

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

Department of Public Health

Petition Number 2007-0411-010-023

vs.

Michael Hasselbacher, R.N., Lic. No. E53265

MEMORANDUM OF DECISION

Respondent

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 May 1, 2007. Dept. Exh. 1, tab 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 May 16, 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, tab 1.

The Board issued a Notice of Hearing dated May 16, 2007, scheduling a hearing for June 5, 2007. Dept. Exh. 1, tab 1.

The hearing took place on June 6, 2007, at State of Connecticut, Department of Higher Education, 61 Woodland Street, Hartford, Connecticut. Respondent was present during the hearing but was not represented by counsel. Transcript, June 6, 2007, pp. 2, 6.

Respondent submitted a written and oral Answer to the Statement of Charges. Resp. Exh. A; Transcript pp. 18-22.

On June 20, 2007, the Board vacated the Summary Suspension of respondent's registered license and ordered, pending issuance of this Memorandum of Decision, that respondent's registered nurse license be reinstated subject to the terms of a February 16, 2005 Memorandum of Decision.

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, tab 3; Transcript, p. 18.
2. Pursuant to a Consent Order in Petition Number 2002-1023-010-089, 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 2b.
3. In July 2004, respondent relapsed on alcohol. Dept. Exh. 1, tab 2a; Transcript, p. 21.
4. Pursuant to a Memorandum of Decision in Petition Number 2004-0726-010-063, dated February 16, 2005, the Board ordered that respondent's registered nurse license be suspended for a period of six months followed by an additional probationary period of four years. Such disciplinary action was based upon respondent's violation of the June 2, 2004 Consent Order. Dept. Exh. 1-tab 2c; Transcript, p. 21.
5. In May 2005, respondent requested that the Board lift the suspension of his license so that he could accept an offer of nursing employment. On July 15, 2005, the Board granted respondent's request and vacated the suspension of his license. Dept. Exh. 1, tab 2a.
6. Beginning approximately November 2006, respondent was employed at Silver Hill Hospital, New Canaan, Connecticut. His supervisor reported that his attendance and punctuality were excellent, he was very professional, he had great interpersonal skills and therapeutic skills with patients, and he was a team player and a great asset to their institution. Resp. Exh. B; Dept. Exh. 1, tab 2 a.
7. Respondent was terminated from Silver Hill Hospital on February 11, 2007, after his administration of a PRN dose of Valium was deemed inappropriate. Respondent's supervisor, who was not working at the time of respondent's termination, stated to the Department that respondent had not placed any patients at risk and that respondent's termination was politically driven. Dept. Exh. 1, tab 2a.
8. Respondent relapsed on alcohol for the four days immediately following his termination from Spring Hill Hospital. Respondent's relapse on alcohol resulted in a brief inpatient detoxification program, then outpatient treatment. Dept. Exh. 1, tabs 2a, 2e; Resp. Exh. A; Transcript, June 6, 2007, p. 16.

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

COUNT ONE, PARAGRAPH 2 of the Statement of Charges alleges respondent was employed as a nurse at Silver Hill Hospital in New Canaan, Connecticut from approximately November 2006 until February 11, 2007.

COUNT ONE, PARAGRAPH 3 of the Statement of Charges alleges that, on or about February 11, 2007, respondent was terminated from his position at Silver Hill Hospital due to his administration of a PRN dose of Valium that was deemed inappropriate.

COUNT ONE, PARAGRAPH 4 of the Statement of Charges alleges that on or after February 11, 2007, respondent abused or utilized alcohol to excess.

COUNT ONE, PARAGRAPH 5 of the Statement of Charges alleges that respondent's abuse of alcohol does, and/or may, affect his practice as a nurse.

COUNT TWO, PARAGRAPH 8 of the Statement of Charges alleges that, on June 2, 2004, the Board ordered a Consent Order in Petition Number 2002-1023-010-089 that placed respondent's registered nurse license on probation for a period of four years. This disciplinary action was based on respondent's admitted abuse of alcohol.

COUNT TWO, PARAGRAPH 9 of the Statement of Charges alleges that said Consent Order specifically provided that respondent shall not use alcohol.

COUNT TWO, PARAGRAPH 10 of the Statement of Charges alleges that respondent relapsed on alcohol in July 2004.

COUNT TWO, PARAGRAPH 11 of the Statement of Charges alleges that, on February 16, 2005, the Board issued a Memorandum of Decision in Petition Number 2004-0726-010-063 that suspended respondent's registered nurse license for six months followed by a probation period of four years. Such disciplinary action was based upon respondent's abuse of alcohol and violation of the terms of the Consent Order in Petition Number 2002-1023-010-089.

COUNT TWO, PARAGRAPH 12 of the Statement of Charges alleges that said Memorandum of Decision specifically provided that respondent shall not use alcohol.

COUNT TWO, PARAGRAPH 13 of the Statement of Charges alleges that on or after February 11, 2007, respondent abused or utilized alcohol to excess.

Respondent admits paragraphs 2, 5,6,8,9, 10, 11 and 12.

As for paragraph 3, respondent admits he was terminated from his position at Silver Hill Hospital on February 11, 2007, but denies he inappropriately administered a PRN dose of valium. The Board concludes that no evidence was presented to prove the allegation that respondent administered a PRN dose of valium to a patient that was deemed to be inappropriate, therefore this allegation is dismissed.

As for paragraphs 4 and 13 respondent admits he abused alcohol but claims that his use of alcohol was not excessive.

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: . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals

Based on its findings and respondent's admissions, the Board concludes that respondent's conduct as alleged in Paragraphs 2, 4, 5, 6, 8, 9, 10, 11, 12, 13, of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that respondent's conduct constitutes a violation of the probation ordered pursuant to the Memorandum of Decision dated February 16, 2005 and constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§ 20-99(b)(5) and 19a-17.

Respondent has presented sufficient evidence that he has engaged in meaningful alcohol abuse treatment and that he continues to participate in ongoing treatment, therapy, and/or support meetings. The Board finds that respondent can practice nursing with reasonable skill and safety under the terms of this Order.

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 Paragraphs 4, 5, and 13 of the Statement of Charges, the probation period of respondent's registered nurse license number E53265, ordered pursuant to the Memorandum of Decision dated February 16, 2005, is extended to August 16, 2010.
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 on the date 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 Hartford, Connecticut this 7th day of November 2007.

BOARD OF EXAMINERS FOR NURSING

By

A handwritten signature in cursive script, appearing to read "Nancy Lafurdo", is written over a horizontal line. The signature is written in dark ink and includes a small flourish at the end.

CERTIFICATION

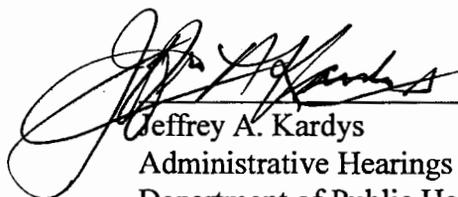
I hereby certify that, pursuant to Connecticut General Statutes §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 8th day of November 2007, by certified mail, return receipt requested, and first class mail to:

Michael Hasselbacher
PO Box 201
West Haven, CT 06516

Certified Mail RRR #9171082133393205602227

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