

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health

Petition No. 2001-0202-010-008

vs.

Judith Shea-Ursin, RN, Lic. No. E52326
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 dated February 20, 2001. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Judith Shea-Ursin (hereinafter "respondent") which would subject respondent's registered nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

The Board issued a Notice of Hearing dated March 7, 2001, scheduling a hearing for June 20, 2001. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. Department Exhibit 1 indicates that the Notice of Hearing and Statement of Charges were delivered by certified mail to respondent on March 27, 2001.

The hearing took place on June 20, 2001, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was present during the hearing but was not represented by counsel. Transcript, p. 5.

Respondent submitted a written Answer to the Statement of Charges. Board Exh. 1.

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 E52326 on April 24, 1989. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 2C; Board Exh. 1.
2. Pursuant to an Amended Memorandum of Decision dated December 2, 1992, respondent's registered nurse license was revoked effective January 1, 1993. Such disciplinary action was based upon respondent's diversion and abuse of the controlled substance Demerol while working as a registered nurse at Windham Community Memorial Hospital, Willimantic, Connecticut and Johnson Memorial Hospital, Stafford Springs, Connecticut. Dept. Exh. 2-(A5-A6).
3. Pursuant to a Memorandum of Decision dated January 8, 1997 (hereinafter "Memorandum of Decision"), respondent's registered nurse license was reinstated and placed on probation for a period of four years effective January 15, 1997. Dept. Exh. 2-(A5-A13); Board Exh. 1.
4. The Memorandum of Decision specifically provided that as a condition of probation respondent was required to submit to twice monthly random urine screens the results of which shall be negative for the presence of drugs and alcohol. Dept. Exh. 2-A11. Board Exh. 1.
5. At all relevant times, respondent was employed as a registered nurse at William Backus Hospital, Norwich, Connecticut. Board Exh. 1.
6. Respondent submitted to a random urine screening on January 12, 2001. Laboratory results for the January 12, 2001 urine specimen were positive for the presence of THC (marijuana). Dept. Exh. 2-A14; Board Exh. 1.
7. On January 10, 2001, respondent attended a party at which a group of individuals were smoking Marijuana. The hostess of the party subsequently indicated to respondent that the desserts at the party may have been tainted. Resp. Exh. A; Transcript, pp. 36-37.
8. Respondent's therapist testified that respondent did not exhibit any behavior to suggest a relapse and that respondent complied with the terms of probation requiring therapy and random urine testing. Transcript, pp. 23-24.

Conclusions of Law and Discussion

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

Judith Shea-Ursin 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 provided sufficient legal notice as mandated by *Conn. Gen. Stat.* §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a 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 his license as required by *Conn. Gen. Stat.* §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

THE FIRST COUNT PARAGRAPH 2 of the Statement of Charges alleges that respondent was employed as a registered nurse at William Backus Hospital, Norwich, Connecticut.

Respondent admits this charge. Board Exhibit 1

THE FIRST COUNT PARAGRAPH 3 of the Statement of Charges alleges that on or about January 2001, while working as a registered nurse at William Backus Hospital, respondent has abused or utilized to excess marijuana.

Respondent denies this charge. Board Exhibit 1.

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

Respondent denies this charge. Board Exhibit 1.

Based on findings 7 and 8 above, the Board concludes the Department failed to prove, by a preponderance of the evidence, that respondent abused or excessively used marijuana or that the abuse of marijuana does, and/or may, effect her practice as a registered nurse. Therefore the First Count of the Statement of Charges is dismissed.

THE SECOND COUNT PARAGRAPH 7 of the Statement of Charges alleges that on January 8 1997, the Board issued a Memorandum of Decision in Petition 960130-010-004 placing respondent's nursing license on probation for a period of four years.

Respondent admits this charge. Board Exhibit 1.

THE SECOND COUNT PARAGRAPH 8 of the Statement of Charges alleges that the January 8, 1997 Memorandum of Decision specifically provided that respondent submit twice monthly random urine screens for the last year of probation and that all screen results be negative for the presence of drugs and alcohol.

Respondent admits this charge. Board Exhibit 1.

THE SECOND COUNT PARAGRAPH 9 of the Statement of Charges alleges that on January 12, 2001, respondent tested positive for marijuana.

Respondent admits this charge. Board Exhibit 1.

THE SECOND COUNT PARAGRAPH 10 of the Statement of Charges alleges that respondent's conduct as alleged in paragraphs 7 through 9, constitutes violations of the terms of probation as set forth in the Memorandum of Decision dated January 8, 1997.

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 constitutes a violation of the terms of probation as set forth in the Memorandum of Decision dated January 8, 1997. Therefore, respondent's registered nurse license is subject to disciplinary action pursuant to *Conn. Gen. Stat.* §19a-17.

Although the positive urine screen is proof that marijuana was in respondent's system, there was no evidence presented to indicate respondent's intentional use of marijuana. Respondent was aware that marijuana was present at the party she attended and, therefore, should have exercised better judgement and avoided this situation, particularly while her registered nurse license was on probation.

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 Second Count of the Statement of Charges, respondent's registered nurse license, number E52326, is placed on probation for a period of one (1) year.
2. If any of the following conditions of probation are not met, respondent's registered nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

- A. During the period of probation the Board shall pre-approve respondent's employment or change of employment within the nursing profession.
- B. 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.
- C. If employed as a nurse, respondent shall cause monthly employer reports to be submitted to the Board by her immediate supervisor during the entire probationary period.
- D. The employer reports cited in Paragraph C 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 P below.
- E. Should respondent's employment as a nurse be involuntarily terminated, respondent and/or her employer shall notify the Board, within seventy-two (72) hours, of such termination.
- F. 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 P below.
- G. 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.
- H. 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.

- I. Respondent shall cause monthly evaluation reports to be submitted to the Board by her therapist during the entire probationary period.
- J. The therapist reports cited in Paragraph I 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 P below.
- K. 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 of Examiners for Nursing 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. Respondent shall be responsible for immediately notifying the laboratory, her therapist and/or personal physician and the Board of Examiners for Nursing of any drug(s) she is taking.
- (1) There must be at least two (2) such random alcohol/drug screen monthly during the entire probationary period.
- (2) Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) 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.
- (3) 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) |

- (4) Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department, at the address cited in Paragraph P below, by respondent's therapist, personal physician or the testing laboratory.
- L. 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.
- M. 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.
- N. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.
- O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- P. All 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 of Examiners for Nursing, 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 of Examiners for Nursing shall not be a waiver or preclude the Board's right to take subsequent action. The 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 respondent's address of record (most current address reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department of Public Health or the Board of Examiners for Nursing).

4. This Memorandum of Decision becomes effective, and the one (1) year probation of registered nurse license shall commence, on December 15, 2001. ✓

The Board of Examiners for Nursing hereby informs respondent, Judith Shea-Ursin, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 5th day of December, 2001.

BOARD OF EXAMINERS FOR NURSING

By Nancy S. Bafundo

CERTIFICATION

I hereby certify that, pursuant to Connecticut General Statutes §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 6th day of December 2001, by certified mail, return receipt requested, and first class mail to:

Judith Shea-Ursin
26 Barstow Lane
Lebanon, CT 06249

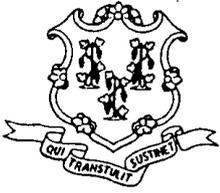
Certified Mail RRR #70993400001827312185

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
Board Liaison
Department of Public Health
Public Health Hearing Office

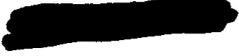


STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

December 30, 2002

Judith Shea-Ursin, RN
26 Barstow Road
Lebanon, CT 06249

Re: Memorandum of Decision
Petition No. 2001-0202-010-008
License No. E52326


Dear Ms. Shea-Ursin:

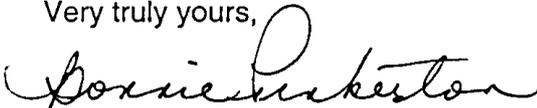
Please accept this letter as notice that you have satisfied the terms of your license probation, effective December 15, 2002.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your license related to the above-referenced Memorandum of Decision.

Please be certain to retain this letter as documented proof that you have completed your license probation.

Thank you for your cooperation during this process.

Very truly yours,



Bonnie Pinkerton, RNC
Division of Health Systems Regulation

cc: J. Filippone
J. Wojick



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