STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Lynn Bradley, RN
License No. E52119

Petition No. 2010-5707

MEMORANDUM OF DECISION

Procedural Background

On May 4, 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. Exhs. 1-2. The Charges allege violations of certain provisions of Chapter 378 of the General Statutes ("the Statutes") by Lynn Bradley ("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 May 4, 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. 2.

On May 4, 2011, the Charges, the Order, and a Notice of Hearing were sent to respondent by certified and first class mail. Bd. Exh. 3. On May 10, 2011 they were served at respondent's place of abode by state marshal. Bd. Ex. 3, p. 3.

After several continuances (Bd. Exhs. 4-6), the hearing was held on October 5, 2011. At the hearing, respondent appeared pro se; the Department was represented by Attorney Linda Fazzina. Respondent orally answered the Charges on the record at the hearing. Tr. pp. 6-7. Following the close of the record on October 5, 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 Waterbury, Connecticut is, and has been at all times referenced in the Charges, the holder of Connecticut registered nurse license number E52119.

2. In paragraph two of the Charges, the Department alleges that on one or more occasions, in and/or around August 2010, respondent drank alcohol during her nursing shift and/or brought alcohol onto her medical unit.

3. In paragraph three of the Charges, the Department alleges that in and/or around August 2010, respondent abused or utilized alcohol to excess.

4. In paragraph four of the Charges, the Department alleges that respondent's abuse of alcohol does and/or may affect her practice as a nurse.

5. In paragraph five of the Charges, the Department alleges that the above described facts constitute grounds for disciplinary action pursuant to §20-99 of the Statutes, including, but not limited to §20-99(b)(5).

Findings of Fact

1. Respondent of Waterbury, Connecticut is, and has been at all times referenced in the Charges, the holder of Connecticut registered nurse license number E52119. Tr. pp. 6-7.

2. On one or more occasions, in August 2010, respondent drank alcohol during her nursing shift and brought alcohol onto her medical unit. Dept. Exh. 2; Dept. Exh. 4 (under seal), pp. 21, 41-42; Tr. pp. 6-7; 25, 31-36 (under seal).

3. In and/or around August 2010, respondent abused or utilized alcohol to excess. Dept. Exh. 2; Dept. Exh. 3 (under seal), pp. 8, 14-15, 27, 46, 48, 57, 74-75; Dept. Exh. 4 (under seal), pp. 21, 41-42; Tr. pp. 6-7; 31-36 (under seal).

4. Respondent's abuse of alcohol does and/or may affect her practice as a nurse. Dept. Exh. 3 (under seal), pp. 8, 14-15, 27, 46, 48, 57, 59, 74-75; Dept. Exh. 4 (under seal), pp. 21, 41-42.

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 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 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;. . . . .

With respect to the Charges, respondent admits all of the allegations except those which are contained in paragraph four. While respondent denied that her abuse of alcohol does and/or may affect her practice as a nurse, she admitted that when she was confronted about her abuse of alcohol, she had been drinking three to four large mixed gin drinks daily for the past three years. When she got "caught," she was working in an intensive care unit of a hospital and had alcohol in her water bottle. She also admitted that she had been drinking before work and on the job for the past three to four months. Dept. Exh. 4, pp. 21, 41-42 (under seal); Tr. pp. 30-31 (under seal). Thus, the Department established by a preponderance of the evidence that respondent's abuse of alcohol affected her practice as a nurse in that she drank on the job and put a very vulnerable population of patients at risk. Tr. p. 39 (under seal).

The Board concludes that respondent's conduct as alleged in the Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to §§20-99(b)(5) and 19a-17 of the Statutes. However, based on respondent's successful completion of a 15 week DUI program, daily attendance in AA meetings since September 2010 (Resp. Exh. 1), continuous participation in a relapse prevention outpatient therapy group since June 2011; and, ultimately, her acceptance of the fact that she suffers from an alcohol addiction which has required her to identify triggers and develop coping skills for such addiction, the Board finds that respondent can practice nursing with reasonable skill and safety under the terms of this Order.

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 E52119 held by Lynn Bradley, as follows:

1. The suspension of respondent's license shall remain in place until this Memorandum of Decision is signed and becomes effective.
2. Following said suspension, respondent's license shall be placed on probation for a period of four years under the following terms and conditions. If any of the conditions of probation are not met, respondent's registered nurse license may be subject to disciplinary action pursuant to §19a-17 of the Statutes.
   - A. During the period of probation the Board shall pre-approve respondent's employment and/or change of employment within the nursing profession.
   - B. Respondent shall not be employed as a nurse for a personnel provider service, assisted living services agency, homemaker-home health aide agency, or home health care agency, and shall not be self-employed as a nurse for the period of probation.
   - C. 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 employer(s), within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
   - D. Respondent shall not administer, count or have access to 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.
   - E. If employed as a nurse, respondent shall cause employer reports to be submitted to the Board, by her immediate supervisor during the entire probationary period. Employer reports shall be submitted commencing with the report due on the first business day of month following

employment as a nurse. Employer reports shall be submitted monthly during the first and fourth years of probation, and quarterly during the second and third years of probation.

F. The employer reports cited in Paragraph E above shall include documentation of respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph R below.

G. Should respondent's employment as a nurse be involuntarily terminated or suspended, respondent and her employer shall notify the Board within seventy-two (72) hours of such termination or suspension.

H. In the event respondent is not employed as a nurse for periods of 30 consecutive days or longer, she shall notify the Department in writing. Such periods of time shall not be counted in reducing the probationary period covered by this Order and such terms shall be held in abeyance. During such time period, respondent shall not be responsible for complying with the terms of probation of this Order. In the event respondent resumes the practice of nursing, she shall provide the Department with 15 days prior written notice.

I. If respondent pursues further training in any subject area that is regulated by the Department, respondent shall provide a copy of this Memorandum of Decision to the educational institution or, if not an institution, to respondent's instructor. Such institution or instructor shall notify the Department in writing as to receipt of a copy of this Memorandum of Decision within fifteen (15) days of receipt. Said notification shall be submitted directly to the Department at the address cited in Paragraph Q below.

J. At her expense, respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist, approved by the Board and the Department, during the entire period of probation.

K. 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.

L. Respondent shall cause evaluation reports to be submitted to the Board by her therapist during the entire probationary period. Therapist reports shall be submitted monthly during the first and fourth years of probation, and quarterly during the second and third years of probation.

M. The therapist reports cited in Paragraph K above shall include documentation of dates of treatment, and an evaluation of respondent's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. Therapist reports shall be submitted directly to the Board at the address cited in Paragraph R below.

N. Observed random urine screens

(1) At her expense, respondent shall be responsible for submitting to observed random chain of custody urine screens for alcohol and drugs for the entire probationary period, at a testing facility approved by the Board, after consultation with the Department, as ordered by her therapist, and/or personal physician, and/or employer. Alcohol/drug screening may also be ordered by the Board to ensure compliance with this Order. Random alcohol/drug screens shall be legally defensible in that specimen donor and chain of custody can be identified throughout the screening process.

(2) Respondent shall be responsible for notifying the laboratory, her therapist, the Board, the Department and her prescribing practitioner of any drug(s) she is taking. For any prescription of a controlled substance(s) for more than two consecutive weeks, respondent shall cause the provider prescribing the controlled substance(s) to submit quarterly reports to the Board and the Department until such time as the controlled substance(s) are no longer prescribed. The reports shall include the following:

a. A list of controlled substances prescribed by this provider for respondent;
b. A list of controlled substance(s) prescribed by other providers;
c. An evaluation of the respondent's need for the controlled substance;
d. An assessment of the respondent's continued need for the controlled substance(s).

(3) There must be at one such observed random alcohol/drug screen per week during the first and fourth years of the probationary period; and, at least two of such observed random alcohol/drug screens per month during the second and third years of the probationary period.

(4) Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive *drug* screen results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. All positive *alcohol* screen results shall be confirmed by the urine Ethyl Glucuronide (EtG) 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.

(5) Random alcohol/drug screens must include testing for the following substances:

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

(6) Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department, at the address cited in Paragraph R below, by respondent's therapist, personal physician or the testing laboratory.

O. 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. Respondent shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.

P. Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine and that the ingestion of mouthwash may produce a positive result indicating the presence of alcohol. For that reason, any food substance containing poppy seeds, and mouthwash should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine and/or alcohol, the ingestion of poppy seeds and/or mouthwash shall not constitute a defense to such positive screen.

Q. The Board must be informed in writing prior to any change of address.

R. All communications, payments if required, correspondence, and reports are to be addressed to:

Bonnie Pinkerton, RN, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
Board of Examiners For Nursing
410 Capitol Avenue, MS #12HSR
P. O. Box 340308
Hartford CT 06134-0308

3. Any deviation from the terms of probation, without prior written approval by the Board, shall constitute a violation of probation, which will be cause for an immediate hearing on charges of violating this Order. Any finding that respondent has violated this Order will subject 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 shall not be a waiver or preclude the Board's right to take subsequent action. The Board 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 Office of Practitioner Licensing and Certification of the Department of Public Health or the Board).

4. This Memorandum of Decision becomes effective, and the four year probation of registered nurse license no. E52119 shall commence, as of the date of signature.

The Board of Examiners for Nursing hereby informs respondent, Lynn Bradley, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 18th day of January, 2012.

BOARD OF EXAMINERS FOR NURSING

By Patricia C Bouffard

CERTIFICATION

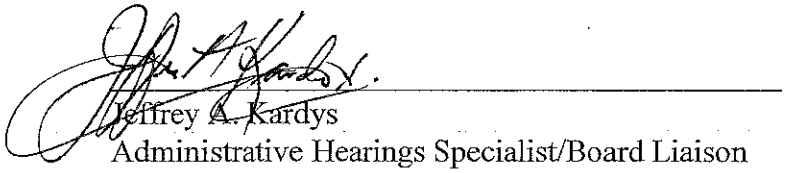
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 19th day of January 2012, by certified mail, return receipt requested and first class mail to:

Lynn Bradley
328 Milford Street
Manchester, NH 03102

Certified Mail 91-7108-2133-3932-0551-7248

and via email to:

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



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