

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

Department of Public Health v.

Tracey Gates, R.N

Registered Nurse License No. E53687

315 Silverhill Road, #12-B

Derby, CT 06418

CASE PETITION NO. 950307-10-025

**MEMORANDUM OF DECISION**  
**INTRODUCTION**

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 October 3, 1995 (Department Exhibit 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Tracey Gates (hereinafter the "Respondent") which would subject the Respondent's Registered Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of the Respondent presented a clear and immediate danger to public health and safety. The Board ordered, pursuant to its authority under §19a-17(c) of the General Statutes of Connecticut, that the Registered Nurse license of the Respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges (Department Exhibit 1).

The Board issued a Notice of Hearing dated October 4, 1995, scheduling a hearing for October 17, 1995 (Department Exhibit 1). The hearing was continued at the Respondent's request (Hearing Transcript, January 17, 1996, pp. 2-3). The hearing was rescheduled and took place on January 17, 1996, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

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 and the Board's specialized professional knowledge in evaluating the evidence.

### FACTS

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

1. Tracey Gates, hereinafter referred to as the Respondent, was issued Registered Nurse License Number E53687 on September 3, 1991. The Respondent was the holder of said license at all times referenced in the Statement of Charges. (Department Exhibit 1-D)
2. The Respondent was present during the hearing and was represented by counsel. (Hearing Transcript, January 17, 1996, p. 2)
3. The Respondent submitted a written answer to the Statement of Charges. (Respondent's Exhibit A-I)
4. Beginning on or about February 1993, the Respondent was employed as a registered nurse at Griffin Hospital, Derby, Connecticut. (Department Exhibit 1-A4) (Hearing Transcript, January 17, 1996, p. 28)
5. During October, November, and December 1993, while working as a registered nurse in the Childbirth Center at Griffin Hospital, the Respondent diverted for her own personal use from hospital stocks, the controlled substance Tylox. (Department Exhibits 1-A2, 4) (Hearing Transcript, January 17, 1996, pp. 32-33)
6. During October, November, and December 1993, while working as a registered nurse at Griffin Hospital, the Respondent accomplished the diversion of Tylox by falsifying controlled substance records. The Respondent falsified the controlled substance records by indicating that the Tylox which

she diverted for her own use had been administered to patients or had been properly discarded.

(Department Exhibit 1-A2, 4) (Hearing Transcript, January 17, 1996, p. 33)

7. Beginning on or about January 1995, the Respondent was employed as a registered nurse at Yale-New Haven Hospital, New Haven, Connecticut. (Hearing Transcript, January 17, 1996, p. 28)
8. From approximately June through September 1995, while working as a registered nurse at Yale-New Haven Hospital, the Respondent diverted for her own personal use from hospital stocks, the controlled substance Percocet. (Department Exhibits 1-C) (Hearing Transcript, January 17, 1996, p. 34)
9. From approximately June through September 1995, while working as a registered nurse at Yale-New Haven Hospital, the Respondent accomplished the diversion of Percocet by falsifying controlled substance records. The Respondent falsified the controlled substance records by indicating that the Percocet which she diverted for her own use had been administered to patients. (Hearing Transcript, January 17, 1996, p. 34)
10. Since September 29, 1995, the Respondent has engaged in chemical dependency treatment at The Center, Danbury, Connecticut. The Respondent's treatment has included a partial hospitalization program, and individual and group counseling. The Respondent has also been actively participating in Alcoholics Anonymous and the support group Nurses for Nurses. (Respondent's Exhibit A-IV, 16-19 under seal, A-V, 25) (Hearing Transcript, January 17, 1996, pp. 12-15, 34-35, 41)

### **DISCUSSION AND CONCLUSIONS**

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

Tracey Gates held a valid Registered Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Motion for Summary Suspension, Notice of Hearing, and Statement of Charges sufficiently provided legal notice as mandated by the General Statutes of Connecticut §4-177, §4-182, and §19a-17. The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19-2a-1 through §19-2a-30 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided the 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).

PARAGRAPH 3 of the Statement of Charges alleges that from approximately October 1994 through December 1994, while working as a registered nurse at Griffin Hospital, Derby, Connecticut, the Respondent:

- a. diverted Tylox from hospital stocks for her own use;
- b. failed to completely, properly and/or accurately document medical or hospital records; and/or,
- c. falsified one or more Controlled Substance Receipt Records.”

PARAGRAPH 4 of the Statement of Charges alleges that from approximately October 1994 through December 1994, the Respondent abused or excessively utilized the controlled substance Tylox.

The Respondent admits the charges in Paragraph 3 and admits Paragraph 4, but only insofar as the term “abused” includes the use of Tylox without a prescription. (Answer: Respondent’s Exhibit A-I)

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes “...(2) illegal conduct, incompetence or negligence in performing usual nursing functions...(5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...(6) fraud or material deception in the course of professional services or activities....”

Based on its findings and the Respondent’s admission, the Board concludes that the Respondent’s conduct, as alleged in Paragraph 3 of the Statement of Charges, is proven and that said conduct constitutes violations of the General Statutes of Connecticut §20-99(b)(2) and (6). The Board further concludes that the Respondent’s conduct of abusing Tylox, as alleged in Paragraph 4 of the Statement of Charges, is proven and that said

conduct constitutes a violation of the General Statutes of Connecticut §20-99(b)(5). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

PARAGRAPH 8 of the Statement of Charges alleges that from approximately June 1995 through September 1995, while working as a registered nurse at Yale-New Haven Hospital, New Haven, Connecticut, the Respondent:

- a. diverted Percocet from hospital stocks for her own use;
- b. failed to completely, properly and/or accurately document medical or hospital records; and/or,
- c. falsified one or more Controlled Substance Receipt Records.”

PARAGRAPH 9 of the Statement of Charges alleges that from approximately June 1995 through September 1995, the Respondent abused or excessively utilized the controlled substance Percocet.

The Respondent admits the charges in Paragraph 8 and admits Paragraph 9, but only insofar as the term “abused” includes the use of Percocet without a prescription. (Answer: Respondent’s Exhibit A-I)

Based on its findings and the Respondent’s admission, the Board concludes that the Respondent’s conduct, as alleged in Paragraph 8 of the Statement of Charges, is proven and that said conduct constitutes violations of the General Statutes of Connecticut §20-99(b)(2) and (6). The Board further concludes that the Respondent’s conduct of abusing Percocet, as alleged in Paragraph 9 of the Statement of Charges, is proven and that said conduct constitutes a violation of the General Statutes of Connecticut §20-99(b)(5). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

### **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. That the Summary Suspension of the Respondent’s registered nurse license, No. E53687, ordered on October 4, 1995, is vacated on the effective date of this Memorandum of Decision.

2. That for Paragraphs 3, 4, 8 and 9 of the Statement of Charges, the Respondent's registered nurse license, No. E53687, is placed on probation for a period of three (3) years.
  
3. If any of the following conditions of probation are not met, the Respondent's registered nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.
  - A. The 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 current employer(s), within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.
  
  - B. Should the Respondent change employment during the probationary period, she shall provide a copy of this Memorandum of Decision to her employer and said employer shall notify the Board in writing, within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
  
  - C. The 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. The Respondent shall not accept employment as a nurse for a personnel provider service, Visiting Nurse Association or any home health care agency and shall not be self-employed as a nurse during the period of her probation.
  
  - E. The 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 day of the month following her employment as a nurse.

- F. The employer reports cited in Paragraph E above shall include documentation of the Respondent's ability to safely and competently practice nursing. Employer reports shall be issued to the Board at the address cited in Paragraph Q below.
- G. Should the Respondent's employment as a nurse be voluntarily or involuntarily terminated, the Respondent's employer shall notify the Board, within seventy-two (72) hours, of such termination.
- H. At her own expense, the Respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist during the entire period of probation.
- I. The 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. The 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 June 1, 1996.
- K. The therapist reports cited in Paragraph J above shall include documentation of dates of treatment, and an evaluation of the Respondent's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. Therapist reports shall be issued to the Board at the address cited in Paragraph Q below.
- L. At her own expense the Respondent shall be responsible for submitting to random urine and/or blood screens for alcohol and drugs for the entire probationary period, as ordered by her therapist, and/or personal physician, and/or the Board of Examiners for Nursing. Random alcohol/drug screens shall be legally defensible in that chain of custody procedures must be followed throughout the screening process.

The 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.

There must be at least one (1) such random alcohol/drug screen bi-monthly during the first year of the probationary period and at least one (1) such random alcohol/drug screen monthly during the second and third years of the probationary period.

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.

Random alcohol/drug screens must include testing for the following substances:

- Amphetamines
- Barbiturates
- Benzodiazepines
- Cannabinoids (THC Metabolites)
- Cocaine
- Meperidine (Demerol)
- Methadone
- Methaqualone
- Opiates (Metabolites)
- Phencyclidine (PCP)
- Propoxyphene
- Ethanol (alcohol)

Reports of random alcohol and drug screens shall be submitted directly to the Board, at the address cited in Paragraph Q below, by the Respondent's therapist or personal physician or the testing laboratory. Reports of bi-monthly random alcohol/drug screens are due on the first day of January, March, May, July, September, and November, commencing with the report due on July 1, 1996. Reports of monthly random alcohol/drug screens are due on the first day of the month commencing on June 1, 1997.

- M. The 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, and the Respondent shall not abuse and/or excessively use alcohol and/or drugs.
- N. The 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.
- O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.
- P. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- Q. All correspondence and reports are to be addressed to:

**BOARD OF EXAMINERS FOR NURSING**  
**DEPARTMENT OF PUBLIC HEALTH**  
410 Capitol Avenue, MS #12NUR  
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 will constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order and will subject the 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 action at a later time. 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 the Respondent's address of record (most current address

reported to the Licensure and Renewal Section of the Division of Medical Quality Assurance of the Department of Public Health, or the Board of Examiners for Nursing).

5. This Memorandum of Decision becomes effective, and the three (3) year probation of the Respondent's registered nurse license shall commence, on May 1, 1996.

The Board of Examiners for Nursing hereby informs the Respondent, Tracey Gates, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Wethersfield, Connecticut this 24th day of April 1996.

BOARD OF EXAMINERS FOR NURSING

By 