

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

Michael Rostock
RE: Registered Nurse Lic. No. E56008

Petition No. 2008-1014-010-122

MEMORANDUM OF DECISION

Procedural Background

Michael Rostock ("petitioner") was issued registered nurse license number E56008.

Pursuant to Memorandum of Decision dated November 3, 2004, the Board of Examiners for Nursing ("the Board") ordered the revocation of petitioner's registered nurse license.

In a letter received August 29, 2008, petitioner requested that the Board reinstate his registered nurse license.

Pursuant to petitioner's request, the Board issued a Notice of Hearing dated October 7, 2008, scheduling a hearing for March 18, 2009. Board Exh. 1.

The hearing took place on March 18, 2009, at the Department of Public Health, Capitol Avenue, Hartford, Connecticut. Petitioner was present at the hearing but was not represented by counsel.

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 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. Pursuant to a Memorandum of Decision dated November 3, 2004, petitioner's license to practice as a registered nurse was revoked. This revocation was based on petitioner's diversion of Plavix, Toprol, Zestril, Zocor and or/Glucotrol; failure to completely, properly and/or accurately document medical or hospital records; and falsification of one or more Controlled Substance Receipt Records while working as a registered nurse at Covenant Village of Cromwell, Cromwell, Connecticut on or about August 31, 2003. In addition, petitioner abused heroin from approximately March 2003 to September 2003. Board. Exh. 1.

2. On or about March 2006, petitioner began a dual recovery outpatient program at Rushford Center. Petitioner also participated in a depression group from May to August 2007 and a relapse prevention group from August to November 2007. Since December 2006, petitioner has engaged in weekly individual therapy with a licensed clinical social worker. Board Exh. 1.
3. On March 11, 2009, petitioner underwent a substance abuse evaluation at The Connecticut Mental Health Center, New Haven, Connecticut. The evaluation concluded there is no evidence of current substance abuse by petitioner. Board Exh. 1.
4. Petitioner's therapist testified that petitioner's relapse prevention treatment has been successful. Tr., p. 13.
5. Petitioner has participated in voluntary urine drug and alcohol screening. Results of urine screens are negative for active substance abuse. Board Exh. 1.
6. Petitioner has been an active participant in both Alcoholics Anonymous and Nurses for Nurses. Board Exh. 1.

Discussion and Conclusions of Law

As stated in the Notice of Hearing, petitioner has the burden of satisfying the Board that he is able to practice as a registered nurse with reasonable skill and safety by presenting relevant evidence at the hearing, including the following:

1. Evidence from a licensed therapist documenting his drug free status and participation in therapy and counseling;
2. Personal references addressing his drug free status, emotional health, and work habits;
3. Documentary evidence from his current and past employers;
4. Documentary evidence of random, legally defensible screens for drugs and alcohol conducted by a therapist or physician;
5. Documentation of participation in support groups.

The Board finds that the petitioner has presented relevant and credible evidence to sustain his burden of satisfying the Board of his ability to return to the practice of nursing under the terms of the Order described below.

Order

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

1. Registered nurse license no. E56008, of petitioner, Michael Rostock, is hereby reinstated to probationary status subject to the following conditions:
 - A. Petitioner shall successfully complete a Board approved registered nurse refresher program.
 - B. Certification of successful completion of the refresher program cited in Paragraph 1A 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.
 - C. Petitioner shall complete an application for licensure reinstatement and submit it to the licensing authority of the Department of Public Health (hereinafter "the Department"). Petitioner shall take the licensing examination for registered nurses. Petitioner shall incur all expenses associated with applying for and taking the licensing examination.
 - E. Petitioner shall attain a passing score on the licensing examination for registered nurses.
 - F. Until such time that petitioner successfully completes the refresher program and has attained a passing score on the licensing examination, petitioner is prohibited from practicing as a nurse and petitioner's registered nurse license is restricted and shall be used for the sole purpose of participating in the refresher program.
2. Petitioner's registered nurse license no. E56008, shall be immediately placed on probation for a period of four (4) years, under the following terms and conditions, commencing on the date petitioner is notified by the Department that he passed the registered nurse examination and has completed all requirements for license reinstatement.
3. If any of the following conditions of probation are not met, petitioner'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 petitioner's employment or change of employment within the nursing profession.
Petitioner shall not be employed as a nurse 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 nurse for the period of probation.
- B. Petitioner 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. 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 year of working as a nurse during the probationary period. Petitioner may administer controlled substances as part of the registered nurse refresher program provided he receives direct supervision from a nursing instructor.
- D. If employed as a nurse, petitioner shall cause employer reports to be submitted to the Board, by his immediate supervisor during the entire probationary period. Employer reports shall be submitted commencing with the report due on the first business day of month following employment as a nurse. Employer reports shall be submitted monthly during the first and fourth years of probation, and quarterly during the second and third years of probation.
- E. The employer reports cited in Paragraph 3D above shall include documentation of petitioner's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph 3P below.
- F. Should petitioner's employment as a nurse be involuntarily terminated or suspended, respondent and his employer shall notify the Board within seventy-two (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 Memorandum of 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 Memorandum of Decision within fifteen (15) days of receipt. Said notification shall be submitted directly to the Department at the address cited in Paragraph 3P below.
- H. At his expense, petitioner shall engage in therapy and counseling for chemical dependency with a Connecticut licensed or certified therapist, approved by the Board and the Department, during the entire period of probation.
- I. Petitioner shall provide a copy of this Memorandum of Decision to his therapist. The Board shall be notified in writing by his therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.
- J. Petitioner shall cause evaluation reports to be submitted to the Board by his therapist during the entire probationary period. Therapist reports shall be submitted monthly during the first and fourth years of probation, and quarterly during the second and third years of probation.
- K. The therapist reports cited in Paragraph J above shall include documentation of dates of treatment, and an evaluation of petitioner'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 3P below.
- L. (1) At his 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 his 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, his therapist, the Board, the Department and his prescribing practitioner of any drug(s) he is taking. For any prescription of a controlled substance(s) for more than two consecutive weeks, the petitioner shall cause the provider prescribing the controlled substance(s) to submit quarterly reports to the Board and the Department until such time as the controlled substance(s) are no longer prescribed. The reports shall include the following:

1. A list of controlled substances prescribed by this provider for the petitioner;
2. A list of controlled substance(s) prescribed by other providers;
3. An evaluation of the petitioner's need for the controlled substance;
4. An assessment of the petitioner's continued need for the controlled substance(s).

(3) There must be at least two (2) such random alcohol/drug screen monthly during the entire probationary period.

(4) 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.

(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 directly to the Board and 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 him, 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. 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. That 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 petitioner has violated this Order will subject petitioner to sanctions under § 19a-17(a) and (c) of the General Statutes of Connecticut, including but not limited to, the revocation of his 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 petitioner'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. That this Memorandum of Decision becomes effective on the date signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs petitioner, Michael Rostock, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 19th day of August, 2009.

BOARD OF EXAMINERS FOR NURSING

By Patricia C. Buffal

CERTIFICATION

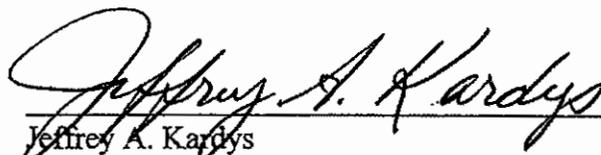
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 20th day of AUGUST 2009, by certified mail, return receipt requested, and first class mail to:

Michael Rostock
38 Galoppi Road
Meriden, CT 06450

Certified Mail RRR #91-7108-2133-3931-8754-1422

and by Inter-Departmental Mail to:

Matthew Antonetti, Principal Attorney
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
Hartford, CT 06134-0308



Jeffrey A. Kardys
Administrative Hearings Specialist/Board Liaison
Department of Public Health
Public Health Hearing Office