

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

Department of Public Health

Petition No. 2001-0228-010-013

vs.

Jennifer Smith, RN, Lic. No. E55404
Respondent

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 dated July 26, 2002. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Jennifer Smith (hereinafter "respondent") which would subject respondent's registered nurse license to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b).

The Board issued a Notice of Hearing dated August 1, 2002, scheduling a hearing for November 20, 2002. Board Exh. 1.

Respondent was provided notice of the hearing and charges against her. The Notice of Hearing and Statement of Charges were delivered by certified mail to respondent. Board Exh. 1.

The hearing took place on November 20, 2002, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was present during the hearing but was not represented by counsel. Tr. p. 4.

Respondent orally answered the Statement of Charges at the hearing. Tr. pp. 13-14.

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 E55404 on September 10, 1992. Respondent was the holder of said license at all times referenced in the Statement of Charges. Tr. pp. 13-14; Dept. Exh. 1F.

2. At all relevant times, respondent was employed as a registered nurse at Lawrence and Memorial Hospital, New London, Connecticut. Tr. p. 14.
3. In January 2001, while working as a registered nurse at Lawrence and Memorial Hospital, respondent diverted Methadone from hospital stock. Tr. p. 14; Dept. Exh. 1B.
4. In January of 2001, respondent abused Methadone to excess. Dept. Exh. 1B.
5. Respondent's abuse of Methadone while on duty may have affected her practice as a registered nurse. Dept. Exh. 1B7.
6. There is no evidence that respondent has abused any controlled substance before or after the single instance in January 2001; and, respondent has participated in therapy and changed the circumstances of her life since January 2001. Resp. Exh. 1; Tr. pp. 9-12, 15-28, 32-36, 39-42.

Conclusions of Law and Discussion

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

Jennifer Smith held a valid registered 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 *Conn. Gen. Stat.* § 4-177(a) and (b), and § 4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a 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 his license as required by *Conn. Gen. Stat.* § 4-182(c).

Respondent orally admits the allegations in the Statement of Charges, but denies that her use of Methadone in January 2001 constituted "abuse" and "use to excess" as alleged in paragraph 4; and denies that her use of Methadone "does and/or may, affect her practice as a registered nurse" as alleged in paragraph 5. A preponderance of evidence establishes that her diversion of Methadone without a prescription constitutes abuse of Methadone, and use of Methadone, "to excess;" and, that her use of Methadone while at her place of employment "may" have affected her practice as a registered nurse.

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 Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§20-99(b)(5) and 19a-17.

Order

Pursuant to its authority under *Conn. Gen. Stat.* § 19a-17 and § 20-99, the Board of Examiners for Nursing hereby orders the following:

1. That respondent's registered nurse license, number E55404, is placed on probation for a period of two (2) 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 and/or change of employment within the nursing profession. Respondent shall not provide any home health care during the period of probation except that she may continue her current employment with the Connecticut VNA of Southeastern Connecticut, East Lyme Connecticut, without pre-approval by the Board.
 - 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. 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.
 - D. The employer reports cited in Paragraph C 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 M below.
 - E. 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.
 - F. 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 M below.

- G. At her expense, respondent shall engage in therapy and counseling with a licensed or certified therapist, approved by the Board and the Department, during the entire period of probation.
- H. 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.
- I. Respondent shall cause monthly evaluation reports to be submitted to the Board by her therapist during the entire probationary period.
- J. The therapist reports cited in Paragraph I 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 M below.
- K. The Board must be informed in writing prior to any change of employment
- L. The Board must be informed in writing prior to any change of address.
- M. 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, 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 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 respondent's address of record (most current address reported to the Office of Practitioner Licensing and Certification of the Department of Public Health or the Board).
- 5. This Memorandum of Decision becomes effective, and the two (2) year probation of registered nurse license E55404 shall commence, on June 1, 2003.

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

Dated at Newington, Connecticut this 21st day of May 2003.

BOARD OF EXAMINERS FOR NURSING

By A handwritten signature in cursive script, appearing to read "Nancy St. John", is written over a horizontal line. The signature is written in black ink and is positioned to the right of the word "By".

jennifer smith 2003.doc



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

September 8, 2005

Jennifer Smith, RN
88 Flanders Road
Niantic, CT 06357

Re: Memorandum of Decision
Petition No. 2001-0228-010-013
License No. E55404

Dear Ms. Smith:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective June 1, 2005.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your license related to the above-referenced Memorandum of Decision.

Please be certain to retain this letter as documented proof that you have completed your license probation.

Thank you for your cooperation during this process.

Very truly yours,

Bonnie Pinkerton, RN, Nurse Consultant
Practitioner Licensing and Investigations Section

cc: J. Filippone
J. Wojick



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