

✓DT 4/10/95
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CERTIFIED MAIL - RETURN RECEIPT REQUESTED NO. _____

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH AND ADDICTION SERVICES
BUREAU OF HEALTH SYSTEM REGULATION
DIVISION OF MEDICAL QUALITY ASSURANCE

IN RE: ~~Gerald W. Kowalski~~, R.N.¹ Petition No. 940630-10-067
Ten Allegheny Centre Apts *add chg*
Bldg 10, Apt # 209 *per Preston Russell*
Pittsburgh, PA 15212 *4-10-95*

CONSENT ORDER

WHEREAS, Gerald W. Kowalski, R.N., of Pittsburgh, Pennsylvania (hereinafter "respondent") has been issued license number E55424 to practice as a registered nurse by the Department of Public Health and Addiction Services (hereinafter "the Department") pursuant to Chapter 378 of the General Statutes of Connecticut, as amended; and,

WHEREAS, respondent hereby admits and acknowledges that:

1. Between approximately April and May of 1994, while working as a nurse in the Urgent Visit Department of Yale Health Plan, New Haven, Connecticut, respondent:
 - a. diverted the controlled narcotic substances Demerol and/or Morphine from facility stocks; and/or,
 - b. falsified one or more controlled substance receipt, administration and/or disposal records.
2. Respondent has abused and/or used to excess the controlled narcotic substances Demerol and/or Morphine as recently as May of 1994.
3. The above-described conduct constitutes violations of Connecticut General Statutes §20-99(b), including but not limited to §20-99(b)(2) and/or (6).
4. Respondent is not practicing nursing in Connecticut at this time.

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to

contest the above allegations at a hearing in front of the Connecticut Board of Examiners for Nursing (hereinafter "the Board"). Respondent further agrees that this Consent Order shall have the same effect as if ordered after a full hearing pursuant to §§19a-9, 19a-10, and 20-99(b) of the General Statutes of Connecticut. NOW THEREFORE, pursuant to §19a-17 and §20-99(a) of the General Statutes of Connecticut, Gerald W. Kowalski, R.N. hereby stipulates and agrees to the following:

1. That respondent waives his right to a hearing on the merits of this matter.
2. That respondent shall comply with all federal and state statutes and regulations applicable to his profession.
3. That respondent's license number E55424 to practice as a registered nurse in the State of Connecticut is hereby placed on ~~probation~~ for three (3) years, commencing when and if respondent resumes his nursing practice in Connecticut, subject to the following terms and conditions:

- ✓ A. At his own expense, he shall engage in therapy and counseling with a licensed or certified therapist (hereinafter "therapist") approved by the Board of Examiners for Nursing (hereinafter "the Board") and the Department for the entire probationary period.
 - ✓ (1) He shall provide a copy of this Consent Order to his therapist.
 - ✓ (2) His therapist shall furnish written confirmation to the Board and the Department of his/her engagement in that capacity and receipt of a copy of this Consent Order within fifteen (15) days of the effective date of this Consent Order.
 - ✓ (3) If respondent's therapist determines that therapy is no longer necessary, that a reduction in frequency of therapy is warranted, or that respondent should be transferred to another therapist, he/she

shall advise the Board and the Department. Said termination of therapy, reduction in frequency of therapy, and/or respondent's transfer to another therapist shall not occur until approved by the Board after consultation with the Department. However, if therapy is terminated with approval of the Board, respondent's therapist shall continue to monitor his alcohol and drug free status by monitoring and reviewing the observed random urine screens for drugs and alcohol as described in paragraph 3B below, and by providing the reports described in paragraph 3C below.

- (4) The therapist shall immediately notify the Board and the Department in writing if respondent discontinues therapy and/or terminates his/her services.

B. Respondent shall not obtain for personal use and/or use alcohol, controlled substances or legend drugs that have not been prescribed for him for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications.

- (1) At his own expense, he shall submit to observed random urine screens for drugs and alcohol at a testing facility approved by the Board, after consultation with the Department, as ordered by his therapist and/or personal physician. Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department by respondent's therapist or personal physician or by the testing laboratory. All such observed random drug and alcohol screens shall be legally defensible in that the specimen donor and chain of custody can be identified throughout the screening process.

All laboratory reports shall indicate that the chain of custody procedure has been followed.

- (2) He shall be responsible for notifying the laboratory, his therapist, the Board, and the Department of any drug(s) he is taking.
- (3) There must be at least one (1) such observed random alcohol/drug screen and accompanying laboratory report per week for the first year of probation; at least two (2) such screens and reports every month for the second year of probation; and, at least one (1) such screen and report every month for the third year of probation.
- (4) All screens shall be negative for the presence of drugs and alcohol.
- (5) All positive screen results shall be confirmed by gas chromatograph/mass spectrometer (GC/MS) testing.
- (6) Respondent is hereby advised that the ingestion of poppy seeds has, from time to time, been raised as a defense to a positive screen result for morphine and/or opiates. For that reason, respondent agrees to refrain from ingesting poppy seeds in any food substances during the term of this Consent Order. In the event respondent has a positive screen for Morphine and/or opiates, respondent agrees that the ingestion of poppy seeds shall not constitute a defense to such a screen.

C. Respondent shall be responsible for the provision of written reports from his therapist directly to the Board and the Department for the entire probationary period; monthly for the first year of probation; and, bi-monthly for the second and third years of probation. Such reports shall include documentation of dates of treatment, an evaluation of

respondent's progress in treatment and of his drug and alcohol free status as established by the observed random urine screens for drugs and alcohol, an evaluation of his ability to safely and competently practice nursing, and copies of all laboratory reports.

- D. Notwithstanding the foregoing, respondent's therapist shall immediately report to the Board and the Department any confirmed positive alcohol/drug screen and any conduct or condition on respondent's part which does or may violate any federal or state statute or regulation applicable to his profession.
- E. Respondent shall provide a copy of this Consent Order to all current and future employers for the duration of his probation.
- F. Respondent shall not accept employment as a nurse for a personnel provider service, visiting nurse agency or home health care agency, and shall not be self-employed as a nurse for the period of his probation.
- G. Respondent shall not administer, count or have access to narcotics or other controlled substances, or have responsibility for such activities in the course of his nursing duties for the first year of probation.
-  H. Respondent shall be responsible for the provision of written reports directly to the Board and the Department from his nursing supervisor (i.e., Director of Nursing) monthly for the first year of his probation; and, bi-monthly for the second and third years of probation. Employer reports shall include documentation of respondent's ability to safely and competently practice nursing, and shall be issued to the Board and the Department at the address cited in paragraph 3L below.

- I. Respondent shall notify the Board and the Department in writing of any change of employment within fifteen (15) days of such change.
- J. Respondent shall notify the Board and the Department of any change in his home or business address within fifteen (15) days of such change.
- K. All reports required in paragraphs 3C and 3G are due according to the following schedule:

- (1) Monthly reports are due on the tenth business day of every month commencing with the reports due in the month following the month in which respondent's probation becomes effective.
- (2) Bi-monthly reports are due on the tenth business day of January, March, May, July, September and November of each year commencing with the reports due in the second year following the year in which respondent's probation becomes effective.

- L. All correspondence and reports shall be addressed to:

Office of the Board of Examiners for Nursing
Department of Public Health and Addiction Services
150 Washington Street
Hartford, CT 06106

- 4. That any violation of the terms of this Consent Order without prior written approval by the Board shall constitute grounds for the Department to seek revocation of respondent's nursing license following notice and an opportunity to be heard.
- 5. That 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 action at a later time. The Board shall not be required to grant future extensions of time or grace periods.
- 6. That legal notice of any action shall be deemed sufficient if sent to

respondent's last known address of record reported to the Licensure and Registration Section of the Division of Medical Quality Assurance of the Department.

7. That this Consent Order is effective on the first day of the month immediately following the month in which this Consent Order is approved and accepted by the Board.
8. That respondent understands this Consent Order is a matter of public record.
9. That respondent understands this Consent Order may be considered as evidence of the above admitted violations in any proceeding before the Board in which (1) his compliance with this same Consent Order is at issue, or (2) his compliance with §20-99(b) of the General Statutes of Connecticut, as amended, is at issue.
10. That, in the event respondent violates a term of this Consent Order, respondent agrees immediately to refrain from practicing as a registered nurse, upon request by the Department, with notice to the Board, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation, and to submit to and complete a medical, psychiatric or psychological evaluation, if requested to do so by the Department; and, that the results of the evaluation shall be submitted directly to the Department. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that his failure to cooperate with the Department's investigation shall be considered by the Board and shall be given due weight by the Board in

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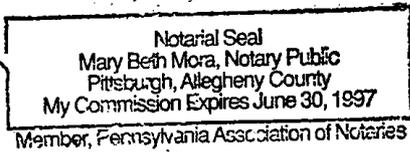
determining whether his conduct constitutes a clear and immediate danger as required pursuant to Connecticut General Statutes, sections 4-182(c) and 19a-17(c).

11. That, in the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Board.
12. That this Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Consent Order is not subject to appeal or review under the provisions of Chapters 54 and 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any other rights that he may have under the laws of the State of Connecticut or of the United States.
13. That respondent permits a representative of the Department to present this Consent Order and the factual basis for this Consent Order to the Board. The Department and respondent understand that the Board has complete and final discretion as to whether an executed Consent Order is approved or accepted.
14. That respondent has had the opportunity to consult with an attorney prior to signing this document.

I, Gerald W. Kowalski, R.N. have read the above Consent Order, and I agree to the terms and allegations set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Gerald W. Kowalski, R.N.
Gerald W. Kowalski, R.N.

Subscribed and sworn to before me this 31 day of March 1995.



Mary Beth Mora
Notary Public or person authorized by law to administer an oath or affirmation

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health and Addiction Services on the 4th day of April 1995, it is hereby accepted.

Stanley K. Peck
Stanley K. Peck, Director
Division of Medical Quality Assurance

The above Consent Order having been presented to the duly appointed agent of the Connecticut Board of Examiners for Nursing on the 5 day of April 1995, it is hereby ordered and accepted.

BY: [Signature]
Connecticut Board of Examiners for Nursing
[Signature]