

Sharon Silva
9 Murray Road
Bristol, CT 06010

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

State of Connecticut
Department of Public Health
vs.
Sharon Silva, RN
Registered Nurse License No. E49198
Respondent.

CASE PETITION NO. 960910-010-066

MEMORANDUM OF DECISION

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 Charges¹ dated September 27, 1996 (Department Exhibit A). The Statement of Charges alleges, in two (2) counts, violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Sharon Silva (hereinafter the "Respondent") which would subject the Respondent's Registered Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

The Board issued a Notice of Hearing dated October 2, 1996, scheduling a hearing for February 19, 1997 (Department Exhibit A).

The Respondent was provided notice of the hearing and charges against her. Department Exhibit A indicates that the Notice of Hearing and Statement of Charges were delivered by certified mail to the Respondent's attorney.

¹ The Statement of Charges was presented to the Board as part of a Motion for Summary Suspension on October 2, 1996. The Department's Motion for Summary Suspension was denied by the Board.

The hearing took place on February 19, 1997, in Conference Room AB, 470 Capitol Avenue, Hartford, Connecticut.

The Respondent was present during the hearing but was not represented by counsel. (Hearing Transcript, February 19, 1997, p. 4)

The Respondent submitted a written answer to the Statement of Charges. (Department Exhibit A) (Respondent's Exhibit 1-1)

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.

FACTS

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

1. Sharon Silva, hereinafter referred to as the Respondent, was issued Registered Nurse License Number E49198 on September 17, 1986. The Respondent was the holder of said license at all times referenced in the Statement of Charges. (Department Exhibit A-A)
2. On or about 1986, the Respondent began employment as a registered nurse at Bristol Hospital, Bristol, Connecticut. (Department Exhibit A-B8)
3. On or about April 1996, the Respondent was experiencing pain related to a prior surgery for repair of a ruptured cervical disc. (Department Exhibit A-B8) (Respondent's Exhibit 1-3)
4. Beginning on or about April 1996, while working as a registered nurse at Bristol Hospital, the Respondent diverted the controlled substance Percocet for her own use to control pain. The

Respondent accomplished the diversion of Percocet by removing doses from an automated medication dispensing machine. In doing so, the Respondent documented in controlled substance records that doses of Percocet were administered to patients who were no longer a patient at the hospital or were administered to patients who did not need the medication. (Department Exhibit A-B) (Respondent's Exhibit 1-3)

5. The Respondent abused or excessively used the controlled substance Percocet which she diverted from Bristol Hospital. (Department Exhibit A-B) (Respondent's Exhibits 1-1, 2 - under seal)
6. Beginning on or about August 23, 1996, the Respondent has engaged in outpatient and individual chemical dependency treatment. In addition, the Respondent has been participating in Alcoholics Anonymous and Narcotics Anonymous. (Respondent's Exhibits 1-2, 1-4, 2 - under seal)
7. The Respondent continues to be employed as a registered nurse at Bristol Hospital. The Respondent is employed under a Return to Work Agreement which includes a requirement that the Respondent submit to random drug testing. Random urine drug screens to which the Respondent has submitted since November 1996, have been negative for the presence of drugs. (Respondent's Exhibit 1-5)

DISCUSSION AND CONCLUSIONS

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

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

The Notice of Hearing and Statement of Charges sufficiently provided legal notice as mandated by the General Statutes of Connecticut §4-177, §4-182 and §19a-17. The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19-2a-1 through §19-2a-30 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided the 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 FIRST COUNT PARAGRAPH 3 of the Statement of Charges alleges that in approximately May 1996 through July 1996, while working as a registered nurse at Bristol Hospital, Bristol Connecticut, the Respondent:

- “a. failed to completely, properly and/or accurately document medical or hospital records; and/or,
- b. falsified one or more Controlled Substance Receipt Records.”

The SECOND COUNT of the Statement of Charges alleges that in or about May 1996 through July 1996, the Respondent diverted Percocet while working as a nurse and abused or excessively used Percocet.

The Respondent admits these charges. (Answer: Respondent's Exhibit 1-1)

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes “...(2) illegal conduct, incompetence or negligence in performing usual nursing functions...(5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...(6) fraud or material deception in the course of professional services or activities....”

Based on its findings and the Respondent's admission, the Board concludes that the Respondent's conduct as alleged in the First Count Paragraph 3 of the Statement of Charges is proven and that said conduct constitutes violations of the General Statutes of Connecticut §20-99(b)(2) and (6). The Board further concludes that the Respondent's conduct as alleged in the Second Count of the Statement of Charges is proven and that said conduct constitutes violations of the General Statutes of Connecticut

§20-99(b)(2) and (5). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

In determining appropriate sanctions in this matter the Board may consider, in addition to the charges upon which there is a finding of guilt, any evidence presented during the hearing which is relevant to the Respondent's ability to practice nursing in accordance with the accepted standards of the nursing profession.

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:

1. That for the First Count and the Second Count of the Statement of Charges, the Respondent's registered nurse license, No. E49198, is placed on probation for a period of three (3) years.
2. If any of the following conditions of probation are not met, the Respondent's registered nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.
 - A. During the period of probation the Board shall pre-approve the Respondent's employment or change of employment within the nursing profession.
 - B. The Respondent shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. The Board shall be notified in writing by any employer(s), within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
 - C. The Respondent shall not administer, count or have access to controlled substances, or have responsibility for such activities in the course of nursing duties during the first year of working as a nurse during the probationary period.

- D. If employed as a nurse, the Respondent shall cause monthly employer reports to be submitted to the Board by her immediate supervisor during the entire probationary period.
- E. The employer reports cited in Paragraph D above shall include documentation of the Respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph P below and shall commence with the report due on the first business day of July 1997.
- F. Should the Respondent's employment as a nurse be voluntarily or involuntarily terminated, the Respondent and/or her employer shall notify the Board, within seventy-two (72) hours, of such termination.
- G. At her expense, the Respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist during the entire period of probation.
- H. The Respondent shall provide a copy of this Memorandum of Decision to her therapist. The Board shall be notified in writing by her therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.
- I. The Respondent shall cause monthly evaluation reports to be submitted to the Board by her therapist during the entire probationary period.
- J. The therapist reports cited in Paragraph I above shall include documentation of dates of treatment, and an evaluation of the Respondent's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. Therapist reports shall be submitted directly to the Board at the address cited in Paragraph P below and are due commencing with the report due on the first business day of July 1997.
- K. At her expense, the Respondent shall be responsible for submitting to random urine and/or blood screens for alcohol and drugs for the entire probationary period, as ordered by her

therapist, and/or personal physician, and/or employer, and/or the Board of Examiners for Nursing. Random alcohol/drug screens shall be legally defensible in that chain of custody procedures must be followed throughout the screening process. The Respondent shall be responsible for immediately notifying the laboratory, her therapist and/or personal physician and the Board of Examiners for Nursing of any drug(s) she is taking.

There must be at least one (1) such random alcohol/drug screen monthly during the first and third years of the probationary period and at least two (2) such random alcohol/drug screens monthly during the second year of the probationary period.

Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

Random alcohol/drug screens must include testing for the following substances:

Amphetamines	Methadone
Barbiturates	Methaqualone
Benzodiazepines	Opiates (Metabolites)
Cannabinoids (THC Metabolites)	Phencyclidine (PCP)
Cocaine	Propoxyphene
Meperidine (Demerol)	Ethanol (alcohol)

Reports of random alcohol and drug screens shall be submitted directly to the Board, at the address cited in Paragraph P below, by the Respondent's therapist, personal physician or the testing laboratory. Reports of said random alcohol/drug screens are due on the first day of the month commencing with the reports due on the first business day of July 1997.

- L. The Respondent shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for her, for a legitimate purpose, by a licensed health care practitioner

authorized to prescribe medications. The Respondent shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.

- M. The Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine. For that reason, any food substance containing poppy seeds should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine, the ingestion of poppy seeds shall not constitute a defense to such positive screen.
- N. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.
- O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- P. All correspondence and reports are to be addressed to:

**DEPARTMENT OF PUBLIC HEALTH
BOARD OF EXAMINERS FOR NURSING
LEGAL OFFICE - MONITORING & COMPLIANCE
410 Capitol Avenue, MS #12LEG
P. O. Box 340308
Hartford CT 06134-0308**

- 3. Any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, will constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order. Any finding that the Respondent has violated this Order will subject the Respondent to sanctions under §19a-17(a) and (c) of the General Statutes of Connecticut, including but not limited to, the revocation of her license. Any extension of time or grace period for reporting granted by the Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take subsequent action. The Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods.

Notice of revocation or other disciplinary action shall be sent to the Respondent's address of record (most current address reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department of Public Health or the Board of Examiners for Nursing).

4. This Memorandum of Decision becomes effective, and the three (3) year probation of the Respondent's registered nurse license shall commence, on June 15, 1997.

The Board of Examiners for Nursing hereby informs the Respondent, Sharon Silva, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 4th day of June 1997.

BOARD OF EXAMINERS FOR NURSING

By 