

**State of Vermont
Board of Nursing**

In re: Cynthia J. Tubman-Woodman
License Number: 026.0021547

Docket Number: 2006-142
Follow up Number: M2009-35

Order Removing Conditions

On October 12, 2015, the Vermont Board of Nursing considered Cynthia J. Tubman-Woodman's request for removal of the conditions imposed on her RN license by Board Order dated September 10, 2007.

Based on the representations of the Board staff, the Board finds that Respondent has met all the requirements of the Order and that removal of the conditions is appropriate.

The Board hereby **removes the conditions** imposed on Cynthia J. Tubman-Woodman's license by the Order referenced above.

So Ordered.

Vermont Board of Nursing, by

Jeanine Carr

Jeanine Carr, RN, Chair

Date: _____

10/12/15

Date of Entry: _____

10 / 12 / 15

**STATE OF VERMONT
BOARD OF NURSING**

In re: Cynthia Tubman-Woodman
(formerly Cynthia Hughes)
License No. 026-21547

}
}
}
}

M2009-35

Docket No. (NU33-1104)(RN)

**Decision on
Motion to Strike Conditions**

Participating Board Members:

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

Appearances:

for State of Vermont: Gabriel Gilman
for Respondent: pro se

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 December 10, 2012 at the Office of Professional Regulation Conference Room in Schulmaier Hall at the Vermont College of Fine Arts in Montpelier, Vermont.

Background

Ms. Tubman-Woodman by letter received on September 26, 2012 requested that Conditions #7 practice supervision; #8 administration of medications; #10 "recovery logs;" and #11 random drug and alcohol testing, all of which were imposed on her license by this Board's previous Orders be stricken. In a November 8, 2012 letter to the Board Ms. Tubman-Woodman also asked that Condition #2 limiting her to 40 hours work per week be stricken. The Board, through Executive Director Linda Davidson, preliminarily denied Ms. Tubman-Woodman's

request by letter dated October 25, 2012. The letter outlined clearly the rationale for the denial. Ms. Tubman-Woodman requested a hearing on the matter. At the hearing Ms. Tubman-Woodman testified on her own behalf. The investigative team and prosecutor agreed at the hearing that removal of condition #8 was appropriate. The Board concurred and granted her request to remove Condition #8, but denied Ms. Tubman-Woodman's request to remove the other conditions.

Findings of Fact

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

1. Ms. Tubman-Woodman is 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. § 1582(a), the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.
2. Ms. Tubman-Woodman submitted letters of recommendation in support of her request to strike the conditions mentioned above.
3. It appears that Ms. Tubman-Woodman has been in compliance with the conditions imposed on her license. She appears forthright about her history and recovery. She has been employed as a registered nurse since late August, 2012. She participates in several recovery groups and is intimately involved in Department of Corrections recovery programs for women. She runs some of the groups she attends.
4. Ms. Tubman-Woodman does not work more than forty hours per week and has no desire or intent to do so.
5. Ms. Tubman-Woodman's reason for seeking removal of the conditions is not financial now that she is working.
6. Condition #8 as imposed permits Ms. Tubman-Woodman to seek its removal after twelve weeks of licensed nursing work. She has worked more than twelve weeks as a registered nurse and has shown that she may be trusted to administer controlled substances.

Discussion and Conclusions

The Prosecuting attorney in this case argued that Ms. Tubman-Woodman's request for relief amounts to a request to amend or change the Board's original Order in this case. His position is that Relief from an Order is governed by Rule 60(b) of the Vermont Rules of Civil Procedure. We need not decide whether that rule prohibits the modifications that Ms. Tubman-Woodman seeks as we agree with the prosecutor that the conditions on Ms. Tubman-Woodman's license were intended to apply as a comprehensive set, and they should not be subject to on-going piecemeal scrutiny and revision. Since Ms. Tubman-Woodman is still in the early stages of the three year period of conditions, those conditions as originally imposed and at this time remain reasonable as a whole. They are necessary for Ms. Tubman-Woodman to be able to practice safely. We do agree with the investigative team that Ms. Tubman-Woodman has shown that Condition #8 which specifically permits review is no longer necessary.

Order

Ms. Tubman-Woodman's request to strike Condition #8 "Administration of Medications" is granted. Ms. Tubman-Woodman's request to strike conditions #2, #7, #10, and #11 is denied.

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:

Jeanine Carr
Jeanine Carr, RN, Chair

Date: December 11, 2012

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 12/17/12

**STATE OF VERMONT
BOARD OF NURSING**

In re: Cynthia J. Hughes
License No. 026 21547

}
}
}

Docket No. M2009-35(RN)
Follow up to NU33-1104

**Decision on
Motion to Modify Conditions**

Participating Board Members:

Ellen W. Leff, RN, Chair
Jeanine Carr, RN, Vice Chair
Alan Weiss
Sandra Norton, LNA
Donarae Metcalf, LPN
De-Ann Welch, LPN
Kenneth W. Bush, RN
William G. White Jr.
John Todd, APRN

Appearances:

for Petitioner, State of Vermont: Lauren Hibbert
for Respondent: Pro se

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 June 13, 2011 at the National Life Building in Montpelier, Vermont.

Ms. Hughes, the petitioner in this matter, bears burden to show that her motion to modify the Board's previous Order should be granted.

Background

Ms. Hughes appeared before the Board in September 2008. The Board issued an Order dated February 21, 2009 imposing numerous conditions on Ms. Hughes's license. Ms. Hughes wrote to the Board on December 20, 2010 asking that the some of the conditions on that Order be modified.

Findings of Fact

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

1. Ms. Hughes is 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. § 1582(a), the Administrative Rules of the Board of Nursing, and the Rules of the Office of Professional Regulation.
2. Condition #7 of the Order requires that Ms. Hughes practice under direct supervision. She requests that this condition be modified to permit "on site" supervision.
3. Condition #8 of the Order prohibits Ms. Hughes from administering medications until she has completed 12 weeks of licensed practice. She requests that the period be shortened.
4. Conditions #10 and #11 of the Order require participation in a recovery group and random alcohol testing. Ms. Hughes asks that these conditions be modified since she is actively engaged in AA and signs forms for others in the groups and because of the cost of the tests.
5. Ms. Hughes submitted ample documentation of her on-going recovery. She appears to be successful in every way. The urinalysis tests taken over the last two and a half years have all been negative.
6. Ms. Hughes has not worked as a nurse for four years. She renewed her license earlier this spring.
7. Ms. Hughes was very articulate in her presentation to the Board. She was forthright about her alcoholism and how she hid it from the Board before discipline was imposed. She testified that she looks forward to the nursing work environment and all that entails. She has made serious efforts to find employment, so far without success. Ms. Hughes believes that the conditions she refers to have prevented her from obtaining employment.
8. Nursing is a stressful occupation. During Ms. Hughes's re-entry into practice a continued period of urinalysis and participation in recovery groups remains necessary to support and assure her safe practice.

Conclusions of Law

Based on the evidence presented and Facts found above we conclude that Ms. Hughes has shown that some modification of the previous Order is appropriate. Her motion to Modify Conditions is *granted in part, denied in part*. We decline to modify conditions #10 and #11. We believe that the amendments that follow will permit Ms. Hughes to practice while protecting the public health, safety, and welfare.

Order

The Conditions set in the Order dated February 21, 2009 (entered on March 2, 2009) are retained except as set forth as follows:

Condition # 7 is amended to read:

Practice Supervision. Ms. Hughes shall practice only in a setting where Ms. Hughes has *on site supervision* by a registered nurse who is in good standing.

Condition #8 is amended to read:

Administration of Medications

- (a) Ms. Hughes is prohibited from administering any controlled substances.
- (b) After Ms. Hughes has worked as a registered nurse for *four (4) weeks* of at least forty (40) hours every two weeks (or the part time equivalent) after the date of reinstatement, Ms. Hughes may file a petition with the Board requesting that the prohibition be removed.
- (c) In any such petition, Ms. Hughes must demonstrate to the satisfaction of the Board, that she can safely and competently administer such medications. In any such petition, Ms. Hughes must include appropriate support from the treating professional and employer or nursing school administrator and a description of the documentation and inventory control procedures in place.
- (d) The removal of this prohibition shall not automatically result in reinstatement of all medication privileges. The Board may gradually restore those privileges through intermediary steps it determines are appropriate.

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:

Ellen Leff, RN, Chair

Date June 14, 2011

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 6/16/11