STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

PUBLIC HEALTH HEARING SECTION

July 21, 2011

Linda Kasowitz
89 Church Street
West Haven, CT 06516

Certified Mail #91-7108-2133-3932-0556-3184
and First Class Mail

Matthew Antonetti, Principal Attorney
Department of Public Health
410 Capitol Avenue, MS #12LEG
PO Box 340308
Hartford, CT 06134-0308

Via Email

RE: Linda Kasowitz, RN – Petition No. 2011-122

Dear Ms. Kasowitz and Attorney Antonetti:

Enclosed please find a copy of the Memorandum of Decision issued by the **Board of Examiners for Nursing** in the above-referenced matter.

Sincerely,

Jeffrey A. Kardys
Administrative Hearings Specialist/Board Liaison
Public Health Hearing Section

c: Michael J. Purcaro, Chief of Administration
Wendy Furniss, Branch Chief, Healthcare Systems
Jennifer Filippone, Section Chief, Practitioner Licensing and Investigations
Bonnie Pinkerton, RN, Nurse Consultant, Department of Public Health
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STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Linda Kasowitz, R.N.
License No. E50284

Petition No. 2011-122

MEMORANDUM OF DECISION

Procedural Background

On March 24, 2011, 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"). Bd. Ex. 2. The Charges allege violations of certain provisions of Chapter 378 of the General Statues ("the Statutes") by Linda Kasowitz ("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 April 6, 2011, 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"). Bd. Exh. 4.

On April 6, 2011, the Charges, the Order, and a Notice of Hearing were sent to respondent by certified and first class mail. Bd. Exhs. 1, 2. On April 11, 2011 they were served by marshal. Bd. Ex. 1

The hearing was held on April 20, 2011. Respondent appeared *pro se;* the Department was represented by Attorney Diane Wilan. Tr. p. 1At the hearing, respondent orally answered the Charges. Tr. p. 5-6. Following the close of the record on April 20, 2011, 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.

Allegations

1. In paragraph one of the Charges, the Department alleges that respondent of West Haven, CT, is, and has been at all times referenced in the Charges, the holder of Connecticut registered nurse license number E50284.

2. In paragraph two of the Charges, the Department alleges that on February 2, 2010, a Consent Order in Petition Number 2009-0618-010-051 ("the Consent Order."). Pursuant to the Consent Order, respondent's license was suspended for six months, followed by a four-year probation, based upon her admission of diversion of Fentanyl from Marathon Health Care Center in West Haven from 2006 to 2009.

3. In paragraph three of the Charges, the Department alleges that paragraph 4B of the Consent Order states that during her four-year license probation, respondent shall not use alcohol.

4. In paragraph four of the Charges, the Department alleges that on or about February 14, 2011, respondent admitted to the Department that she had consumed alcohol on four prior occasions.

5. In paragraph five of the Charges, 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 §§19a-17 and 20-99(b) of the Statutes.

Findings of Fact

1. Respondent of West Haven, CT, is, and has been at all times referenced in the Charges, the holder of Connecticut registered nurse license number E50284. Dept. Exh. 1, p. C-1; Tr. p. 5.

2. On February 3, 2010,[1] the Board ordered the Consent Order suspending respondent's license for six months, followed by a four-year probation, based on her admitted diversion of Fentanyl from Marathon Health Care Center in West Haven from 2006 to 2009. Dept. Exh. 1, pp. A-4 thru A-14; Tr. p. 5.

3. Paragraph 4B of the Consent Order states that during her four-year license probation, respondent shall not use alcohol. Dept. Exh. 1, p. A-6, B-1; Tr. pp. 5-6, 18-19.

4. On or about February 14, 2011, respondent admitted to the Department that she consumed alcohol on four prior occasions. Bd. Exh. 3, Resp. Exh. 2, p. 22 (under seal); Dept. Exh. 2 (under seal); Tr. pp. 6, 15, 20-21, 29-30 (under seal).

Discussion and Conclusions of Law

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Goldstar Medical Services, Inc., et al. v. Department of Social Services,* 288 Conn. 790 (2008); *Swiller v. Comm'r of Public Health*, CV-950705601, Superior Court, J.D. Hartford/New

[1] While the Charges allege that the Consent Order is dated February 2, 2010, the correct date is February 3, 2010. Dept. Exh. 1, p. A-14.

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 sustained its burden of proof with regard to all of the allegations contained in the Charges.

Section 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 standard . . . (5) abuse or excessive use of drugs, including alcohol, ...

The Board concludes that respondent's conduct as alleged in paragraphs one through four of the Charges is proven by a preponderance of the evidence presented.

Respondent admits all of the allegations. Specifically, respondent admits that during her probation, she consumed alcohol on four occasions during a two week period, prior to February 14, 2011.

The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to §§20-99(b)(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, that respondent's license number E50284 to practice as a registered nurse in the State of Connecticut is hereby revoked.

The Board of Examiners for Nursing hereby informs respondent, Linda Kasowitz, and the Department of Public Health of the State of Connecticut of this decision, which becomes effective on the date signed by the Board of Examiners for Nursing.

Dated at Hartford, Connecticut this 20th day of July, 2011.

BOARD OF EXAMINERS FOR NURSING

By Patricia C Bouffard
Patricia C. Bouffard, RN, Chairperson

CERTIFICATION

I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 21st day of July 2011, by certified mail, return receipt requested and first class mail to:

Linda Kasowitz
89 Church Street
West Haven, CT 06516

Certified Mail 91-7108-2133-3932-0556-3184

and via email to:

Matthew Antonetti, Principal Attorney
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
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