

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

In re: Margaret M. Terrien }
License No. 026-0012228 } Docket No: NU01-0701

**UNPROFESSIONAL CONDUCT CHARGE
FINDINGS OF FACT, CONCLUSION OF LAW
& ORDER**

On 12 December 2005, this matter came before the Vermont Board of Nursing for a disposition hearing. Board members Kenneth W. Bush, Susan O. Farrell, Chairperson, Donarae Metcalf, Sandra Norton, Linda Rice and Alan Weiss participated. Ellen W. Leff and Laurey M. Tyo, the Board member who participated in the investigation, both recused themselves from participating in this matter. Prosecuting attorney Edward G. Adrian represented the State of Vermont. The Respondent appeared in person and represented herself. Kevin F. Leahy was the presiding officer.

Based on the evidence presented at the hearing, the Board makes the following finding and conclusions of law:

- 1 The Respondent is licensed by and subject to the disciplinary authority of this Board. 26 V.S.A. Chapter 28, 3 V.S.A. § 129(a), and the Administrative Rules of the Office of Professional Regulation.
2. Respondent holds a State of Vermont license as registered nurse. Respondent's license is currently suspended pursuant to an Order entered by this Board on 14 September 2005.
3. Prior to having her license suspended, the Respondent worked at the VNA facility as an RN clinical coordinator. She began a leave of absence in July 2005.
4. At the hearing, the Respondent acknowledged her history of alcoholism, and she again acknowledged that she had a relapse in July 2005.
5. The Respondent received a conditioned license in 1999 as a result of two convictions for driving under the influence of alcohol. The conditions required, among other things, that Respondent abstain from alcohol. Respondent acknowledged her alcohol problem at that time and sought treatment for her condition.
6. The Board imposed further conditions on 11 September 2002 subsequent to relapses that the Respondent had in 2001.
7. Since the September 2002 conditions have been in place, Respondent has remained sober and otherwise met the conditions of her license. As of June 2005 she had been sober post her June 2001 relapse, and she otherwise may have been eligible to have the conditions of her license lifted in the fall of 2005. Her

employer reports since 2002 indicate no problems with the quality of her work, and she continued to receive counseling to stay in recovery.

8. However, as explained by the Respondent's treating professional, in a letter admitted into evidence at the hearing, the "[Respondent] has worked to understand the dynamics of her relapse this summer [July 2005] and has not shirked from responsibility nor minimized the risk and progression of the disease to herself nor to her profession." *Letter*, dated 8 Dec. 2005, from Kim Bushey, licensed alcohol and drug counselor. Respondent's Exhibit A.
9. Ms. Bushey's letter to this Board further observed that the Respondent's condition is a "chronic disease that has a tendency to become unstable" similar to other "chronic diseases that have tendency to come out of remission during periods of elevated stress and can also impair professional judgment and functions [such as] depression, cancer, diabetes." *Id.*
10. Neither at the hearing on this matter, nor through employer reports since conditions were imposed on the Respondent's license, did the Board receive evidence suggesting the Respondent was either intemperate while performing nursing duties or that she was responsible for making any practice errors in carrying out her job functions.

The opinion of the Respondent's treating professional is that the Respondent is able to practice the nursing profession competently. Exhibit A.
12. The State did not offer a recommended sanction as a result of the Respondent's July 2005 relapse. The Respondent testified that she was receiving the necessary support she needed to stay in recovery and could safely practice nursing if the Board lifted its current suspension and reissued her license with conditions similar to those previously imposed. *See In Re Terrien*, Order, docketed 11 September 2002.
3. The Board believes the Respondent's July 2005 relapse is sufficient cause to revoke her license.

ORDER

In light of its findings of fact and conclusions of law, the Board now ORDERS that the Respondent's Vermont nursing license be REVOKED indefinitely.

Vermont Board of Nursing

By: Susan Farrell
Susan Farrell, RN, Chairperson

Date: 1/26/06

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 1/31/06

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, 26 Terrace Street, Montpelier, Vermont 05609-1101 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.

**STATE OF VERMONT
SECRETARY OF STATE
BOARD OF NURSING**

IN RE: MARGARET M. TERRIEN
License No. 026-0012228

DOCKET No. NU01-0701

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SPECIFICATION OF CHARGES

Board Authority

- 1 The Vermont Board of Nursing ("the Board") has jurisdiction to investigate complaints of unprofessional conduct and discipline nurses pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §1582; the Administrative Rules of the Board of Nursing; and the Rules of the Office of Professional Regulation.

Statement of Facts

2. Margaret M. Terrien (the "Respondent") of Burlington, Vermont is a registered nurse license holding license number 026-0012228, issued by the State of Vermont. This license was originally issued on or about September 8, 1977 and is set to expire on March 31, 2007.
- 3 At all relevant times the Respondent was practicing as a registered nurse and worked as the RN Clinical Coordinator/Adult Day Programs at the VNA of Chittenden and Grand Isle Counties (the "Facility") located in Burlington, Vermont.
4. On or about December 14, 1999 the Respondent was placed on a Stipulation that required her to abstain from alcohol. Attachment A. On or about March 16, 2001 the Respondent entered into another stipulation based on her use of alcohol. Id. On or about June 26, 2001 the Respondent was summarily suspended based on her use of alcohol. Id. On or about September 11, 2002 the Respondent was again placed on a conditioned licensed that required her to completely abstain from the use of alcohol. Id.
- 5 On or about August 5, 2005 the Board received notice from the Facility that the Respondent had started a leave of absence on July 27, 2005 because of her recent use of alcohol. On September 12, 2005 at a summary suspension hearing, the Respondent admitted under oath that she had used alcohol in violation of the Board's Order.

Charges

- 6 The above acts and circumstances, alone or in combination, violate:
- i. 3 V.S.A. § 129a(a)(3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession);
 - ii. 3 V.S.A. § 129a(a)(4) (failing to comply with an order of the Board or violating any term of a condition of a license restricted by the Board);
 - iii. 26 V.S.A. § 1582(a)(3)(is unable to practice nursing competently by reason of any

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cause);

iv. 26 V.S.A. § 1582(a)(5) (is habitually intemperate);

v. Vermont Board of Nursing Administrative Rule (the "Rules") Chapter 4, Rule IV, II, B, 2 (failure to conform to the essential standards of acceptable and prevailing nursing practice); and

vi. Rule Chapter 4, Rule IV, II, C (any cause includes use of drugs, narcotics, chemicals or any other type of materials).

Request for Relief

WHEREFORE, the license of Margaret Terrien should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 20th day of September 2005.

STATE OF VERMONT
SECRETARY OF STATE

By:

Edward G. Adrian
State Prosecuting Attorney

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