

Kimberly Baxter  
25 Rock Ridge Road  
Newtown, CT 06470

**STATE OF CONNECTICUT  
BOARD OF EXAMINERS FOR NURSING**

Department of Public Health

Petition No. 991013-010-083

vs.

Kimberly Baxter, RN, Lic. No. E49149

**MEMORANDUM OF DECISION**

Respondent

***Procedural Background***

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges and Motion for Summary Suspension dated October 15, 1999 (Dept. Exh. 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Kimberly Baxter (hereinafter "respondent") which would subject respondent's Registered Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of respondent presented a clear and immediate danger to public health and safety. On October 20, 1999, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that the Registered Nurse license of respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. 1.

The Board issued a Notice of Hearing dated October 20, 1999, scheduling a hearing for December 1, 1999. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. At the request of respondent the hearing scheduled for December 1, 1999 was continued. The hearing was rescheduled and took place on February 16, 2000, in the Town Council Chambers, Wethersfield Town Hall, Silas Deane Highway, Wethersfield, Connecticut. Dept. Exh. 1-D.

Respondent was present during the hearing and was represented by counsel. Transcript, February 16, 2000, p. 2.

Respondent orally answered the Statement of Charges. Transcript, February 16, 2000, p. 15

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

### *Findings of Fact*

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued Registered Nurse License Number E49149 on September 17, 1986. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1-C; Transcript, February 16, 2000, p. 15
2. Pursuant to a Consent Order dated November 20, 1996, respondent's registered nurse license was placed on probation for three years effective December 1, 1996. The probation was based on respondent's admitted diversion and abuse of the controlled substance Fentanyl, while employed at Norwalk Hospital during 1994. Dept. Exh. 1-A.
3. Conditions of probation included the requirement that respondent engage in therapy with a licensed therapist for the entire probationary period and that respondent shall not obtain for personal use, controlled substances or legend drugs that have not been prescribed for a legitimate therapeutic purpose. Dept. Exh. 1-A-3.
4. During June and July 1999, respondent missed five of nine scheduled sessions with her therapist. Dept. Exh. 1-B.
5. From September 9, 1999 to February 12, 2000, respondent engaged in a residential chemical dependency treatment program at Talbott Recovery Campus, Atlanta, Georgia. Respondent's admission to the treatment program was due to persistent abuse of the medication Ultram. Dept. Exh. 1-B; Respondent Exhs. 1 and 2; Transcript, February 16, 2000, p. 15.

### *Conclusions of Law and Discussion*

In consideration of the above Findings of Fact, the following conclusions are rendered:

Kimberly Baxter held a valid Registered Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Summary Suspension Order, Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by the General Statutes of Connecticut §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by the General Statutes of Connecticut §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

The Statement of Charges alleges that during June and July 1999, respondent missed five of nine sessions scheduled with her therapist and that on September 9, 1999, respondent was admitted to Talbot Recovery Campus in Atlanta, Georgia, for a three-month treatment program. It is further alleged that said conduct constitutes violations of the terms of probation as set forth in the Consent Order dated November 20, 1996.

Respondent denies missing five of nine sessions with her therapist but admits being admitted to the three-month treatment program. Respondent also denies that said conduct constitutes violations of the terms of probation. Transcript, February 16, 2000, p. 15.

Based on its findings, the Board concludes that respondent failed to actively engage in therapy as required by the terms of her probation and that her admission to the three-month residential treatment program was due to ongoing substance abuse problems.

The Board concludes that respondent's conduct as alleged in the Statement of Charges is proven by a preponderance of the evidence presented and that said conduct constitutes violations of the probation as set forth in a Consent Order dated November 20, 1996. Therefore, respondent's registered nurse license is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

#### *Order*

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

Respondent's registered nurse license, No. E49149, is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

At any future time should respondent request reinstatement of her registered nurse license, she shall have the burden of presenting relevant evidence to the satisfaction of the Board that she is able to practice nursing with reasonable skill and safety. Said evidence shall include, but not be limited to, the following:

- A. Documentation and/or testimony from a licensed therapist regarding respondent's ongoing recovery, drug/alcohol free status, emotional health, and ability to administer safe nursing care.
- B. Documentation and/or testimony regarding respondent's employment history and ability to responsibly and accurately carry out assigned duties.

- C. Laboratory reports of random chain of custody alcohol/drug screens, which support respondent's alcohol/drug, free status.
- D. Documentation and/or testimony regarding respondent's participation in support groups and support of a sponsor.

The Board of Examiners for Nursing hereby informs respondent, Kimberly Baxter, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 16<sup>th</sup> day of August, 2000.

BOARD OF EXAMINERS FOR NURSING

By Nancy St. Bernard

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