

Tracey Gates  
37 Heather Ridge Road  
Huntington, CT 06484

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

State of Connecticut  
Department of Public Health  
vs.  
Tracey Gates, RN  
Registered Nurse License No. E53687  
respondent.

CASE PETITION NO. 981217-010-084

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 March 11, 1999. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Tracey Gates (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 and accompanying affidavits and reports, the Board found that the continued practice of nursing by the respondent presented a clear and immediate danger to public health and safety. On March 17, 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 March 17, 1999, scheduling a hearing for April 7, 1999. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. Department Exhibit 1 indicates that the Notice of Hearing and Statement of Charges was sent by certified mail to respondent's address of record.

The hearing took place on April 7, 1999, in the Town Council Chambers, Wethersfield Town Hall, 505 Silas Deane Highway, Wethersfield, Connecticut.

Respondent was not present during the hearing but was represented by counsel. Tr., April 7, 1999, pp. 3.

Respondent submitted a written Answer to the Statement of Charges. Rt. Exh. A.

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 E53687 on September 3, 1991. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1; Rt. Exh. A.
2. Pursuant to a Memorandum of Decision dated April 24, 1996, respondent's Registered Nurse License was placed on probation for a period of three years effective May 1, 1996. The probation was ordered due to respondent's diversion and abuse of the controlled substances tylox and percocet during 1993 and 1995, and for the falsification of controlled substance records. Dept. Exh. 1-D; Rt. Exh. A.
3. The probation of respondent's registered nurse license prohibited respondent from abusing alcohol and/or drugs; and required that respondent submit to random alcohol/drug screening the results of which were to be negative for the presence of alcohol and drugs. Dept. Exh. 1-D.
4. Beginning on or about June 1, 1996, respondent has been employed as a registered nurse at Black Rock Turnpike Medical Group, Fairfield, Connecticut. Dept. Exh. 1. Rt. Exh. A.
5. On November 23, 1998, respondent submitted a urine specimen for drug/alcohol testing. The results of the testing was positive for the presence of the controlled substances morphine and codeine. Dept. Exh. 1-A.
6. On February 10, 1999, respondent submitted a urine specimen for drug/alcohol testing. The results of the testing was positive for the presence of the controlled substance morphine. Dept. Exh. 1-B.

### *Conclusions of Law and Discussion*

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 Notice of Hearing and Statement of Charges sufficiently provided 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.

COUNT ONE of the Statement of Charges alleges, on or about November 23, 1998, respondent abused or excessively used codeine and/or morphine; and on or about February 10, 1999, respondent abused or excessively used morphine. It is further alleged that respondent's abuse of morphine and codeine does, and/or may, effect her practice as a registered nurse.

Respondent denies these charges. Rt. Exh. A.

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, the Board concludes that respondent's conduct as alleged in the Count One of the Statement of Charges is proven by a preponderance of the evidence presented. The Board concludes that respondent's positive urine screen results are proof of respondent's abuse of morphine and codeine. The Board further concludes that respondent's abuse of morphine and codeine may affect her practice as a licensed practical nurse.

COUNT TWO of the Statement of Charges alleges that while subject to probation of her registered nurse license, as set forth in a Memorandum of Decision dated April 24, 1996, respondent violated the terms of said probation in the following ways:

- On or about November 23, 1998, respondent tested positive for morphine and codeine;
- On or about February 10, 1999, respondent tested positive for morphine.

Respondent admits these charges in so far as respondent's "urine specimen" tested positive. Respondent neither admits nor denies violating the terms of probation as set forth in the Memorandum of Decision dated April 24, 1996. Rt. Exh. A.

Based on its findings, the Board concludes that respondent's conduct as alleged in Count Two of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes a violation of the probation of her registered nurse license as set forth in a Memorandum of Decision dated April 24, 1996. Therefore, respondent's registered nurse license is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

***Order***

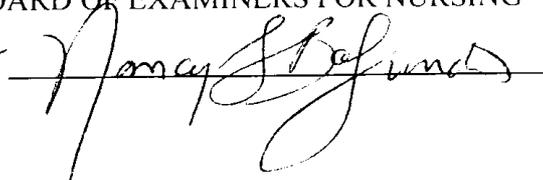
Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

That for Count One and Count Two of the Statement of Charges, respondent's Registered Nurse License, No. E53687, is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

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

Dated at Hartford, Connecticut this 21<sup>st</sup> day of July, 1999.

BOARD OF EXAMINERS FOR NURSING

By 

**CERTIFICATION**

I hereby certify that, pursuant to Connecticut General Statutes §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 22nd day of July 1999, by certified mail, return receipt requested to:

Tracey Gates  
37 Heather Ridge Raod  
Huntington, CT 06484

Certified Mail RRR NO. P505288555

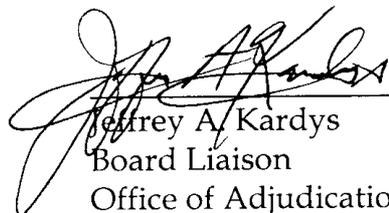
and

Martha Murray, Esquire  
383 Orange Street  
New Haven, CT 06511

Certified Mail RRR NO. P505288556

and by inter-departmental mail to:

Diane Wilan, Staff Attorney  
Department of Public Health  
410 Capitol Avenue, MS #12LEG  
Hartford, CT 06134

  
Jeffrey A. Kardys  
Board Liaison  
Office of Adjudications