

STATE OF CONNECTICUT  
BOARD OF EXAMINERS FOR NURSING

Department of Health Services v.

~~Melissa Mason, R.N., License No. E49769~~

28 Boulder Ridge Road

Monroe, Ct 06468

CASE PETITION NO. 890802-10-031

MEMORANDUM OF DECISION

INTRODUCTION

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Health Services (hereinafter the "Department") with a Statement of Charges dated August 23, 1989.

The Statement of Charges alleged violations of certain provisions of Chapter 378, Connecticut General Statutes. The Board issued a Notice of Hearing dated August 28, 1989. The hearing took place on September 27, 1989 in Room 112, National Guard Armory, Maxim Road, Hartford, Connecticut.

Each member of the Board involved in this decision attests that he/she has reviewed the record, and that this decision is based entirely on the record and their specialized professional knowledge in evaluating the evidence.

## FACTS

Based on the testimony given and the exhibits offered into evidence, the Board made the following findings of fact:

1. Melissa Mason, hereinafter referred to as Respondent, was issued Connecticut Registered Nurse license number E49769 on March 30, 1987;

2. Pursuant to Connecticut General Statutes, Section 4-182(c), the Respondent was provided full opportunity prior to the institution of agency action to show compliance with all the terms for the retention of her license.

3. The Respondent was aware of the time and location of the hearing. Department Exhibit 2 indicates that notice of the location and time of this hearing were delivered by certified mail to the Respondent's address of record. The Respondent was present at the hearing and not represented by counsel.

4. Pursuant to a Consent Order signed by the Respondent on March 1, 1988, the Respondent was placed on two years probation by the Board; a part of probation required that: "She shall not use any drug that has not been prescribed for a legitimate purpose by a licensed health care practitioner."

5. The Respondent, during May, 1989, used the controlled substance cocaine.

## DISCUSSION AND CONCLUSIONS

The First Count, alleges that the Respondent, on March 1, 1988 was placed on two years probation by the Board; a part of

probation required that: "She shall not use any drug that has not been prescribed for a legitimate purpose by a licensed health care practitioner." The First Count also alleges that while on probation by the Board of Examiners for nursing, the Respondent used the controlled substance cocaine (Department Exhibit 2). The Respondent denies this charge (Transcript of Hearing, dated September 27, 1989, p. 13).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(5), which includes "... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...."

The Board has determined that a random drug and alcohol screen conducted on May 17, 1989 by the Respondent's health care practitioner indicated a positive result for cocaine metabolite (Department Exhibit 5). There was no evidence or exhibit entered by the Respondent to show that the controlled substance was a prescribed medication. Also, the Respondent did not offer any testimony as to whether the positive result of cocaine metabolite was a result of a prescribed controlled substance. The Respondent offered testimony and a copy of a physician's record to support the fact that she was prescribed Falgyl and Amoxicillin at the time when the random drug screen was conducted and she also stated that she was on Sudafed, an over the counter medication (Transcript of Hearing, dated, September 27, 1989, p. 13). Expert testimony given by Drug control Agent Debra Miller validated the fact that to her knowledge there is nothing other than cocaine that would

produce a positive cocaine metabolite test (Department Transcript of Hearing, p. 26). The Respondent also stated that the laboratory where her random drug screens were conducted, were unaware of the chain of custody protocol in handling the drug screens. She testified that protocol was not followed on the day that her random drug screen was conducted, and that the person that she spoke with at the laboratory did not want to make a written statement, due to the fear of losing her job (Transcript of Hearing, dated September 27, 1989, pp. 14-16). Despite the Respondent's testimony, the Board concludes that Respondent has violated Connecticut General Statutes Section 20-99(b)(5), as specified in the First Count.

#### ORDER

It is the unanimous decision of those members of the Board of Examiners for Nursing who were present and voting that for the First Count:

1. ~~The license of the Respondent be placed on probation for one (1) year.~~

2. If any of the following conditions of probation are not met, the Respondent's license may be immediately revoked.

A. She shall provide a copy of this Memorandum of Decision to her therapist.

B. She shall engage in counseling with a licensed or certified therapist at her own expense.

- C. She shall be responsible for bi-monthly reports from her therapist for the year of her probation; said reports are due on the first business day after the first day of every other month.
- D. She shall be responsible for random urine and/or blood screens for drugs and alcohol at the discretion of her therapist. Said screens shall be legally defensible in that the specimen donor and chain of custody can be identified throughout the screening. She shall be responsible for notifying the laboratory and her therapist of any drug(s) she is taking. There must be at least one such drug and alcohol screen bi-monthly for the year of probation. Said reports shall be negative for drugs and alcohol.
- E. Said reports cited in (C) and (D), above, shall include documentation of dates of treatment, an evaluation of her progress and drug and alcohol free status, and copies of all the laboratory reports. Said reports shall be issued to the Board at the address cited in paragraph (M) below.
- F. She shall provide a copy of this Memorandum of Decision to her employer.
- G. She shall not accept employment as a nurse for a personnel provider service for the period of her probation.

- H. She shall be responsible for the provision of bi-monthly employer reports from her nursing supervisor (i.e. Director of Nursing) due on the first business day after the first day of every other month when employed during the year of probation.
- I. Said reports cited in (H) above, shall include documentation of her ability to safely and competently practice nursing, including the administration of controlled substances, in a substance free state. Said reports shall be issued to the Board at the address listed in paragraph (M) below.
- J. She 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.
- K. The Connecticut Board of Examiners for Nursing must be informed prior to any change of employment.
- L. The Connecticut Board of Examiners for Nursing must be informed prior to change of address.
- M. All correspondence and reports are to be addressed to:

Office of the Board of Examiners for Nursing  
Department of Health Services  
150 Washington Street  
Hartford, CT 06106

3. Any deviation from the terms of probation without prior written approval by the Board of Examiners for Nursing shall constitute a violation of probation. A violation of any term(s) of probation shall result in the right of the Connecticut Board of Examiners for Nursing to immediately revoke or take other disciplinary action as cited in Connecticut General Statutes Section 19a-17 against her nursing license. Any extension or time of grace period for reporting granted by the Connecticut Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take action at a later time. The Connecticut 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 her address of record (most current address reported to the Licensure and Renewal Section of the Division of Medical Quality Assurance of the Department of Health Services or the Connecticut Board of Examiners for Nursing).

4. The date of this period of probation shall commence on April 1, 1990.

The Board of Examiners for Nursing hereby informs the Respondent and the Department of Health Services of the State of Connecticut of this decision.

Dated at Hartford, Connecticut, this 28<sup>th</sup> day of March, 1990.

BOARD OF EXAMINERS FOR NURSING

BY *Bette Ann M. Murphy*

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