

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

Tracy Shugrue Kane, R.N.
License No. E55534

Petition No. 2012-966

MEMORANDUM OF DECISION
Procedural Background

On August 20, 2008, the Board of Examiners for Nursing ("Board") issued a Memorandum of Decision ("Decision") in Petition No. 2008-0319-010-037 revoking the registered nurse license of Tracy Shugrue-Kane ("Petitioner"). The Decision was based on sufficient evidence that Petitioner had a history of controlled substances abuse which affected her practice as a registered nurse. Board ("Bd.") Exhibit ("Exh.") 2, pp. 7-10.

On March 8, 2012, Petitioner requested a hearing before the Board, seeking reinstatement of her license. Bd. Exh. 2, pp. 22-23. The Department of Public Health ("Department") did not file an objection to Petitioner's request.

Pursuant to Petitioner's request, the Board issued a Notice of Hearing ("Notice") dated Bd. Exh. 1.

On December 5, 2012, the Board heard Petitioner's request for reinstatement of her license. At the hearing, Petitioner was not represented by an attorney. Attorney Ellen Shanley represented the Department. The Board conducted fact finding immediately after the record was closed.

Each member of the Board attests that 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. *Pet v. Department of Health Services*, 228 Conn. 651 (1994).

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Petitioner previously held Connecticut registered nurse license number E55534. Bd. Exh. 2, pp. 8, 10.
2. On October 3, 2007, the Board imposed disciplinary actions against Petitioner's license for Petitioner's diversion of certain controlled substances while employed at St. Mary's Hospital, and for falsification of patient records. Petitioner entered into a Consent Order

which suspended her license for two months and concurrently placed her license on probation for four years. Bd. Exh. 2, pp. 11-20.

3. The probationary terms of the Consent Order included the requirements that Petitioner submit to random urine screens and participate in therapy and counseling for the entire period of probation. Bd. Exh. 2, pp. 12-15.
4. During February 2008, Petitioner violated the terms of her probation. Bd. Exh. 2, pp. 7-10.
5. On August 20, 2008, the Board revoked Petitioner's license based on such violations. Bd. Exh. 2, pp. 7-10.
6. On March 8, 2012, Petitioner requested a hearing before the Board, seeking reinstatement of her license. Bd. Exh. 2, p. 22.
7. On or about November 21, 2012, Petitioner submitted documentation in support of her request for reinstatement. Bd. Exh. 2, pp. 22-54.
8. Petitioner submitted two letters, dated January 18 and November 29, 2012, from her therapist who has been treating Petitioner since 2009. Her therapist attests that Petitioner's symptoms of substance abuse, depression and anxiety are in remission, and that Petitioner has been drug free for four years, and that she has learned to cope with tragedy and difficult situations without resorting to self-medicating and substance abuse. Bd. Exh. 2, p. 24; Pet. Exh. 2, p. 3.
9. Petitioner submitted a letter, dated August 22, 2012, from her physician who attested that Petitioner is in excellent physical and mental health. Bd. Exh. 2, p. 49.
10. Petitioner submitted urine screen reports, dated January 4, 2011 through November 2, 2012. All test results were negative, except for three positive screenings for ethyl glucuronide ("EtG") on April 14, July 8, and July 28, 2011. Bd. Exh. 2, pp. 27, 32-33, 36-39, Pet. Exh. 2, pp. 8-21.
11. Petitioner submitted a letter, dated August 15, 2012, from her AA sponsor of more than five years, who attested to Petitioner's substance abuse recovery despite experiencing tremendous adversity and great personal losses. Bd. Exh. 2, p. 52.
12. Petitioner submitted letters from her college professors who praised Petitioner for her high levels of academic achievement as well as her personal integrity, maturity, strong work ethic, critical thinking, intellectual curiosity, strong communication and leadership skills, and mentoring qualities. Bd. Exh. 2, pp. 50-51, Pet. Exh. 1; Pet. Exh. 2, p. 4.
13. Petitioner submitted letters from personal friends and neighbors who have known her for more than 30 years. Their letters attest to Petitioner's compassion, commitment, selflessness, and her love for the nursing profession. Bd. Exh. 2, pp. 25-26.

14. Petitioner submitted letters from college classmates who attest to her inspirational qualities, mentoring, positive disposition and her willingness to share her knowledge and her time to tutor them in difficult subjects. Pet. Exh. 2, pp. 5-7.

Discussion and Conclusions of Law

Section 19a-17(d) of the Connecticut General Statutes (“Statutes”) provides, in pertinent part, that the Board “may reinstate a license that has been suspended or revoked, if after a hearing, such board . . . is satisfied that the practitioner . . . is able to practice with reasonable skill and safety to patients, customers or the public in general. As a condition of reinstatement, the Board may impose disciplinary or corrective measures authorized under this section.”

Petitioner has the burden of satisfying the Board that she is able to practice nursing with reasonable skill and safety. The Board finds that Petitioner has presented sufficient evidence to satisfy her burden.

Prior to the hearing, Petitioner was informed that she would be required to provide evidence at the hearing that documented the “outcomes of [her] efforts toward recovery” over an extended period of time. Bd. Exh. 1. Petitioner was also advised that such evidence should include documentary or testimonial evidence from her therapist; personal references documenting a lengthy period of drug/alcohol free status, her emotional health and work habits; documentary or testimonial evidence from current and past employers documenting her ability to carry out assigned duties responsibly and accurately and her potential for functioning safely and effectively as a nurse; copies of random urine screen reports documenting the frequency, the conditions under which the specimens were taken, and the results of the tests; documentation of Petitioner’s participation in support groups and support of a sponsor, as well as the outcome of her participation in such support groups; and, a list of current medications prescribed by her health care providers, including a need for such medications and an assessment of a continued need for such medications.

At the hearing, Petitioner submitted a letter from her AA sponsor of more than five years, who attested to Petitioner’s substance abuse recovery despite experiencing tremendous adversity and great personal losses. FF 11. Petitioner submitted urine screen reports for the period from January 4, 2011 through November 2, 2012. All screens have been negative, except for three positive screenings for ethyl glucuronide on April 14, July 8, and July 28, 2011 (FF 10), to which the Board did not attribute much weight because these results were over a year old. Petitioner submitted two letters from her therapist of more than four years. Her therapist states that her

symptoms of substance abuse, depression and anxiety are in remission, and that now she is prepared to handle tragic situations without resorting to using controlled substances or mind altering drugs. FF8. Petitioner also submitted letters from her college professors, college classmates, and long time personal friends and neighbors attesting to her high levels of academic achievement as well as her personal integrity, maturity, strong work ethic, critical thinking, intellectual curiosity, strong communication and leadership skills, and mentoring qualities. All of Petitioner's reference letters attest to her positive disposition, compassion, commitment, selflessness, motivation and determination to resume her nursing career. FF12-14.

As noted in the Findings of Fact and foregoing discussion, the Board finds that Petitioner has made substantial strides in recovering from her mistakes and getting her life in order. Petitioner has presented relevant and credible evidence to sustain her burden of satisfying the Board that she is able to return to the practice of nursing with reasonable skill and safety, under the terms of the Order described below.

Order

Pursuant to §§ 19a-17 and 20-99 of the Connecticut General Statutes ("Statutes"), the Board hereby orders the following:

1. Registered Nurse license number E55534, of Petitioner, Tracy Shugrue Kane, is hereby reinstated and immediately restricted in that she is prohibited from practicing as a R.N. and may only use her R.N. license for the sole purpose of participating in a refresher program as set forth in paragraph 2 of this Order.
2. Petitioner shall successfully complete a Board-approved Registered Nurse refresher course with a clinical component. Certification of successful completion of the R.N. refresher program shall be submitted to the Board, directly from the educational institution where said program was taken, within thirty (30) days of the program's completion.
3. Upon notification by the Department that Petitioner has satisfied the terms set forth in paragraph 2, Petitioner's R.N. license number E55534, shall be placed on probation for a period of three years under the following terms and conditions:
 - A. Petitioner shall not be employed as a R.N. for a personnel provider service, assisted living services agency, homemaker-home health aide agency, or home health care agency, and shall not be self-employed as a R.N. for the period of probation.

- B. Petitioner shall not administer, count or have access to controlled substances, or have responsibility for such activities in the course of nursing duties during the first six months of working as a R.N. during the probationary period.
- C. Petitioner shall provide a copy of this Memorandum of Decision ("Decision") to any and all employers if employed as a R.N. during the probationary period. The Department shall be notified in writing by any employer(s), within 30 days of the commencement of employment, as to the receipt of a copy of this Decision.
- D. If employed as a R.N., Petitioner shall cause employer reports to be submitted to the Department by her immediate supervisor during the entire probationary period. Employer reports shall be submitted monthly for the entire probationary period. Employer reports shall be submitted commencing with the report due on the first business day of the month following employment as a R.N.
- E. The employer reports cited in paragraph 3D above shall include documentation of Petitioner's ability to practice nursing safely and competently. Employer reports shall be submitted directly to the Department at the address cited in Paragraph 3P below.
- F. Should Petitioner's employment as a R.N. be involuntarily terminated or suspended, Petitioner and her employer shall notify the Department within 72 hours of such termination or suspension.
- G. If Petitioner pursues further training in any subject area that is regulated by the Department, Petitioner shall provide a copy of this Decision to the educational institution or, if not the institution, to Petitioner's instructor. Such institution or instructor shall notify the Department in writing of receipt of a copy of this Decision within 15 days of receipt. Said notification shall be submitted directly to the Department at the address cited in paragraph 3P below.
- H. At her expense, Petitioner shall continue to engage in therapy and counseling with a licensed or certified therapist, approved by the Department, during the entire probationary period.
- I. Petitioner shall provide a copy of this Decision to her therapist. The Department shall be notified in writing by her therapist, within 30 days of the effective date of this Decision, as to receipt of a copy of this Decision.

- J. Petitioner shall cause evaluation reports to be submitted to the Department by her therapist during the entire probationary period. Therapist reports shall be submitted monthly for the entire probationary period.
- K. The therapist reports cited in Paragraph 3J above shall include documentation of dates of treatment, an evaluation of Petitioner's progress, including alcohol and drug free status, and her ability to practice nursing safely and competently. Therapist reports shall be submitted directly to the Department at the address cited in Paragraph 3P below.
- L. Observed random urine screens
 - (1) At her expense, Petitioner shall be responsible for submitting to observed random chain of custody urine 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 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.
 - (2) Petitioner shall be responsible for notifying the laboratory, her therapist, the Board, the Department and her prescribing practitioner of any drug(s) she is taking. For any prescription of a controlled substance(s) for more than two consecutive weeks, Petitioner shall cause the provider prescribing the controlled substance(s) to submit quarterly reports to the Department until such time as the controlled substance(s) are no longer prescribed. The reports shall include the following:
 - a. A list of controlled substances prescribed by this provider for Petitioner;
 - b. A list of controlled substance(s) prescribed by other providers;
 - c. An evaluation of the Petitioner's need for the controlled substance;
 - d. An assessment of the Petitioner's continued need for the controlled substance(s).
 - (3) There must be at least one such observed, random alcohol/drug screen per week during the first year of the probationary period; one observed, random screening monthly during the second year of the probationary

period; and one observed, random screening per week during the third year of the probationary period.

- (4) Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive *drug* screen results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. All positive *alcohol* screen results shall be confirmed by the urine Ethyl Glucuronide (EtG) 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.
- (5) 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)

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

M. Petitioner 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. Petitioner shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.

N. Petitioner is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine and that the ingestion of mouthwash may produce a positive result indicating the presence of alcohol. For that reason, any food substance containing poppy seeds, and mouthwash should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine and/or alcohol, the ingestion of poppy seeds and/or mouthwash shall not constitute a defense to such positive screen.

- O. The Department must be informed in writing prior to any change of address.
- P. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, R.N., 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 shall constitute a violation of probation, which will be cause for an immediate hearing on charges of violating this Order. Any finding that Petitioner has violated this Order will subject Petitioner to sanctions under §19a-17(a) and (c) of the Statutes, 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 Petitioner's address of record (most current address reported to the Practitioner Licensing and Investigations Section of the Healthcare Quality and Safety Branch of the Department).
- 5. This Memorandum of Decision becomes effective on the date signed by the Board.

The Board hereby informs Petitioner, Tracy Shugrue Kane, and the Department of this decision.

Dated at Hartford, Connecticut this 17th day of April, 2013.

BOARD OF EXAMINERS FOR NURSING

by Patricia C. Bouffard, D.N.Sc.
Patricia Bouffard, D.N.Sc.,
Chairperson

CERTIFICATION

I hereby certify that, pursuant to Connecticut General Statutes Section 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 17th day of April 2013 by certified mail return receipt requested mail and first class mail to:

Tracy Shugrue Kane, RN
610 Millville Avenue
Naugatuck CT 06770

and E-Mail to:

Matthew Antonetti, Principal Attorney
Office of Licensure Regulation and Compliance
Department of Public Health
410 Capitol Avenue – MS#12LEG
P. O. Box 340308
Hartford CT 061343-0308



Janice E. Wojick, Administrative Assistant/Board Liaison