

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health

Petition No. 2004-0726-010-063

vs.

Michael Hasselbacher, RN, Lic. No. E53265
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 6, 2004. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Michael Hasselbacher (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 August 18, 2004 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. Board Exh. 1.

The Board issued a Notice of Hearing dated August 18, 2004 scheduling a hearing for September 1, 2004. Board Exh. 1.

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

The hearing took place on September 1, 2004, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was present during the hearing but was not represented by counsel. Transcript, September 1, 2004, p. 2.

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 E53265 on September 6, 1990. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1.
2. Pursuant to a Consent Order dated June 2, 2004, the Board ordered that respondent's registered nurse license be placed on probation for a period of four years. Such disciplinary action was based upon respondent's admitted abuse of alcohol. Said Order specifically provided during the period of probation respondent shall not use alcohol in any form unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional. Dept. Exh. 1-tab B.
3. On or after July 1, 2004, respondent used alcohol. Dept. Exh.1; Transcript, p. 9.
4. Since March 2004, respondent has been enrolled in a residential chemical dependency treatment program at the State of Connecticut Veteran's Home and Hospital, Rocky Hill, Connecticut. Respondent has been receiving individual therapy for chemical dependency and has been participating in Alcoholics Anonymous. Respondent is also subject to random urine screening. Transcript, pp. 10-12.

Conclusions of Law and Discussion

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

Michael Hasselbacher held a valid registered nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Summary Suspension Order, 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 Statement of Charges alleges that respondent violated the terms of probation of his registered nurse license, as set forth in a Consent Order dated June 2, 2004, in that on or after July 1, 2004, respondent consumed alcohol.

Respondent admits to the allegations. Transcript, September 1, 2004, pp. 8-9.

Based on its findings, the Board concludes that respondent's conduct as alleged in 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 Consent Order dated June 2, 2004. 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. Respondent's registered nurse license No. E53265, is suspended for a period of six (6) months with concurrent probation, followed by an additional probationary 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.

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.
 - 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 employer reports to be submitted to the Board, by his immediate supervisor during the entire probationary period. Employer reports shall be submitted monthly during the first and fourth years of probation, and quarterly during the second and third years of probation.

- 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 O below.
- E. Should respondent's employment as a nurse be involuntarily terminated or suspended, respondent and his employer shall notify the Board within seventy-two (72) hours of such termination or suspension.
- 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 O below.
- G. At his 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 his therapist. The Board shall be notified in writing by his 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 evaluation reports to be submitted to the Board by his 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.
- 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 O below.
- K. (1) At his 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 his 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, his therapist, the Board, the Department and his 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 two (2) such random alcohol/drug screens monthly during the entire 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 O 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 him, 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 Board must be informed in writing prior to any change of address.
- O. 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 his 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 suspension and probationary periods of respondent's licensed practical nurse license shall commence, on the date this Memorandum of Decision is signed by the Board.

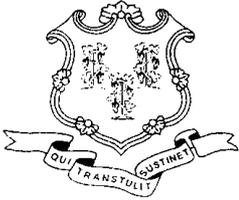
The Board of Examiners for Nursing hereby informs respondent, Michael Hasselbacher, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Newington, Connecticut this 16th day of February, 2005.

BOARD OF EXAMINERS FOR NURSING

By  _____

hasselbacher 2005



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH BOARD OF EXAMINERS FOR NURSING

June 16, 2005

Michael Hasselbacher
PO Box 201
West Haven, CT 06516

Certified Mail RRR #700411160000088336179
and First Class Mail

Stanley K. Peck, Section Chief
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
Hartford, CT 06134-0308

Inter-Departmental Mail

RE: Michael Hasselbacher, RN- Petition No. 2004-0726-010-063

At its meeting on June 15, 2005, the Board of Examiners for Nursing (Board) considered respondent's request to vacate the suspension of his registered nurse license ordered pursuant to a Memorandum of Decision dated February 16, 2005.

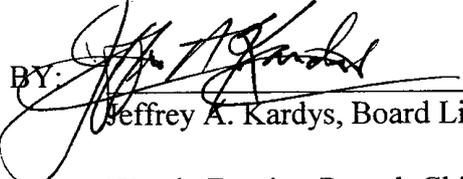
It was the unanimous decision of the Board members present and voting that respondent's request be GRANTED.

The suspension of respondent's registered nurse license No. E53265 is vacated effective June 15, 2005. Respondent's license shall remain on probation pursuant to the terms as set forth in the Memorandum of Decision February 16, 2005.

Enclosed are the original copies of respondent's registered nurse license, which were previously surrendered to this office.

FOR: CONNECTICUT BOARD OF EXAMINERS FOR NURSING

BY:


Jeffrey A. Kardys, Board Liaison

c: Wendy Furniss, Branch Chief, Healthcare Systems
Jennifer Filippone, Public Health Services Manager
Bonnie Pinkerton, RN, Nurse Consultant, Department of Public Health
Lynn A. Rioux, Paralegal Specialist, Office of the Attorney General



Phone: 860-509-7648 FAX 860-509-7553

Telephone Device for the Deaf: (860) 509-7191

410 Capitol Avenue - MS # 13 PHO

P.O. Box 340308 Hartford, CT 06134

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