

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

Department of Public Health and Addiction Services v.

Cathy Muir, R.N.

Registered Nurse License No. E55113

18 Maplewood Avenue

West Hartford CT 06119

CASE PETITION NO. 931004-10-057

MEMORANDUM OF DECISION

INTRODUCTION

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Public Health and Addiction Services (hereinafter the "Department") with a Statement of Charges dated December 1, 1993. (Department Exhibit 1-A) The Statement of Charges alleged, in two (2) counts, violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Cathy Muir (hereinafter the "Respondent").

The Board issued a Notice of Hearing dated December 8, 1993, scheduling a hearing for February 10, 1994. The hearing was continued at the Respondent's request and took place on April 14, 1994 in Room 112, National Guard Armory, Maxim Road, Hartford, Connecticut. (Department Exhibit 1)

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 his/her specialized professional knowledge in evaluating the evidence.

FACTS

Based on the testimony given and the exhibits offered into evidence, the Board made the following findings of fact:

1. Cathy Muir, hereinafter referred to as the Respondent, was issued Registered Nurse License Number E55113 on September 10, 1992 and was the holder of said license at all times referenced in the Statement of Charges. (Department Exhibit 1-B)
2. Pursuant to the General Statutes of Connecticut Section 4-182(c), the Respondent was provided full opportunity prior to the institution of agency action to show compliance with all the terms for retention of her license. (Department Exhibit 1-C)
3. The Respondent was aware of the time and location of the hearing. Department Exhibit 1 indicates that the Notice of Hearing, Statement of Charges and Notice of Continuance of Formal Hearing were delivered by certified mail to the Respondent.
4. The Respondent was present at the hearing and was represented by counsel. (Hearing Transcript, April 14, 1994, pp. 3, 11)
5. During the hearing the Respondent provided a verbal answer to the Statement of Charges. (Hearing Transcript, April 14, 1994, pp. 5-6)
6. That on or about February 1993, while employed as a registered nurse at Elmcrest Hospital, Portland, Connecticut, the Respondent diverted for her own use approximately ten (10) 0.5 mg. tablets of the controlled substance Klonopin. (Department Exhibit 1-D) (Answer: Hearing Transcript, April 14, 1994, pp. 5-6)

7. That on or about April 1993, while employed as a registered nurse at Elmcrest Hospital, Portland, Connecticut, the Respondent diverted for her own use approximately fifteen - twenty (15-20) 5 mg. tablets of the controlled substance Valium. (Department Exhibit 1-D) (Answer: Hearing Transcript, April 14, 1994, p. 6)
8. That on or about August 10, 1993, while employed as a registered nurse at Elmcrest Hospital, Portland, Connecticut, the Respondent diverted for her own use twenty-five - thirty (25-30) 10 mg. tablets of the controlled substance Valium. (Department Exhibit 1-D) (Answer: Hearing Transcript, April 14, 1994, p. 6)
9. That on and before August 1993 the Respondent abused alcohol and abused and/or utilized to excess the controlled substances Klonopin and Valium. (Answer: Hearing Transcript, April 14, 1994, p. 6)
10. That the Respondent is chemically dependent and addicted to drugs, including but not limited to Klonopin, Valium, and/or alcohol. (Answer: Hearing Transcript, April 14, 1994, p. 6)
11. That the Respondent has and continues to receive treatment and counseling for chemical dependency and regularly participates in the support groups Alcoholics Anonymous, Narcotics Anonymous and Nurses for Nurses. (Department Exhibit 1-D) ((Respondent Exhibit A) (Hearing Transcript, April 14, 1994, pp. 11-12, 17)

DISCUSSION AND CONCLUSIONS

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

Cathy Muir 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 information as mandated by Sections 4-177 and 4-182 of the General Statutes of Connecticut.

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 Section 4-182(c) of the General Statutes of Connecticut.

The FIRST COUNT of the Statement of Charges, alleges that between approximately February and August of 1993 while working as a registered nurse at Elmcrest Hospital, Portland, Connecticut, the Respondent:

- "a. diverted to herself approximately 10 0.5 mg tablets of Klonopin of or about February of 1993, from patient stocks;
- b. diverted to herself approximately 15 - 20 5 mg tablets of Valium on or about April of 1993, from patient stocks;
- c. diverted to herself approximately 25 - 30 10 mg tablets of Valium on or about August 10, 1993, from patient stocks; and/or,
- d. abused and/or utilized to excess the controlled substances Klonopin and Valium."

The Respondent admits these charges. (Answer: Hearing Transcript, April 14, 1994, pp. 5-6)

The SECOND COUNT of the Statement of Charges alleges that on and before August 1993 the Respondent abused alcohol, Klonopin and Valium, and that the Respondent is chemically dependent and addicted to drugs, including but not limited to Klonopin, Valium, and/or alcohol.

The Respondent admits these charges. (Answer: Hearing Transcript, April 14, 1994, p. 6)

The General Statutes of Connecticut Section 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 carrying out usual nursing functions... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...."

Based on its findings and the Respondent's admission, the Board conclude that the Respondent's conduct as specified in the First Count and the Second Count is proven and that said conduct violates the General Statutes of Connecticut Section 20-99(b)(2) and (5). Therefore, the Respondent is subject to disciplinary pursuant to Section 19a-17 of the General Statutes of Connecticut.

ORDER

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

1. For the First Count and the Second Count the Respondent's registered nurse license, No. E55113, is placed on probation for a period of three (3) years.
2. If any of the following conditions of probation are not met, the Respondent's registered nurse license may be immediately revoked:
 - 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 her employer(s) within thirty (30) days as to receipt of a copy of this Memorandum of Decision.
 - B. Should the Respondent change employment at any time 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, as to receipt of a copy of this Memorandum of Decision.
 - C. The Respondent shall not accept employment as a nurse for a personnel provider service, Visiting Nurse Association or home health care agency and shall not be self-employed as a nurse during the period of her probation.

- D. The Respondent shall cause monthly employer reports to be submitted to the Board by her immediate supervisor during the first year of probation and bi-monthly during the second and third years of probation. Monthly employer reports are due on the first day of each month and shall commence with the report due July 1, 1994. Bi-monthly employer reports are due on the first business day of January, March, May, July, September and November and shall commence with the report due July 1, 1995.
- E. The employer reports cited in paragraph D 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 listed in paragraph N below.
- F. At her own expense, the Respondent shall engage in counseling with a licensed or certified therapist for the entire period of probation. The Respondent shall engage in therapy/counseling sessions at least monthly during the first year of probation and at least bi-monthly during the second and third years of probation.
- G. 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, as to receipt of a copy of this Memorandum of Decision.
- H. The Respondent shall cause monthly reports to be submitted to the Board by her therapist during the first year of probation and bi-monthly during the second and third years of probation. Monthly therapist reports are due on the first day of each month and shall commence with the report due July 1, 1994. Bi-monthly reports are due on the first day of January, March, May, July, September and November and shall commence with the report due July 1, 1995. Therapist reports shall be issued to the Board at the address cited in paragraph N below.

- I. The therapist reports cited in paragraph H above, shall include documentation of dates of treatment, an evaluation of the Respondent's progress including alcohol and drug free status, ability to safely and competently practice nursing.
- J. 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. Said screens shall be legally defensible in that the specimen donor and chain of custody must be identified 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 such random alcohol/drug screen monthly during the first year of probation and at least one such random alcohol/drug screen bi-monthly during second and third years of probation. Reports of said random alcohol/drug screens are due monthly commencing with the report due July 1, 1994 and bi-monthly commencing with the report due July 1, 1995.

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. Laboratory reports must indicate that the chain of custody procedure has been followed.

Reports of random alcohol and drug screens shall be submitted directly to the Board at the address listed in paragraph N below, by the Respondent's therapist or personal physician or the testing laboratory.

- K. 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.
- L. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.

M. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.

N. Any correspondence and reports are to be addressed to:

OFFICE OF THE BOARD OF EXAMINERS FOR NURSING
Department of Public Health and Addiction Services
150 Washington Street
Hartford CT 06106

3. 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 Section 19a-17(a) and (c) of the Connecticut General Statutes, including but not limited to, the revocation of her license. Any extension of time or grace period for reporting granted by the Connecticut Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take action at a later time. The Connecticut 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 and Addiction Services or the Connecticut Board of Examiners for Nursing).
4. This Memorandum of Decision becomes effective, and the three (3) year probation period of the Respondent's registered nurse license shall commence on June 15, 1994.

The Board of Examiners for Nursing hereby informs the Respondent, Cathy Muir and the Department of Public Health and Addiction Services of the State of Connecticut of this decision.

Dated at Hartford, Connecticut, this 9th day of June, 1994.

BOARD OF EXAMINERS FOR NURSING

By

Janice A. Thibodeau