

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

PASCAL CANESSE,)
)
 Petitioner,)
)
 vs.) Case No. 99-4175
)
 DEPARTMENT OF HEALTH, BOARD OF)
 NURSING,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER

A hearing was held in this case in Bradenton, Florida, on March 10, 2000, before Arnold H. Pollock, an Administrative Law Judge with the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Doris A. Bunnell, Esquire
608 15th Street West
Bradenton, Florida 34205

For Respondent: Lee Ann Gustafson, Esquire
Department of Legal Affairs
The Capitol, Plaza Level 01
Tallahassee, Florida 32399-1050

STATEMENT OF THE ISSUE

The issue for consideration in this hearing is whether Petitioner meets the academic requirements for licensure as a registered nurse in Florida.

PRELIMINARY MATTERS

By Notice of Educational Deficiency dated May 20, 1999, the Board of Nursing notified Petitioner, Pascal Canesse, that a

review of his nursing education reflects insufficient classroom/clinical instruction in obstetrical nursing to meet the educational standards for examination for licensure as a registered nurse in Florida. By petition dated September 20, 1999, Petitioner requested formal hearing on the agency's proposed denial, and this hearing ensued.

At the hearing, Petitioner testified in his own behalf and presented the testimony of Ashley L. Canesse, his wife; Michelle Allen, director of critical care at Blake Hospital and Petitioner's supervisor; and Mary Kay Jacobsen, nursing education director for the Florida Board of Nursing. Petitioner also introduced Petitioner's Exhibits 2 and 4 through 9. Respondent also presented the testimony of Ms. Jacobsen and introduced Respondent's Exhibit A.

A Transcript of the proceedings was provided. Subsequent to the hearing, both counsel submitted matters in the form of proposed recommended orders which have been carefully considered in the preparation of this Recommended Order.

FINDINGS OF FACT

1. At all times pertinent to the issues herein, Respondent, Board of Nursing, has been the state agency responsible for the licensing of registered and licensed practical nurses in Florida and the regulation of the nursing profession in this state.

2. On November 25, 1998, while residing in France, Petitioner, Pascal Canesse, filled out an application for nursing

licensure (DH Form 1204. 8/98), seeking licensure by examination as a registered nurse in Florida which he submitted in January 1999.

3. Prior to the hearing, the parties stipulated, and it is found, that:

a. Petitioner attended the nursing program at Institute Formation en Soins Infirmiers (the Institute) in France from 1993 - 1995,

b. The Official Transcript submitted by the Institute does not list classroom instruction or clinical practice in obstetrics.

c. The Training Sessions, or clinical practice, portion of the Official Transcript submitted by the Institute includes a breakdown of 350 hours of surgery training that includes the following subject areas:

- (1) emergency
- (2) polyvalent intensive care
- (3) digestive surgery and urology

d. The Form B submitted by the Institute states that Petitioner had 600 hours of classroom instruction and 490 hours of clinical practice in surgical nursing.

e. The Training Sessions, or clinical practice, portion of the Official Transcript submitted by the Institute lists a total of 1,715 hours of training.

f. The theoretical Assessment portion of the Official Transcript submitted by the Institute does not include the number of hours of instruction but breaks down the training to include nursing care to patients in the following categories:

- (1) psychosis patients
- (2) patients with breathing problems
- (3) patients with ENT-stomatology-dermatology troubles
- (4) patients with endocrinous troubles

- (5) patients with digestive troubles
- (6) patients with troubles of the nutriment duct
- (7) pediatrics and child psychiatry
- (8) elderly patients with neuropsychiatry troubles
- (9) elderly patients
- (10) patients with nervous system troubles
- (11) patients in emergencies-intensive care-blood transfusions
- (12) patients with hematology/urology/nephrology troubles

g. In answer to question 6 on his application, Petitioner stated that he completed 40 hours of training in obstetrical nursing under the categories listed on the transcript.

h. The Form B - Transcript of Nursing Education in a Foreign Country submitted by the Institute and relating to Petitioner reflects that he received 40 hours of classroom instruction in obstetrical nursing. No hours of clinical practical in obstetrical nursing are reflected.

i. In correspondence to the Board dated June 10, 1999, Petitioner set forth his explanation of the discrepancies in the application, Form B, and his transcript.

4. Petitioner contends that when he filled out his application and the supporting documentation therefor, he listed 525 hours of clinical medical nursing practice and 490 hours of clinical surgical nursing practice. While he reflected 40 hours of instruction in obstetric nursing, he failed to indicate any obstetric clinical practice. He claims the number of hours claimed as being in medical/surgical area comprises the number of hours in both, including obstetrics. His failure to enter any

clinical practice in the obstetrics area was the result of a combination of that discipline with medical/surgical training as is done in France. This reflects clinical hours only. His claim of 40 hours training is for classroom work in obstetrics only. It is not combined with surgery. It would have been much clearer if he had marked down the course he took rather than just the hours taken.

5. A review of the Official Transcript provided by the Institute to be submitted to the Florida authorities in support of Petitioner's application clearly fails to specifically indicate any obstetrical training.

6. The "Addendum to Transcript" dated May 4, 1999, reflects 70 hours of obstetric classroom in addition to two weeks' clinical obstetrics experience. This is different from the surgical nursing that had been combined with surgical nursing on the Form B originally submitted. Other documentation from the Institute, a letter dated June 25, 1999, indicates that two "weeks" is equivalent to 70 hours.

7. That same letter notes that much of the training in France is hospital-based with a significant amount of training being clinical in nature with a heavy emphasis in surgery. The French authorities claim that those surgical hours are comprehensive, and it is in that curriculum that the students receive clinical and classroom obstetrics training, with the

clinical portion being a full two weeks - that is, "a minimum of 70 hours."

8. Petitioner also introduced a syllabus for the module in the Institute's nursing training program which relates to gynecology. This reflects the areas covered and includes a significant amount of information apparently related to obstetrics and childbirth. The syllabus reflects an extensive amount of clinical instruction over the three years of nursing training. However, again, the supporting documentation does not clearly quantify that portion of the training which deals with obstetrics, nor does it show where the training is integrated into the surgical nursing training as claimed by Petitioner.

9. Petitioner was unable to convincingly recall at which point in the three-year training program he took the required clinical obstetrics training. At one point, in his deposition, he claimed it was integrated in his emergency medicine training. At hearing, however, he claimed it was integrated with medical surgical training. The fact that the obstetrical clinic may have been integrated with another service is not, of itself, disqualifying. The Board of Nursing accepts integrated nursing training, under certain conditions.

10. When course integration is claimed, however, the Board requires the submission of a detailed course outline that delineates where the specific course content, here, obstetrics, is presented. Further, the Board considers the integration of

obstetrics with emergency surgery as inappropriate because the basic nature of the disciplines is not the same. While one is reactive, the other is pro-active.

11. No doubt, Petitioner was exposed to an obstetrics curriculum which included both classroom and clinical instruction. From the state of the evidence presented, however, it is impossible to determine the breadth and content of this exposure.

12. According to Ms. Jacobsen, the Board's nursing education director, staff which reviewed Petitioner's application was concerned over the unexplained inconsistency in the supporting documentation submitted therewith. None of the information on the various submitted documentation matched. On its Notice of Educational Deficiencies dated May 20, 1999, it was suggested that Petitioner have his school write a letter explaining the discrepancy. The Institute's letter of June 25, 1999 asserts that the required clinical training was provided, but does not define with any particularity at which point in the training the obstetrics discipline is treated. It appears to be integrated into the surgical clinical training, but from the state of the documentation presented, the particulars cannot be determined.

CONCLUSIONS OF LAW

13. The Division of Administrative Hearings has jurisdiction over the parties and the subject matter of these proceedings. Section 120.57(1), Florida Statutes.

14. Petitioner in this case seeks to take the Florida examination for licensure as a registered nurse. Section 464.008, Florida Statutes, requires applicants to show proof of their graduation from an approved nursing program or equivalent to be eligible to sit for the examination for licensure.

15. An "Approved Program Equivalent" is defined in Rule 64B9-3.001(2), Florida Administrative Code, as one conducted in a school, college or university outside the State of Florida which has been approved by the Board of Nursing in the jurisdiction in which it is located, if such Board exists, and which demonstrates it meets the criteria in the Rules of the Board of Nursing found in Chapter 64B9-2, Florida Administrative Code.

16. The specific requirements for professional nursing programs, as defined by Rule 64B9-2.006(2), Florida Administrative Code, include theoretical instruction and clinical experience in medical, surgical, obstetric, pediatric, geriatric, and psychiatric nursing. Rule 64B9-3.002(1)(c), Florida Administrative Code permits the Board of Nursing to accept evidence that training which is not approved by a state board of nursing, such as foreign nursing training, is equivalent to that required in Florida at the time of the application for licensure.

This rule also requires the applicant to demonstrate completion of the program equivalent by submission of an official certified transcript which specifically sets forth all courses successfully completed.

17. Notwithstanding Petitioner's genuine efforts to obtain documentation that meets the rule requirement, he has not been able to do so. Notwithstanding his assurances that the training he received from the Institute included a comprehensive course of both classroom and clinical training in obstetrics, the documentation from the Institute does not specifically set forth the courses relating to that discipline which Petitioner completed. His inconsistent recollection of his obstetrical training does not meet the rule requirements.

18. It would appear that with the exception of the clinical obstetrical training, Petitioner meets all other requirements to sit for examination.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law it is recommended that Petitioner's application to sit for examination for licensure as a registered nurse in Florida be denied until he provides sufficient explanation of the clinical training he received in obstetrical nursing or proof of completion of the required training at an alternative approved site.

DONE AND ENTERED this 28th day of April, 2000, in
Tallahassee, Leon County, Florida.

ARNOLD H. POLLOCK
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
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this 28th day of April, 2000.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.