



## U.S. MERIT SYSTEMS PROTECTION BOARD

### **Case Report for December 18, 2020**

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#### **NONPRECEDENTIAL COURT DECISIONS**

*Miller v. Department of Veterans Affairs*, No. [2020-1820](#) (Fed. Cir. Dec. 11, 2020): The court affirmed the administrative judge's decision to uphold the removal action for failure to maintain a licensed practice nurse (LPN) license, which was a condition of Ms. Miller's employment. Before the court, the Government asked to dismiss Ms. Miller's petition because she did not unequivocally abandon her disability discrimination claim. The court held that Ms. Miller's statements expressly waived any discrimination claims relating to the removal action. The court rejected Ms. Miller's contention that the removal decision was unsupported by substantial evidence, finding instead that there was no dispute that maintaining licensure was a condition of her employment, it was her responsibility to ensure that her license was renewed, and she failed to renew her LPN license prior to its expiration and her removal. The court found unpersuasive Ms. Miller's argument that the agency somehow interfered with her ability to renew her license because the administrative judge concluded that her access to agency computers and other resources was uninhibited and she could have alternatively used outside resources to complete the tasks necessary to effect the renewal. The court also rejected Ms. Miller's procedural arguments.

*Veneris v. Department of the Army*, No. [2020-1447](#) (Fed. Cir. Dec. 11, 2020): Rule 36 affirmance.

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