

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

Department of Public Health

Petition No. 2000-0829-010-057

vs.

Elizabeth Rescigno, RN, Lic. No. E55521  
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 and Motion for Summary Suspension dated September 11, 2000. (Dept. Exh. 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Elizabeth Rescigno (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 respondent's continued nursing practice presented a clear and immediate danger to public health and safety. On September 20, 2000, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that respondent's Registered Nurse license 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 September 20, 2000, scheduling a hearing for October 4, 2000. (Dept. Exh. 1.) The hearing was continued and rescheduled to January 17, 2001. Dept. Exh. 3.

The hearing took place on January 17, 2001, in Town Council Chambers, Wethersfield Town Hall, 505 Silas Deane Highway, Wethersfield, Connecticut.

Respondent was present during the hearing but was not represented by counsel. The Department was represented by Attorney Diane Wilan. Respondent was informed of her right to legal representation, but respondent declined the offer. Transcript, January 17, 2001, pp. 2-3.

Respondent submitted an oral Answer to the Statement of Charges. Transcript, January 17, 2001, pp. 5-8.

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 E55521 on April 1, 1993. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh.1-C; Transcript, January 17, 2001, p. 7.
2. At all relevant times, respondent was employed as a registered nurse at Branford Hills Health Care Center, Branford, Connecticut. Dept. Exh. 1-B-2. Transcript, January 17, 2001, p. 7.
3. On December 16, 1998, the Connecticut Board of Examiners for Nursing ordered a Consent Order in Petition Number 980630-010-050 (hereinafter "the Consent Order") that placed respondent's registered nurse license on probation for a period of four years beginning on January 1, 1999. Such disciplinary action was based upon the respondent's admitted diversions of Percocet and Vicodin, and falsification of controlled substance records. Dept. Exh. 1-A.
4. Such probation of respondent's registered nurse license prohibited respondent from obtaining or using controlled substances, legend drugs or alcohol in any form unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications and that respondent submit to random urine screens for drugs and alcohol which were to be negative for the presence of drugs and alcohol.  
Dept. Exh. 1-A.
5. On or about June 19, 2000 and August 7, 2000, while working as a registered nurse at Branford Health Care Center, respondent abused cocaine. Dept. Exh. 1-B-2; Transcript, January 17, 2000, p 7.
6. Respondent's abuse of cocaine in June and August of 2000 does and/or may affect her practice as a registered nurse.

***Conclusions of Law and Discussion***

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

Elizabeth Rescigno 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 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).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

**COUNT ONE, PARAGRAPH 3** of the Statement of Charges alleges that on or about June 19, 2000 and August 7, 2000 while working as a Registered Nurse at Branford Health Care Center, respondent abused cocaine.

Respondent admits using cocaine, but denies using cocaine at while work. Transcript, January 17, 2001, p. 7.

**COUNT ONE, PARAGRAPH 4** of the Statement of Charges alleges respondent's use of cocaine does, and or may, affect her practice as a registered nurse. .

Respondent denies this charge. Transcript, January 17, 2001, p. 7.

The Board does not consider respondent's denials to be credible.

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 Paragraphs 3 and 4 of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes violations of *Conn. Gen. Stat.* §20-99(b) (5). Therefore, respondent's Registered Nurse license is subject to disciplinary action pursuant to *Conn. Gen. Stat.* §19a-17.

**COUNT TWO** of the Statement of Charges alleges that on December 16, 1998, the Connecticut Board of Examiners for Nursing signed a Consent Order that placed respondent's registered nurse license on probation for a period of four years beginning on January 1, 1999. Such disciplinary action was based upon the respondent's admitted diversions of Percocet and Vicodin, and falsification of controlled substance records. Said Consent Order specifically provided that respondent shall not obtain or use controlled substances unless prescribed for a legitimate therapeutic purpose, and that all screens shall be negative for drugs and alcohol. Dept. Exh. 1-A.

Respondent admits these charges. Transcript, January 17, 2001, p. 8.

**COUNT TWO** further alleges that respondent's conduct constitutes violations of the terms of probation as set forth in the Consent Order dated December 16, 1998.

Based on its findings, and the respondent's admission, 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 Consent Order dated December 16, 1998. Therefore, respondent's Registered Nurse license is subject to disciplinary action pursuant to *Conn. Gen. Stat. §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. The Summary Suspension of respondent's Registered Nurse license, number E55521, ordered on September 20, 2000, is vacated on the effective date of this Memorandum of Decision.
2. For Count One and for Count Two of the Statement of Charges, the probationary period on respondent's Registered Nurse license, number E55521, is extended to January 1, 2005.
3. If any of the following conditions of probation are not met, respondent's Registered Nurse license may be subject to disciplinary action pursuant to *Conn. Gen. Stat. §19a-17*. In addition to the terms required by the Consent Order dated December 16, 1998., respondent shall also comply with the requirements detailed below. To the extent that any term in this Memorandum of Decision conflicts with a term in the December 16, 1998 Consent Order, this Memorandum of Decision shall be controlling.

- A. During the period of probation the Board shall pre-approve respondent's employment or change of employment within the nursing profession.
- 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. Respondent shall not administer, count or have access to controlled substances, or the narcotic keys, or have responsibility for such activities in the course of nursing duties from the effective date of this Memorandum of Decision until March 1, 2002.
- D. 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.
- E. The employer reports cited in Paragraph D 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 P below.
- F. 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.
- G. 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 P below.
- H. At her expense, respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist, approved by the Board and the Department, during the entire period of probation.
- I. 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. Respondent shall cause monthly evaluation reports to be submitted to the Board by her therapist during the entire probationary period.
- K. The therapist reports cited in Paragraph J 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 P below.
- L. At her expense, respondent shall be responsible for submitting to observed random chain of custody urine and/or blood screens for alcohol and drugs for the entire probationary period, at a testing facility approved by the Board, after consultation with the Department, as ordered by her therapist, and/or personal physician, and/or employer. Alcohol/drug screening may also be ordered by the Board of Examiners for Nursing to ensure compliance with this Order. Random alcohol/drug screens shall be legally defensible in that specimen donor and chain of custody can be identified throughout the screening process. 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.

(1) From the effective date of this Memorandum of Decision until January 1, 2003, respondent shall submit to at least weekly random alcohol/drug screens. From January 1, 2003 through January 1, 2005, respondent shall submit to at least twice monthly random alcohol/drug screens.

(2) 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.

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

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

(4) Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department, at the address cited in Paragraph P below, by respondent's therapist, personal physician or the testing laboratory.

- M. 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. Respondent shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.
- N. 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 address.
- P. All correspondence and reports are to be addressed to:

**Bonnie Pinkerton, RN, Nurse Consultant**  
**Department of Public Health**  
**Division of Health Systems Regulation**  
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 of Examiners for Nursing, 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 of Examiners for Nursing shall not be a waiver or preclude the Board's right to take subsequent action. 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 respondent's address of record (most current address reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department of Public Health or the Board of Examiners for Nursing).

5. This Memorandum of Decision is effective on the first day of the month immediately following the month in which this Memorandum Decision is signed by the Board of Examiners for Nursing.

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

Dated at Wethersfield, Connecticut this 21st day of March 2001.

BOARD OF EXAMINERS FOR NURSING

By  \_\_\_\_\_