The Respondent explained that she had been working at the Gill Odd Fellows Nursing facility for over a year with no problems, but if she could not pass medications she would lose her job. She explained that she gave birth to her sixth child six months ago and had taken maternity leave from her job from August 14, 2018 through November 14, 2018.
 9. She further explained that she was in a Medication Assisted Treatment program and that she was regularly tested for drugs and alcohol about 2-3 times per month on a random basis from West Ridge Center and that her test results were "clean".
 10. The Respondent admitted that she had not been randomly tested by the Board approved testing agency. She explained that between her work, the birth of her youngest child, and her other five children, she often was unable to complete the testing protocol as required by the Board. She also had trouble with the expense of the tests. The Respondent assured the Board that if the condition restricting medication delivery were lifted, that she would be able to practice safely.
 11. The Petitioner only seeks one aspect of the conditions modified: restriction upon her passing narcotics.
 12. The Board went into deliberative session and then decided (by vote on the record) to allow the Respondent an hour and a half to file a letter from her treatment provider showing support for her ability to safely practice as a nurse while passing medications.
 13. The Board reconvened in an hour and a half and the Respondent produced a letter dated February 11, 2019 from her provider (Exhibit 3) which stated, in part, that her recovery had been maintained in a manner which would not impede her "... ability to complete all

job tasks”.

Conclusions of Law and Discussion

In the discretion of the Board, conditions may be modified or removed if the Respondent/Petitioner shows good cause to do so. 3 VSA Sec. 129(3). The Respondent has shown a period of stability and regular work which will be jeopardized if her employment is terminated due to her inability to pass medications. The Board is persuaded that the modification below protects the public, while giving the Petitioner a reasonable opportunity to practice her profession.

Order

The Board does delete condition number ten of the Order of June 13, 2016. All other conditions and requirements of the June 13, 2016 Order as modified by the January 13, 2017 Order of Modification are continued in force.

Vermont Board of Nursing

By: EW
Ellen Watson, APRN, Vice Chair
Vermont Board of Nursing

Date: 2-14-2019

OFFICE OF PROFESSIONAL REGULATION

2-21-19
Date of Entry

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, 89 Main St., Fl. 3, 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.

