

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

ANGELA SESSA, )  
 )  
 Petitioner, )  
 )  
 vs. ) Case No. 08-0084  
 )  
 BOARD OF NURSING, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

RECOMMENDED ORDER

A hearing was held by video teleconference at sites in Tampa and Tallahassee, Florida, on April 4, 2008, before Carolyn S. Holifield, Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Angela Sessa, pro se  
3505 Sandburg Loop  
Plant City, Florida 33566

For Respondent: Lee Ann Gustafson, Esquire  
Office of the Attorney General  
The Capitol, Plaza Level 01  
Tallahassee, Florida 32399-1050

STATEMENT OF THE ISSUE

The issue is whether Petitioner meets the academic requirements to sit for the practical nursing equivalency examination in Florida.

PRELIMINARY STATEMENT

Petitioner, Angela Sessa ("Petitioner"), applied for licensure by examination as a practical nurse. By Notice of Intent to Deny ("Notice") dated August 21, 2008, Respondent, Board of Nursing ("Board"), advised Petitioner of its intent to deny her application because she had not successfully completed the Adult Health Care III course. According to the Notice, Petitioner had not completed the course that covered the oxygenation, circulation and hematology systems, all of "which are critical to the practice of practical nursing." On or about September 25, 2007, Petitioner requested a hearing on the proposed denial.

At the hearing, Petitioner testified on her own behalf and presented the testimony of Rise Sandrowitz, the program manager for the nursing program at Hillsborough Community College ("HCC"). Petitioner's Exhibits 1 and 2 were admitted into evidence. Respondent did not present any witnesses.

Respondent's Exhibits 1, 2 and 3 were admitted into evidence.

The hearing Transcript was filed on May 8, 2008. At the conclusion of the hearing, the time for filing proposed recommended orders was set for ten days after the Transcript was filed. Petitioner did not file a proposed recommended order. Respondent timely submitted a Proposed Recommended Order which

has been carefully considered in the preparation of this Recommended Order.

#### FINDINGS OF FACT

1. Petitioner attended the registered nursing program at HCC.

2. On or about March 1, 2007, Petitioner applied to sit for the practical nursing licensure examination.

3. By letter dated May 8, 2008, the Board notified Petitioner that additional information was required to complete her application. According to the letter, two submissions were required. First, the director of nursing at HCC needed to submit a letter stating that Petitioner's coursework meets the practical nursing educational equivalency. Second, Petitioner needed to submit verification that she completed coursework in medical-surgical nursing (oxygenation, circulation and hematology).

4. Rise Sandrowitz, program manager of the nursing program at HCC, submitted a letter to the Board. In the letter dated June 8, 2008, Ms. Sandrowitz stated that while Petitioner was a student at HCC, she "twice attempted but was unsuccessful in Adult Health III."

5. The Adult Health Care III course is a 5.5 credit hour course and covers topics of oxygenation, circulation and hematology.

6. Ms. Sandrowitz' letter does not state that the courses Petitioner completed in the professional nursing program at HCC met the requirements for the practical nursing equivalency.

7. Ms. Sandrowitz testified credibly that the intent of her letter was to recommend that Petitioner be allowed to sit for the examination, if the Board determined that Petitioner's coursework met the practical nursing equivalency requirements.

8. The Board determined that Petitioner's failure to successfully complete the course that covered the oxygenation (respiratory), circulation, and hematology systems demonstrated that she did not meet the practical nursing equivalency requirements.

9. Petitioner testified credibly that each time she took the Adult Health Care III course, she attended "all lectures and every clinical," took every test and quiz, and completed all assignments. Nevertheless, Petitioner did not successfully complete the course. Each time Petitioner took the course, she was "just short of the 80%" needed to pass the lecture part of the course.

10. Despite her failure to pass Adult Health Care III, Petitioner argues that she has adequate knowledge in all nursing areas, including those systems covered in that course and, thus, should be allowed to sit for the practical nursing examination.

CONCLUSIONS OF LAW

11. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of these proceedings. §§ 120.569 and 120.57(1), Fla. Stat. (2007).

12. The Board of Nursing is the state agency responsible for the licensing of registered nurses and licensed practical nurses in Florida and the regulation of the nursing profession in this state.

13. As an applicant for licensure, whose license is preliminarily denied, Petitioner bears the ultimate burden of demonstrating, by a preponderance of the evidence, entitlement to such licensure. See Espinoza v. Department of Business and Professional, 739 So. 2d 1250, 1251 (Fla. 3d DCA 1991); and Florida Department of Transportation v. J.W.C. Co., Inc., 396 So. 2d 778 (Fla. 1st DCA 1981).

14. The specific requirements for professional nursing and practical nursing programs include theoretical instruction and clinical experience in medical, surgical, obstetric, pediatric, geriatric, and psychiatric nursing. Fla. Admin. Code R. 64B9-2.006(2)(c)1. and (3)(a)1.

15. Petitioner is seeking to qualify to take the practical nursing examination based on "practical nursing educational equivalency."

16. Applicants may qualify to take the examination for licensure for practical nursing on the basis of courses completed in a professional nursing program, which are at least equivalent to the practical nursing program. § 464.008(1)(c), Fla. Stat.; and Fla. Admin. Code R. 64B9-3.002(1)(d).

17. To establish that the courses completed are the requisite practical nursing educational equivalency, requires the submission of documentation from the professional nursing school. The documentation submitted must state that the "number of completed clock hours or theoretical and clinical instruction" is comparable to the practical nursing program requirements prescribed in Florida Administrative Code Rule Chapter 64B9-2. See Fla. Admin. Code R. 64B9-3.002(1)(d).

18. In instances where documentation is submitted by the professional nursing school, the Board may accept such documentation as evidence that the completed clock hours or theoretical and clinical instruction is comparable to the practical nursing program requirements set forth in Florida Administrative Code Rule Chapter 64B9-2.

19. The professional nursing school that Petitioner attended did not submit documentation that stated the number of completed clock hours or theoretical and clinical instruction is comparable to the practical nursing program requirements prescribed by rule.

20. Petitioner failed to establish that the courses she successfully completed in the professional nursing program at HCC are the equivalent or comparable to practical nursing program requirements set forth by rule.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that a final order be entered which denies Petitioner, Angela Sessa's, application to sit for the examination for licensure as a practical nurse in Florida.

DONE AND ENTERED this 6th day of June, 2008, in Tallahassee, Leon County, Florida.

*Carolyn S. Holifield*

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Filed with the Clerk of the  
Division of Administrative Hearings  
this 6th day of June, 2008.

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.