

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health v.

Debra Tartaglia, R.N.

Registered Nurse No. E49535

572 Central Avenue, 5B

New Haven, Connecticut 06515

CASE PETITION NO. 950411-10-041

MEMORANDUM OF DECISION

INTRODUCTION

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 dated August 29, 1995 (Department Exhibit 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Debra Tartaglia (hereinafter the "Respondent").

The Board issued a Notice of Hearing dated August 31, 1995 scheduling a hearing for November 29, 1995 (Department Exhibit 1). The hearing took place on November 29, 1995 in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

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 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. Debra Tartaglia, hereinafter referred to as the Respondent, was issued Registered Nurse License Number E49535 on September 17, 1986 and was the holder of said license at all times referred to in the Statement of Charges. (Department Exhibit 1-D)
2. Pursuant to the General Statutes of Connecticut, §4-182(c), the Respondent was provided full opportunity prior to the institution of agency action to show compliance with all lawful requirements for the retention of her license. (Department Exhibit 3)
3. The Respondent was given due notice of the hearing and the charges against her. Department Exhibit 1 indicates the Notice of Hearing and Statement of Charges were delivered by certified mail to the Respondent and the Respondent's attorney.
4. The Respondent was present during the hearing and was represented by counsel. (Hearing Transcript, November 29, 1995, p. 2)
5. The Respondent submitted an answer to the Statement of Charges. (Respondent's Exhibit A-I)
6. The Respondent has a history of chemical dependency and substance abuse since the age of fourteen. The Respondent has abused and/or excessively used Alcohol, Cocaine, Heroin, Marijuana, Hallucinogens, Percodan and Percocet. (Department Exhibit 1-A) (Respondent's Exhibit A-I, A-IV under seal, A-V under seal) (Hearing Transcript, November 29, 1995, pp. 29)
7. On or about 1988 the Respondent underwent chemical dependency treatment at Elmcrest Hospital, Portland, Connecticut. (Respondent's Exhibit A-V under seal) (Hearing Transcript, November 29, 1995, p. 30)

8. The Respondent suffers from an emotional disorder and/or mental illness. The Respondent has been diagnosed as suffering from Bipolar Disorder. (Department Exhibit 1-A) (Respondent's Exhibit A-I, A-IV under seal, A-V under seal) (Hearing Transcript, November 29, 1995, pp. 24, 26-27, 30)
9. On or about October 1994 the Respondent suffered a relapse of her chemical dependency subsequent to being prescribed Percocet for a medical condition. (Hearing Transcript, November 29, 1995, pp. 30-32)
10. From on or about March 1995 to May 1995, the Respondent underwent in-patient treatment for chemical dependency at the Yale Psychiatric Institute, New Haven, Connecticut, and Elmcrest Hospital, Portland, Connecticut. The Respondent has engaged in individual therapy for chemical dependency since on or about March 1995 and actively participates in Alcoholics Anonymous and Narcotics Anonymous. (Respondent's Exhibit A-IV under seal, A-V under seal) (Hearing Transcript, November 19, 1995, p. 65)
11. The Respondent currently receives treatment for her bipolar disorder. The treatment consists of therapeutic medications and therapy. (Respondent's Exhibit A-IV under seal) (Hearing Transcript, November 29, 1995, p. 24)
12. The Respondent is employed as a registered nurse in the Maternal Special Care Unit at Yale New Haven Hospital, New Haven, Connecticut. (Respondent's Exhibit A-III) (Hearing Transcript, November 29, 1995, pp. 23-24)

DISCUSSION AND CONCLUSIONS

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

Debra Tartaglia held a valid registered nurse license in the State of Connecticut at 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 and §4-182.

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 evidence.

Paragraph 2 of the Statement of Charges alleges that while licensed as a registered nurse in the State of Connecticut the Respondent abused and/or use to excess alcohol and/or Percodan.

The Respondent admits this charge. (Answer: Respondent's Exhibit A-I)

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...."

Based on its review of the evidence, inclusive of the Respondent's admission and her credible testimony, the Board finds that the Respondent has abused and/or excessively used drugs including alcohol and narcotics. The Board concludes that Paragraph 2 of the Statement of Charges is proven and that said conduct constitutes a violation of the General Statutes of Connecticut §20-99(b)(5). Therefore, the Respondent is subject is disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

Paragraph 3 of the Statement of Charges alleges that while licensed as a registered nurse in the State of Connecticut, the Respondent suffers from an emotional disorder or mental illness, including but not limited to bipolar disorder.

The Respondent admits this charge. (Answer: Respondent's Exhibit A-I)

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (4) emotional disorder or mental illness...."

Based on its review of the evidence, inclusive of the Respondent's admission and her credible testimony, the Board finds the Respondent suffers from a mental illness which is being successfully treated.

The Board concludes that despite the Respondent suffering from a mental illness, no evidence was presented that the Respondent's condition has affected her ability to practice nursing with reasonable skill or safety. Therefore, Paragraph 3 of the Statement of Charges is dismissed.

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. For Paragraph 2 of the Statement of Charges, the Respondent's Registered Nurse license, No. E49535, is placed on probation for a period of four (4) 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. 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 current employer(s), within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.
- B. Should the Respondent change employment during the probationary period, she shall provide a copy of this Memorandum of Decision to her employer and said employer shall notify the Board in writing, 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 narcotics or other 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. The Respondent shall not accept employment as a nurse for a personnel provider service, Visiting Nurse Association or home health care agency and shall not be self-employed as a nurse during the period of her probation.
- E. The Respondent shall cause monthly employer reports to be submitted to the Board by her immediate supervisor, if employed as a nurse, for the entire probationary period. Monthly employer reports are due on the first day of each month and shall commence with the report due April 1, 1996.
- F. The employer reports cited in Paragraph E above shall include documentation of the Respondent's ability to safely and competently practice nursing. Employer reports shall be issued to the Board at the address cited in Paragraph Q below.
- G. Should the Respondent's employment as a nurse be voluntarily or involuntarily terminated, the Respondent's employer shall notify the Board, within seventy-two (72) hours, of such termination.

- H. At her own expense, the Respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist during the entire period of probation.
- I. 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.
- J. The Respondent shall cause monthly evaluation reports to be submitted to the Board by her therapist during the entire probationary period. Monthly therapist reports are due on the first business day of each month and shall commence with the report due April 1, 1996.
- K. The therapist reports cited in Paragraph J 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 issued to the Board at the address cited in Paragraph Q below.
- L. At her own 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 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 two (2) such random alcohol/drug screens monthly during the first two (2) years of probation and at least one (1) such random alcohol/drug screen monthly during the final two (2) years of the probationary period. Reports of said random alcohol/drug screens are due monthly commencing with the report due on April 1, 1996.

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

Reports of random alcohol and drug screens shall be submitted directly to the Board, at the address cited in Paragraph Q below, by the Respondent's therapist or personal physician or the testing laboratory.

- M. 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, and the Respondent shall not abuse and/or excessively use alcohol and/or drugs.
- N. 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 substances 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.
- O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.

P. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.

Q. All correspondence and reports are to be addressed to:

BOARD OF EXAMINERS FOR NURSING
Department of Public Health
410 Capitol Avenue, MS# 12NUR
P. O. Box 340308
Hartford CT 06134-0308

4. 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 and 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 action at a later time. 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 Respondent's address of record (most current address reported to the Licensure and Renewal Section of the Division of Medical Quality Assurance of the Department of Public Health or the Board of Examiners for Nursing.)
5. This Memorandum of Decision becomes effective, and the four (4) year probation of the Respondent's registered nurse license shall commence, on March 15, 1996.

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

Dated at Hartford, Connecticut this 6th day of March, 1996.

1869Q

BOARD OF EXAMINERS FOR NURSING

By

