

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH**

Margaret Wilkinson, RN
License. No. E53181

Petition No. 2007-1128-010-095

MEMORANDUM OF DECISION

Procedural Background

On December 19, 2007, 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"). Dept. Exh. 1. The Charges allege violations of certain provisions of Chapter 378 of the General Statutes ("the Statutes") by Margaret Wilkinson ("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 allegation 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 December 19, 2007, pursuant to §§4-182(c) and 19a-17 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"). Dept. Exh. 1.

On December 19, 2007, the Charges and a Notice of Hearing were sent to respondent by certified and first class mail. Dept. Exh. 1.

After continuances, the hearing was held on June 18, 2008.

At the hearing, respondent was represented by Attorney Marilyn Clark-Pellet; the Department was represented by Attorney Matthew Antonetti.

Following the close of the record June 18, 2008, 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

Count One

1. In paragraph one of the Charges, the Department alleges that respondent is, and has been at all times referenced in the Charges, the holder of Connecticut registered nurse license number E53181.
2. In paragraph two of the Charges, the Department alleges that at all relevant times, respondent was employed as a registered nurse at Hartford Hospital in Hartford, Connecticut.
3. In paragraph three of the Charges, the Department alleges that in or around November 2007, respondent diverted hydromorphone by utilizing a syringe to remove solution from hydromorphone infusions being administered to patients on the hospital's oncology unit.
4. In paragraph four of the Charges, the Department alleges that in or around November 2007, respondent abused or utilized to excess hydromorphone.
5. In paragraph five of the Charges, the Department alleges that respondent's abuse of hydromorphone does, and/or may, affect her practice as a registered nurse.
6. In paragraph six of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-99(b), including, but not limited to:
 - a. §20-99(b)(2); and/or,
 - b. §20-99(b)(5).

Count Two

7. In paragraph seven of the Charges, the Department alleges that paragraphs 1 and 2 are incorporated herein by reference as if set forth in full.
8. In paragraph eight of the Charges, the Department alleges that on March 21, 2007, the Board ordered a Consent Order in Petition Number 2006-1220-010-115 ("the March 2007 Order") that placed respondent's registered nurse license on probation for a period of four years. Such disciplinary action was based upon proof of respondent's diversion of hydromorphone and falsification of controlled substance records.
9. In paragraph nine of the Charges, the Department alleges that the March 2007 Order specifically provides that respondent shall provide the Department with monthly reports from her employer, which shall include documentation of respondent's ability to safely and competently practice nursing and further requires that respondent shall not obtain for personal use and/or use any drug that has not been prescribed for her, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications.

10. In paragraph 10 of the Charges, the Department alleges that on or around December 2007, the Department received an employer report that respondent was terminated from Hartford Hospital on or about November 27, 2007, for diversion of hydromorphone by utilizing a syringe to remove solution from hydromorphone infusions being administered to patients on the hospital's oncology unit.
11. In paragraph 11 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 March 2007 Order, and subjects respondent's license to revocation or other disciplinary action authorized by the General Statutes of Connecticut, §§19a-17 and 20-99(b).

Findings of Fact

1. Respondent admits the allegations in paragraphs 1, 2, 4 and 7 through 9 of the Charges. Dept. Exh. 1. During testimony, the respondent admitted the allegations found in paragraph 3. Tr. 6/18/08, pp. 24-40.
2. The Department received an employer report from Hartford Hospital, signed November 30, 2007, indicating that respondent was terminated on November 27, 2007, for diversion of hydromorphone by utilizing a syringe to remove solution from hydromorphone infusions being administered to patients on the hospital's oncology unit. Dept. Exh. 1(2)(c).
3. Respondent has engaged a new therapist since December 2007 to better address her needs. Resp. Exh. 1; Tr., p. 35
4. For approximately four months beginning in December 2007, respondent re-engaged in 12-step activities through Narcotics Anonymous or Alcoholics Anonymous and attended seven or eight meetings per week. Respondent currently attends Narcotics Anonymous and Alcoholics Anonymous on a weekly basis and has a new professional mentor. Resp. Exh. 1; Tr., pp. 35, 36

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 the allegations contained in paragraphs one through twelve of the Charges.

§ 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: . . . (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions; . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals

The Board concludes that respondent's conduct as alleged in all the paragraphs of the Charges are 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)(2) and (5) and 19a-17 of the Statutes.

The Board also finds that respondent has taken steps to recovery, and that respondent can practice nursing with reasonable skill and safety with conditions and monitoring as set forth 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 E53181 held by Margaret Wilkinson, RN, as follows:

1. The current order or probation under the Memorandum of Decision for petition number 2006-1220-010-115, dated March 21, 2007, is hereby vacated.
2. 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 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 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 Q 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. 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.

- I. 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.
- J. 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.
- K. 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.
- L. 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 Q below.
- M. 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, 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:

- a. A list of controlled substances prescribed by this provider for the 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 least one (1) such random alcohol/drug screen weekly during the first and fourth years of the probationary period; and, at least two (2) such random alcohol/drug screens monthly 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 Q below, by respondent's therapist, personal physician or the testing laboratory.

- N. 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.
- O. 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.
- P. The Board must be informed in writing prior to any change of address.
- Q. 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 (4) year probation of registered nurse license no. E53181 shall commence on December 1, 2008.

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

Dated at Hartford, Connecticut this 19th day of November 2008.

BOARD OF EXAMINERS FOR NURSING

By Patricia Buff d

CERTIFICATION

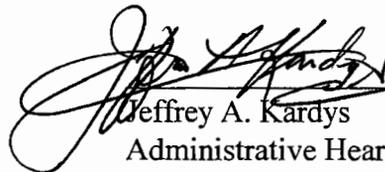
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 20th day of November 2008, by certified mail, return receipt requested, to:

Marilyn Clark Pellett, Esq.
197 Mountain Road
Southington, CT 06489

Certified Mail RRR 91 7108 2133 3932 0551 0188

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



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

January 11, 2013

Margaret Wilkinson, RN
2 Adams Road
Bloomfield, CT 06002

Re: Consent Order
Petition No. 2007-1128-010-095
License No. E53181

Dear Ms. Wilkinson:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective December 1, 2012.

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

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

Thank you for your cooperation during this process, and good luck to you in the future.

Very truly yours,

Bonnie Pinkerton, RN, Nurse Consultant
Practitioner Licensing and Investigations Section

cc: J. Filippone
J. Wojick



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