STATE OF CONNECTICUT

BOARD OF EXAMINERS FOR NURSING

Department of Public Health

vs.

Margaret M. Wilkinson, RN, Lic. No. E53181
Respondent

Petition No. 2006-1220-010-115

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 January 4, 2007. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Margaret M. Wilkinson (hereinafter "respondent") which would subject respondent's registered nurse license to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b).

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that respondent's continued nursing practice presented a clear and immediate danger to public health and safety. On January 17, 2007, the Board ordered, pursuant to its authority under § 4-182(c) and § 19a-17(c) of the General Statutes of Connecticut, that respondent's registered nurse license 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 January 17, 2007, scheduling a hearing for February 7, 2007. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. The Notice of Hearing and Statement of Charges were delivered by certified mail to respondent and respondent's attorney. Dept. Exh. 1.

The hearing took place on February 7, 2007, at the Hartford Hospital – Newington Campus, 181 Patricia M. Genova Drive, Newington, Connecticut.

Respondent was present during the hearing and was represented by counsel. Transcript, p. 1.

Respondent submitted a written Answer to the Statement of Charges. Resp. Exh. A-1.

The Summary Suspension of respondent's registered nurse license number E53181, ordered on January 17, 2007, was terminated effective February 21, 2007.

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. Margaret M. Wilkinson of Bloomfield is, and has been at all times referenced in this Statement of Charges, the holder of Connecticut registered nursing license number E53181. Resp. Exh. A-1.

2. At all relevant times, respondent was employed as a registered nurse at Hartford Hospital, in Hartford, Connecticut. Resp. Exh. A-1.

3. From about August 2005 through about November 2006, while working as a registered nurse at Hartford Hospital, respondent:

   a. diverted Hydromorphone;
   b. failed to completely, properly and/or accurately document medical or hospital records; and
   c. falsified one or more Controlled Substance Receipt Records.

   Resp. Exh. A-!; Dept. Exh. 1-A.

4. From August 2005 through about November 2006, respondent abused or utilized to excess Hydromorphone. Resp. Exh. A-1.

5. Respondent's abuse of Hydromorphone affected her practice as a registered nurse. Dept. Exh. 1-A.; Tr. pp. 12-14.

Conclusions of Law and Discussion

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

Margaret M. Wilkinson 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.

PARAGRAPH 2 of the Statement of Charges alleges that at all relevant times, respondent was employed as a registered nurse at Hartford Hospital, in Hartford, Connecticut.

Respondent admits this Charge. Resp. A-1.

PARAGRAPH 3 of the Statement of Charges alleges that from about August 2005 through about November 2006, while working as a registered nurse at Hartford Hospital, respondent:

a. diverted Hydromorphone;
b. failed to completely, properly and/or accurately document medical or hospital records; and/or,
c. falsified one or more Controlled Substance Receipt Records.

Respondent admits this charge. Resp. A-1.

PARAGRAPH 4 of the Statement of Charges alleges that from August 2005 through about November 2006, respondent abused or utilized to excess Hydromorphone.

Respondent admits this Charge. Resp. A-1.

PARAGRAPH 5 of the Statement of Charges alleges that respondent's abuse of Hydromorphone does, and/or may, affect her practice as a registered nurse.

Respondent denies this Charge. Resp. A-1.

The Board finds that a preponderance of the evidence establishes that respondent's abuse of Hydromorphone affected her practice as a registered nurse in that respondent diverted Hydromorphone while on duty; falsified federal controlled substance abuse receipt records; and failed to completely, properly, accurately document hospital and medical records

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: . . . (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions . . . (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 Paragraphs 2, 3, 4, and 5 of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§ 20-99(b)(2) and (5).

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 Paragraphs 2, 3, 4, and 5 of the Statement of Charges, respondent's registered nurse license is placed on probation for a period of four (4) years.
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 and/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. 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.
   - D. 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.
   - E. The employer reports cited in Paragraph D 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.
   - F. 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. Such notification shall specify the reason(s) for respondent's involuntary termination.

G. 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.

H. 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.

I. 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.

J. 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.

K. The therapist reports cited in Paragraph J 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.

L. (1) At her expense, respondent shall be responsible for submitting to observed weekly 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, the 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:

1. A list of controlled substances prescribed by this provider for the respondent;
2. A list of controlled substance(s) prescribed by other providers;
3. An evaluation of the respondent's need for the controlled substance;
4. An assessment of the respondent's continued need for the controlled substance(s).

(3) There must be at least one such random alcohol/drug screen weekly during the first and fourth years of the probationary period, and twice 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 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.

(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 P below, by respondent's therapist, personal physician or the testing laboratory.

M. 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.

N. 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.

O. The Board 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, 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 (4) year probation of registered nurse license number E53181 shall commence on the date this Memorandum of Decision is signed by the Board.

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

Dated at Hartford, Connecticut this 21st day of March 2007.

BOARD OF EXAMINERS FOR NURSING

By Patricia C Buffard

CERTIFICATION

I hereby certify that, pursuant to Connecticut General Statutes §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 22nd day of March 2007, by certified mail, return receipt requested and first class mail, to:

Marilyn Clark Pellett, Esq.
197 East Mountain Drive
Southington, CT 06489

Certified Mail RRR #9171082133393206029856

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
Department of Public Health
Public Health Hearing Office