

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH**

Kathryn Piscitello, R.N.
Lic. No. E50257

Petition No. 2008-0415-010-046

MEMORANDUM OF DECISION

Procedural Background

On May 14, 2008, the Department of Public Health ("the Department") filed a Motion for Summary Suspension ("the Motion") and a Statement of Charges ("the Charges") with the Board of Examiners for Nursing ("the Board"). Dept. Exh. 1. The Charges allege violations of certain provisions of Chapter 378 of the General Statutes ("the Statutes") by Kathryn Piscitello ("respondent") which would subject respondent's registered nurse license to disciplinary action pursuant to §§ 19a-17 and 20-99(b) of the Statutes.

Based on the allegations in the Charges and the affidavits and reports accompanying the Motion, the Board found that respondent's continued nursing practice presented a clear and immediate danger to public health and safety and ordered, on June 4th, 2008, pursuant to §§ 4-182(c) and 19a-17(c) of the Statutes, that respondent's registered nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Charges ("the Order"). Dept. Exh. 1.

On June 8, 2008, the Charges, the Order, and a Notice of Hearing were delivered to respondent by State Marshal. Dept. Exh. 1.

The hearing was held on June 18, 2008; respondent orally answered the Charges on the record of the hearing.

At the hearing, respondent was not represented by an attorney; the Department was represented by Attorney Ellen Shanley.

During the hearing respondent orally answered the Charges.

Following the close of the record on June 18, 2008, the Board conducted fact-finding.

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.

Statement of Charges

Count One

1. Kathryn Piscitello of North Haven, Connecticut (hereinafter “respondent”) is, and has been at all times referenced in this Statement of Charges, the holder of Connecticut registered nurse license number E50257.
2. At all relevant times, respondent was employed as a registered nurse at Clintonville Manor (hereinafter “the Manor”), North Haven, Connecticut.
3. During January 2008, respondent made medication errors with the residents at the Manor.
4. The above facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, section 20-99(b), including but not limited to section 20-99(b)(2).

Count Two

5. Paragraph one is incorporated by reference as if set forth in full.
6. The Board ordered a Reinstatement Consent Order in Petition Number 2004-0107-010-001 (hereinafter “the Reinstatement Order”) that placed respondent’s registered nurse nursing license on probation for a period of four years, effective July 1, 2004. Such disciplinary action was based upon respondent’s admitted diversions of controlled substances.
7. The Department alleges that respondent admitted that she violated this Reinstatement Order Consent Order by using a cough syrup that was prescribed for someone else, and the Board ordered a Consent Order in Petition No. 2008-0103-010-004 that extended the licensure probation by six months.
8. The Department alleges that said Reinstatement Order specifically provided that respondent abstain from using drugs unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional, that she provide employer reports documenting her ability to safely and competently practice nursing, and that she provide therapist reports documenting her ability to safely and competently practice nursing.
9. The Department alleges that during January 2008, respondent’s employment at the Manor was terminated due to practice issue(s) and medication errors.
10. The Department alleges that during April 2008, respondent ingested an unknown quantity of Xanax.

11. The Department alleges that during April 2008, the Department received notification from respondent's therapist that respondent may be unable to practice nursing with skill and safety.
12. The Department alleges that respondent's abuse and/or excessive use of controlled substances does, and/or may, affect her practice as a registered nurse.
13. The Department alleges that respondent's conduct as described above constitutes violations of the terms of probation as set forth in the Consent Order, and subjects respondent's license to revocation or other disciplinary action authorized by the General Statutes of Connecticut, sections 19a-17 and 20-99(b).

Findings of Fact

1. Respondent admits the allegations in paragraphs 1-2, 5-8 and 10-12 of the Charges. Tr., pp. 5-7.
2. On January 29, 2008, respondent's employment at the Manor was terminated due to careless work practices and errors in preparing medications for administration to patients. Dept. Exh. 1-tab Bc; Tr., pp. 18-19
3. As of May 2, 2008 respondent's therapist commented that respondent was not able to practice nursing with reasonable skill and safety. Dept. Exh. 2-tab C.
4. Respondent is enrolled in the Dual Diagnosis Intensive Outpatient Program at Harbor Health Services, Branford, Connecticut, Resp. Exh. A.

Discussion and Conclusions of Law

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Swiller v. Comm'r of Public Health*, CV-950705601, Superior Court, J.D. Hartford/New Britain at Hartford, October 10, 1995; *Steadman v. SEC*, 450 U.S. 91, 101 S. Ct. 999, *reh'g den.*, 451 U.S. 933 (1981).

The Department failed to sustain its burden of proof with regard to the allegations contained in paragraph 3 of the Charges. Although respondent made errors in the preparation of medications, these errors were corrected prior to administration to patients. The department failed to present evidence that respondent made errors during the administration of medications to patients. Therefore, the First Count of the Charges is dismissed.

§ 20-99 of the Statutes provides, in pertinent part, that:

(a) The Board . . . shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17

(b) conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following: . . . (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions; . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals;

The Board concludes that respondent has a long history of substance abuse issues as well as violations of license probation. Respondent's own admissions demonstrate that she violated the consent order dated July 1, 2004, as recently as April 2008, and her abuse of controlled substances may affect her practice as a registered nurse. The Board further concludes that respondent needs time in a structured substance abuse recovery and relapse prevention program prior to returning to the practice of nursing.

The Department sustained its burden of proof with regard to the allegations contained in the Second Count of the Charges. The Board concludes that respondent's conduct as alleged in the Second Count of the Charges grounds for disciplinary action pursuant to §§ 20-99(b)(2) and (5) and 19a-17 of the Statutes.

Order

Based on the record in this case, the above findings of fact and conclusions of law, the Board hereby orders, with respect to license number E50257 held by Kathryn Piscitello, as follows:

Respondent's license number E50257, to practice as a registered nurse in the State of Connecticut is hereby revoked effective the date this Memorandum of Decision is signed by the Board.

Dated at Hartford, Connecticut this 1st day of October 2008.

BOARD OF EXAMINERS FOR NURSING

By Patricia C. Buff

CERTIFICATION

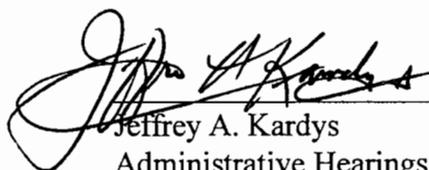
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 2nd day of October 2008, by certified mail, return receipt requested and first class mail, to:

Kathryn Piscitello
83 Fallon Drive
North Haven, CT 06473

Certified Mail RRR #91 7108 2133 3932 0551 0140

and by Inter-Departmental Mail to:

Stanley K. Peck, Director
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
Hartford, CT 06134-0308



Jeffrey A. Kardys
Administrative Hearings Specialist/Board Liaison
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