

Carole Ruggiero-Ruiz
26 Brairwood Circle
North Haven, CT 06473

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

Department of Public Health

vs.

Carole Ruggiero-Ruiz, RN, Lic. No. E53300
Respondent.

Petition No. 990727-010-062

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, 1999 (Dept. Exh. 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Carole Ruggiero-Ruiz (hereinafter "respondent") which would subject respondent's Registered Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges, accompanying affidavits and reports, the Board found that the continued nursing practice of respondent presented a clear and immediate danger to public health and safety. On August 18, 1999, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that the Registered Nurse license of respondent 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 August 18, 1999, scheduling a hearing for September 1, 1999. (Dept. Exh. 1). Respondent was provided notice of the hearing and charges against her.

The hearing commenced on September 1, 1999, during which, respondent requested a continuance to obtain legal representation. Transcript (herinafter "Tr."), September 1, 1999, p. 9.

The hearing was continued and took place on October 6, 1999 and February 2, 2000, at the Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Respondent was present on both dates and was represented by counsel. Tr., October 6, 1999, p. 6; Tr., February 2, 2000, p. 3.

Respondent verbally answered the Statement of Charges. Tr., October 6, 1999, pp. 19-23.

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 E53300 on September 6, 1990. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1-B; Tr., October 6, 1999, p. 19.
2. Pursuant to a Consent Order dated June 17, 1998 (Dept. Exh. 1-A, pp. 4-12), respondent's registered nurse license was placed on probation for a period of four (4) years effective July 1, 1998. The probation was ordered due to the following conduct:
 - a. In 1997, respondent abused and excessively used the controlled substance Percocet.
 - b. From April 1997 to January 1998, while working as a registered nurse at Yale New Haven Hospital, New Haven, Connecticut, respondent diverted and self-administered the controlled substance Morphine.
3. The June 17, 1998 Consent Order specifically provided that respondent submit to random, observed urine screens for drugs and alcohol one (1) time per week for the first two (2) years of probation and two (2) times per month for the remaining two (2) years of probation. Dept. Exh. 1-A-7; Tr., October 6, 1999, pp. 19-20.
4. From on or about July 1, 1998 through July 14, 1999, respondent failed to submit fifteen required urine screens. Dept. Exh.1-A21; Tr., October 6, 1999, p. 32
5. Of the thirty-eight (38) urine screens that respondent submitted between July 23, 1998 and July 14, 1999, twenty-three (23) were positive for controlled substances. Respondent had valid prescriptions for the controlled substances for which she tested positive. Dept. Exh. 1-A-2; Respondent Exh. A.

Conclusions of Law and Discussion

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

Respondent 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 the General Statutes of Connecticut §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut 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 her license as required by the General Statutes of Connecticut §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 from approximately July 1, 1998 through July 14, 1999, respondent missed fifteen (15) urine screens to which she was to submit as required by a Consent to Order dated June 17, 1998, and that of the thirty-eight (38) urine screens to which respondent submitted during this time period, twenty-three (23) were positive for controlled substances.

Respondent denies these allegations. Tr., October 6, 1999, p. 20.

It is further alleged that respondent's conduct as alleged in the Statement of Charges, constitutes a violation of the probation of respondent's registered nurse license as set forth in the Consent Order dated June 17, 1998.

Based on its findings, the Board concludes the allegation that respondent failed to submit to urine screens is proven by a preponderance of the evidence presented in this matter. The Board concludes that said conduct constitutes a violation of probation of her registered nurse license as set forth in a Consent Order dated June 17, 1998. Therefore, respondent's registered nurse license is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

As to the allegation that respondent tested positive for controlled substances in twenty-three (23) of thirty-eight (38) urine screens, the Board concludes this allegation is proven. Being that respondent had valid prescriptions for the controlled substances to which she tested positive, the Board concludes that this conduct does not constitute a violation of the probation set forth in the Consent Order. Therefore, this allegation is dismissed.

Order

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. The Summary Suspension of respondent's Registered Nurse license, No. E53300, ordered on August 18, 1999, is vacated on the effective date of this Memorandum of Decision and that 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 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 monthly employer reports to be submitted to the Board by her immediate supervisor during the entire probationary period. Employer reports shall commence with the report due on the first business day of the month following employment as a nurse.
- 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 S 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.
- 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 S 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 monthly evaluation reports to be submitted to the Board by her therapist during the entire probationary period. Therapist reports are due commencing with the report due on the first business day of August 2000.
- 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 S below.

- L. At her expense, respondent shall be responsible for submitting to observed random chain of custody urine and/or blood 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 one (1) such random alcohol/drug screen weekly during the first, second, and third years of the probationary period, and at least two (2) such random alcohol/drug screens monthly during the fourth year of probation.
 - (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 S 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 shall cause her personal physician to submit in writing to the Board, within one (1) week of the effective date of this Memorandum of Decision, notification as to his/her knowledge of respondent's chemical dependency history. Said notification shall be submitted directly to the Board at the address cited in Paragraph S below.
- O. During the entire period of probation respondent shall cause any treating practitioner to submit in writing to the Board, notification that respondent has advised them of her chemical dependency history. Said notification shall be submitted directly to the Board at the address cited in Paragraph S below.
- P. Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine. For that reason, any food substance containing poppy seeds should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine, the ingestion of poppy seeds shall not constitute a defense to such positive screen.
- Q. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment
- R. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- S. 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

- 4. 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).

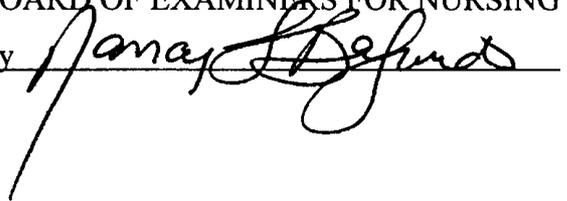
5. This Memorandum of Decision becomes effective, and the four (4) year probation of respondent's registered nurse license shall commence, on July 1, 2000.

The Board of Examiners for Nursing hereby informs respondent, Carole Ruggiero-Ruiz, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 21st day of June, 2000.

BOARD OF EXAMINERS FOR NURSING

By

A handwritten signature in black ink, appearing to read "Nancy S. DeFuria", is written over a horizontal line. The signature is cursive and extends below the line.