



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

PUBLIC HEALTH HEARING OFFICE

September 20, 2012

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E-Mail

RE: Carole Ruggiero, RN

Petition No. 2012-292

Dear Attorney Murray and Attorney Antonetti:

Enclosed please find a copy of the Memorandum of Decision issued by the **Board of Examiners for Nursing** in the above-referenced matter.

Sincerely,

Janice E. Wojick, Administrative Assistant, Board Liaison
Public Health Hearing Office

- c: Lynn A. Rioux, Paralegal Specialist II, Office of the Attorney General
- Wendy H. Furniss, Branch Chief, Healthcare Quality and Safety, DPH
- Jennifer Filippone, Section Chief, Practitioner Licensing and Investigations, DPH
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**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

Carole Ruggiero,¹ R.N.
License No. E53300

Petition No. 2012-292

MEMORANDUM OF DECISION

Procedural Background

On January 3, 2001, the Board of Examiners for Nursing ("Board") issued a Memorandum of Decision ("Decision") in Petition No. 2000-0726-010-048 revoking the registered nurse license of Carole Ruggiero ("Petitioner"). The Decision was based on sufficient evidence that Petitioner had a history of drug abuse which affected her practice as a registered nurse.

On July 12, 2010, Petitioner requested a hearing before the Board, seeking reinstatement of her license. The Department of Public Health ("Department") did not file an objection to Petitioner's request.

On November 3, 2010, the Board heard Petitioner's request for reinstatement of her license. At the hearing, Petitioner was not represented by an attorney. Attorney Linda Fazzina represented the Department.

On March 29, 2011, Petitioner filed a Motion to Reopen the Hearing and on April 6, 2011, this motion was denied.

On September 21, 2011, the Board issued a Decision which denied Petitioner's request for reinstatement of her license.

On March 19, 2012, Petitioner filed a second request for reinstatement. Bd. Exh. 2.

Pursuant to Petitioner's request, the Board issued a Notice of Hearing ("Notice") dated April 16, 2012. Bd. Exh. 1.

On August 15, 2012, the Board heard Petitioner's request. At this hearing, Attorney Martha Murray represented Petitioner. Attorney Joelle Newton represented the Department. Due to the lack of a quorum, fact finding was postponed. The record was closed, subject to reopening during the next scheduled meeting. Bd. Exh. 3; Tr. 8/15/12, pp. 28-29.

On September 5, 2012, the record was reopened and the Board conducted fact finding. Tr. 9/5/12, pp. 2-7.

¹ Since her divorce, Petitioner no longer uses the surname Ruiz. Tr. 8/15/12, p. 2.

Each member of the Board attests that 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. *Pet v. Department of Health Services*, 228 Conn. 651 (1994).

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Petitioner previously held Connecticut registered nurse license number E53300. Tr. 8/15/12, p. 2.
2. On August 18, 1999, Petitioner surrendered her license while a disciplinary action concerning substance abuse was pending. Bd. Exh. 2; Memorandum of Decision, 9/21/11.²
3. On June 21, 2000, the Board issued a Memorandum of Decision reinstating Petitioner's license and placing it on probation for four years. The Memorandum of Decision was effective on July 1, 2000. The probationary terms included the requirements that Petitioner submit to weekly random urine screens and participate in therapy for chemical dependency. Bd. Exh. 2; Memorandum of Decision, 9/21/11.
4. On July 1, July 10, and July 25, 2000, Petitioner violated the terms of her probation. Bd. Exh. 2, p. 1.
5. On January 3, 2001, the Board revoked Petitioner's license based on such violations. Bd. Exh. 2, p. 1.
6. On July 12, 2010, Petitioner requested a hearing before the Board, seeking reinstatement of her license. Bd. Exh. 2, p. 1.
7. On November 3, 2010, Petitioner submitted documentation in support of her request for reinstatement. Bd. Exh. 2, p. 1; Memorandum of Decision, 9/21/11.
8. On March 29, 2011, Petitioner filed a Motion to Reopen the Hearing; and, on April 6, 2011, Petitioner's request was denied. Bd. Exh. 2, p. 1; Memorandum of Decision, 9/21/11.
9. On September 21, 2011, the Board issued a Decision which denied Petitioner's request for reinstatement of her license, based on a finding that Petitioner failed to demonstrate that she was able to practice nursing with reasonable skill and safety. Bd. Exh. 2, p. 1; Memorandum of Decision, 9/21/11.

² See, Memorandum of Decision, dated September 21, 2011, which was attached as an exhibit to Bd. Exh. 2. Tr. 8/15/12, p. 3.

10. On March 19, 2012, Petitioner filed another request for reinstatement. Bd. Exh. 2, p. 1.
11. On August 15, 2012, Petitioner submitted a letter dated July 4, 2011, from her therapist who has been treating Petitioner since March 8, 2007. Her therapist attests that Petitioner's symptoms of substance abuse and depression are in remission, and that she has been drug free since September 2001. Bd. Exh. 2, p. 3.
12. Petitioner worked from June 2004 through January 2009 at Porter and Chester Institute of Branford, CT as Department Supervisor of the Medical Assistant program, as well as an instructor of anatomy, physiology, clerical skills and medical terminology. Bd. Exh. 2, pp. 6, 99.
13. Petitioner worked from February 2009 through the spring of 2010 at the Butler Business School and the Sawyer Schools in various positions: as a part time medical instructor, then a Medical Department head; and, finally as a Director of the Sawyer School in Hamden, CT. Bd. Exh. 2, p. 7.
14. Petitioner is also the primary caregiver for her 93 year old mother, who lives with Petitioner. Bd. Exh. 2, pp. 1, 5.
15. Petitioner submitted urine screen reports, dated October 29, 2007 through July 25, 2012. All test results have been negative except for the prescribed suboxone (buprenorphine, nobuprenorphine). Bd. Exh. 2, pp. 8-92; Resp. Exh. 1, pp. 4-1 through 4-14.
16. Petitioner submitted logs of 12 Step Fellowship program meetings from October 17, 2011 through July 25, 2012. Bd. Exh. 2, pp. 93-95; Resp. Exh. 1, p. 3-1.
17. Petitioner submitted two letters, dated November 17, 2011 and August 13, 2012, from her AA/NA sponsor of four years. Petitioner has successfully completed the first three steps of the 12 step program and is currently working on step 4, which is "Taking a Moral Inventory of Oneself." Petitioner's sponsor attests to her ability to handle stressful situations without resorting to drugs or alcohol. Bd. Exh. 2, pp. 96-97; Resp. Exh. 1, p. 3-3.
18. Petitioner also attends a self-help group for healthcare professionals called "Healthcare in Recovery." Bd. Exh. 2, p. 98.
19. Petitioner has been under the care of her psychiatrist since October 2007 for substance abuse and depression. The psychiatrist attests in letters dated November 17, 2011 and July 25, 2012, that Petitioner has been drug free and compliant with each request for urine screens. Bd. Exh. 2, p. 100; Resp. Exh. 1, p.1-1.
20. Petitioner has a support network of close family members, friends, physicians, a therapist, her AA/NA sponsor, and participants at AA/NA meetings. Bd. Exh. 2, pp. 3-5, 96-97, 100.

Discussion and Conclusions of Law

Section 19a-17(d) of the Connecticut General Statutes (“Statutes”) provides, in pertinent part, that the Board “may reinstate a license that has been suspended or revoked, if after a hearing, such board . . . is satisfied that the practitioner . . . is able to practice with reasonable skill and safety to patients, customers or the public in general. As a condition of reinstatement, the Board may impose disciplinary or corrective measures authorized under this section.”

Petitioner has the burden of satisfying the Board that she is able to practice nursing with reasonable skill and safety. The Board finds that petitioner has presented sufficient evidence to satisfy her burden.

Prior to the hearing, Petitioner was informed that she would be required to provide evidence at the hearing that documented the “outcomes of [her] efforts toward recovery” over an extended period of time. Bd. Exh. 1. Petitioner was also advised that such evidence should include documentary or testimonial evidence from her therapist; personal references documenting a lengthy period of drug/alcohol free status, her emotional health and work habits; documentary or testimonial evidence from current and past employers documenting her ability to carry out assigned duties responsibly and accurately and her potential for functioning safely and effectively as a nurse; copies of random urine screen reports documenting the frequency, the conditions under which the specimens were taken, and the results of the tests; documentation of Petitioner’s participation in support groups and support of a sponsor, as well as the outcome of her participation in such support groups; and, a list of current medications prescribed by her health care providers, including a need for such medications and an assessment of a continued need for such medications.

At the hearing, Petitioner submitted documents evidencing more than 10 years of her drug/alcohol free status. As described above, Petitioner submitted urine screen reports for the period from October 29, 2007 through July 25, 2012. All screens have been negative, except for the prescribed suboxone. Petitioner submitted letters from her past employers (Porter and Chester Institute of Branford, CT and the Butler Business School and the Sawyer Schools) documenting her work history and commendable job performance. Petitioner submitted logs of 12 Step Fellowship program meetings from October 17, 2011 through July 25, 2012. Petitioner submitted two letters from her AA/NA sponsor of four years, attesting to her successful completion of the first three steps of the 12 step program and her current work on step 4, which

is "Taking a Moral Inventory of Oneself." Petitioner's sponsor attests to her ability to handle stressful situations without resorting to drugs or alcohol. Petitioner is also attending a self-help group for healthcare professionals called "Healthcare in Recovery." In addition, Petitioner submitted letters from her health care professionals, therapist, family and friends, all attesting to Petitioner's motivation and determination to resume her nursing career. To that end, Petitioner has successfully completed the theory components (comprised of 14 modules) of an independent study refresher course for registered nurses offered by South Dakota State University. With the Department's approval, Petitioner plans to take the clinical components of the South Dakota State University refresher course and then sit for the National Council of State Boards of Nursing Licensing Examination ("NCLEX") exam. Finally, Petitioner is the primary caregiver for her 93 year old mother, who lives with Petitioner.

As noted in the Findings of Fact and foregoing discussion, the Board finds that Petitioner has gone to great lengths to get her life in order and has presented relevant and credible evidence to sustain her burden of satisfying the Board that she is able to return to the practice of nursing with reasonable skill and safety, under the terms of the Order described below.

Order

Pursuant to §§ 19a-17 and 20-99 of the General Statutes ("Statutes"), the Board hereby orders the following:

1. Registered Nurse license number E53300, of Petitioner, Carole Ruggerio, is hereby reinstated and immediately restricted in that she is prohibited from practicing as a R.N. and may only use her R.N. license for the sole purpose of participating in a refresher program as set forth in paragraph 2 of this Order.
2. Petitioner shall successfully complete a Department-approved R.N. refresher course with a clinical component and successfully take the licensing examination for R.N.
 - A. Certification of successful completion of the R.N. refresher program shall be submitted to the Department, directly from the educational institution where said program was taken, within 30 days of the program's completion.
 - B. Petitioner shall submit an application to the Department's licensing authority. Petitioner shall be administered the licensing examination for R.N. Petitioner shall incur all expenses associated with applying for and taking the R.N. licensing examination (NCLEX).
 - C. Petitioner shall attain a passing score on the licensing examination for R.N.

- D. Until such time that Petitioner successfully completes the R.N. refresher program and attains a passing score on the R.N. licensing examination (NCLEX), Petitioner is prohibited from practicing as a R.N. and Petitioner's R.N. license will be restricted and used for the sole purpose of participating in the R.N. refresher program.
3. Upon notification by the Department that Petitioner has satisfied the terms set forth in paragraph 2, Petitioner's R.N. license number E53300, shall be placed on probation for a period of two years under the following terms and conditions:
- A. Petitioner shall not be employed as a R.N. 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 R.N. for the period of probation.
- B. Petitioner 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 six months of working as a R.N. during the probationary period.
- C. Petitioner shall provide a copy of this Memorandum of Decision ("Decision") to any and all employers if employed as a R.N. during the probationary period. The Department shall be notified in writing by any employer(s), within 30 days of the commencement of employment, as to the receipt of a copy of this Decision.
- D. If employed as a R.N., Petitioner shall cause employer reports to be submitted to the Department by her immediate supervisor during the entire probationary period. Employer reports shall be submitted monthly for the entire probationary period. Employer reports shall be submitted commencing with the report due on the first business day of the month following employment as a R.N.
- E. The employer reports cited in paragraph 3D above shall include documentation of Petitioner's ability to practice nursing safely and competently. Employer reports shall be submitted directly to the Department at the address cited in Paragraph 3P below.
- F. Should Petitioner's employment as a R.N. be involuntarily terminated or suspended, Petitioner and her employer shall notify the Department within 72 hours of such termination or suspension.

- G. If Petitioner pursues further training in any subject area that is regulated by the Department, Petitioner shall provide a copy of this Decision to the educational institution or, if not the institution, to Petitioner's instructor. Such institution or instructor shall notify the Department in writing of receipt of a copy of this Decision within 15 days of receipt. Said notification shall be submitted directly to the Department at the address cited in paragraph 3P below.
- H. At her expense, Petitioner shall continue to engage in therapy and counseling with a licensed or certified therapist, approved by the Department, during the entire probationary period.
- I. Petitioner shall provide a copy of this Decision to her therapist. The Department shall be notified in writing by her therapist, within 30 days of the effective date of this Decision, as to receipt of a copy of this Decision.
- J. Petitioner shall cause evaluation reports to be submitted to the Department by her therapist during the entire probationary period. Therapist reports shall be submitted monthly for the entire probationary period.
- K. The therapist reports cited in Paragraph 3J above shall include documentation of dates of treatment, an evaluation of Petitioner's progress, including alcohol and drug free status, and her ability to practice nursing safely and competently. Therapist reports shall be submitted directly to the Department at the address cited in Paragraph 3P below.
- L. 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, Respondent shall cause the provider prescribing the controlled substance(s) to submit quarterly reports to 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 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 such observed random alcohol/drug screen per week during the entire probationary period.
- (4) Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive *drug* screen results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. All positive *alcohol* screen results shall be confirmed by the urine Ethyl Glucuronide (EtG) 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 to 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 Department 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
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 shall constitute a violation of probation, which will be cause for an immediate hearing on charges of violating this Order. Any finding that Petitioner has violated this Order will subject Petitioner to sanctions under §19a-17(a) and (c) of the Statutes, 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 Petitioner's address of record (most current address reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department).

5. This Memorandum of Decision becomes effective on the date signed by the Board.

The Board hereby informs Petitioner, Carole Ruggiero, and the Department of this decision.

Dated at Hartford, Connecticut this 19th day of September, 2012.

BOARD OF EXAMINERS FOR NURSING

by Patricia C Bouffard, D.N.Sc.
Patricia Bouffard, D.N.Sc.,
Chairperson

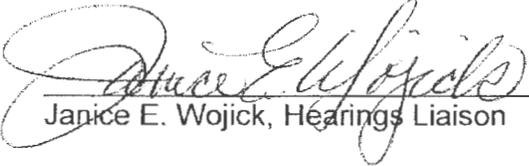
CERTIFICATION

I hereby certify that, pursuant to Connecticut General Statutes Section 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 20th day of September 2012, certified mail return receipt requested mail to:

Martha Murray, Esq.
383 Orange Street
New Haven CT 06511

and E-Mail to:

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Janice E. Wojick, Hearings Liaison