

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

Department of Public Health

Petition No. 2001-0705-010-043

vs.

Elizabeth D'Agostino Cox, RN, Lic. No. E51287  
Respondent

**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 Charges and Motion For Summary Suspension dated August 13, 2001. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Elizabeth D'Agostino Cox (hereinafter "respondent") which would subject respondent's registered nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of respondent presented a clear and immediate danger to public health and safety. On September 5, 2001, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that the registered nurse license of respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. 1.

The Board issued a Notice of Hearing dated September 5, 2001, scheduling a hearing for September 19, 2001. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. Department Exhibit 1 indicates that the Summary Suspension Order, Notice of Hearing and Statement of Charges were served on respondent by State Marshal on September 8, 2001.

The hearing scheduled for September 19, 2001 was continued at the request of the respondent. The hearing was rescheduled and took place on December 5, 2001, in Room 2A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Dept. Exh. 2.

Respondent was not present during the hearing and was not represented by counsel. Transcript, December 5, 2001, p.2.

Respondent did not file an Answer to the Statement of Charges. During the hearing, the Department filed a Motion to Deem Allegations Admitted. The Board granted the Department's Motion. Transcript, December 5, 2001, pp. 10-12.

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.

#### *Findings of Fact*

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

1. Respondent was issued registered nurse license number E51287 on September 1, 1998. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 3C.
2. Pursuant to a Memorandum of Decision dated February 7, 2001, respondent's registered nurse license was placed on probation for four years. The Order was based upon proof that respondent abused crack cocaine and that respondent's abuse of crack cocaine affected her practice as a registered nurse. Dept. Exh. 3A.
3. The Memorandum of Decision specifically provided that respondent submit weekly random urine screens for the first year of probation and that all screen results be negative for the presence of drugs and alcohol, and that respondent shall not obtain for personal use any drug that has not been prescribed for her, for a legitimate purpose, by a license health care practitioner authorized to prescribe medications. Dept. Exh. 3A.
4. At all relevant times, respondent was employed as an assistant to the Minimum Data Set coordinator at Atrium Plaza, New Haven, Connecticut. Dept. Exh. 3.
5. On or about June 2001 and/or about July 2001, respondent abused or utilized to excess cocaine. A urine screen to which respondent submitted on June 22, 2001, tested positive for the presence of cocaine. Respondent admitted to a representative of the Department of Public Health that she had used cocaine during the week of June 18, 2001. On July 25, 2001, respondent admitted to a representative of the Department of Public Health that she had used cocaine again on July 20, 2001. Dept. Exh. 3A.
6. Respondent's abuse of cocaine does, and/or may, affect her practice as a registered nurse.
7. Respondent's employment at Atrium Plaza was terminated effective October 2, 2001, for poor work performance and excessive absenteeism. Dept. Exh. .5.

*Conclusions of Law and Discussion*

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

Elizabeth D'Agostino Cox 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(a) and (b), and §4-182(c). The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of a registered nurse 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 on or about June 2001 and/or about July 2001, respondent abused or utilized to excess cocaine.

**THE FIRST COUNT PARAGRAPH 4** of the Statement of Charges alleges that respondent's abuse of cocaine does, and /or may, affect her practice as a registered nurse.

**THE SECOND COUNT PARAGRAPH 10** of the Statement of Charges alleges that on June 22, 2001 respondent tested positive for cocaine, and that respondent admitted that she ingested cocaine on or about July 20, 2001.

**THE SECOND COUNT PARAGRAPH 11** of the Statement of Charges alleges that respondent's conduct violates the terms of probation as set forth in a Memorandum of Decision dated February 7, 2001.

The Respondent did not submit an answer to the Statement of Charges. Pursuant to §19-9-20 of the Regulations of Connecticut State Agencies the Board deems the allegations in the Statement of Charges to be admitted.

The General Statutes of Connecticut §20-99 provides in relevant part:

- (a) The Board of Examiners for Nursing 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 . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals . . .

Based on its findings, the Board concludes that respondent's conduct as alleged in the First Count of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes violations of *Conn. Gen. Stat.* §20-99(b)(5). Therefore, respondent's registered nurse license is subject to disciplinary action pursuant to *Conn. Gen. Stat.* §19a-17.

Based on its findings, the Board concludes that respondent's conduct as alleged in the Second Count of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct violates the terms of probation as set forth in the Memorandum of Decision dated February 7, 2001. Therefore, respondent's registered nurse license is subject to disciplinary action pursuant to *Conn. Gen. Stat.* §19a-17.

#### ***Order***

Pursuant to its authority under *Conn. Gen. Stat.* §19a-17 and §20-99, the Board of Examiners for Nursing hereby orders the following:

1. That for the First Count of the Statement of Charges, respondent's registered nurse license, number E51287, is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

2. That for the Second Count of the Statement of Charges, respondent's registered nurse license, number E51287, is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs respondent, Elizabeth D'Agostino Cox, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Newington, Connecticut this 6<sup>th</sup> day of March, 2002.

BOARD OF EXAMINERS FOR NURSING

By 