

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

Department of Public Health

Petition No. 2006-0329-010-024

vs.

Marcia Parent, RN, Lic. No. E56454
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 April 12, 2006. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Marcia Parent, RN (hereinafter "respondent") which would subject respondent's registered nurse license to disciplinary action pursuant to Conn. Gen. Stat. §§ 19a-17 and 20-99(b).

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 May 3, 2006, 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 May 3, 2006, scheduling a hearing for May 17, 2006. Dept. Exh. 1.

On May 10, 2006, a State Marshal attempted to make service of the Summary Suspension Order, Notice of Hearing and Statement of Charges at respondent's address of record. The Marshal was unable to effectuate service because respondent had moved to South Carolina. Dept. Exhs. 1 and 4-tab B.

The hearing scheduled for May 17, 2006 was continued to June 7, 2006 to allow for notice to be sent to respondent. Transcript, May 17, 2006.

Notice that the hearing was continued to June 7, 2006 was delivered to respondent's South Carolina address on May 22, 2006. Board Exh.1.

The second hearing took place on June 7, 2006, at the Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Respondent was not present during the hearing and was not represented by counsel. Although notice of this hearing was delivered to respondent's South Carolina address, the Board determined that notice was not sent to the respondent's Connecticut address of record, therefore the Board continued the hearing until June 21, 2006. Transcript, June 7, 2006.

Notice of continuance to June 21, 2006 was sent to respondent's Connecticut and South Carolina addresses by certified and first class mail on June 8, 2006. Neither the certified mail nor the first class mailings were returned to the Department as undeliverable. Dept. Exh. 3.

Section 19a-9-18 of the Regulations of Connecticut State Agencies provides that the Notice of Hearing shall be in writing and shall be personally delivered or sent by United States mail, certified or registered, postage prepaid, return receipt requested. The Board complied with this requirement. Dept. Exhs. 1, 2 and 3. In addition, this section provides that the Notice of Hearing shall be effective if delivered or sent to the party's last known address of record on file with the Department. As discussed above, the Notice of Hearing was sent to respondent's last known address of record. Dept. Exhs. 1 and 3. Finally, this section provides that "[i]f such notice is not actually received by a party...service shall be deemed sufficient provided that the department or board has made all reasonable efforts to effectuate notice." Reasonable efforts were made to satisfy this requirement, therefore, notice is deemed sufficient.

The third hearing took place on June 21, 2006, in Room 1-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Respondent was not present during the hearing and was not represented by counsel. Transcript, June 21, 2006, pp.2-3.

Respondent did not submit an Answer to the Statement of Charges. The Department moved to have the Allegations Deemed Admitted. The Board granted the motion. Transcript, June 21, 2006.

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 E56454 on March 18, 1994. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 4-tab B.
2. Pursuant to a Consent Order dated August 17, 2005, the Board ordered that respondent's registered nurse license be placed on probation for a period of four years. Such disciplinary action was based upon respondent's admitted abuse of Oxycontin; attempt to obtain Oxycontin from a pharmacy without a prescription; and diversion of lorazepam from her place of employment for personal use. Said Order specifically provided that respondent shall not obtain or use 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 shall submit to random alcohol/drug screens that shall be negative for the presence of alcohol and drugs. Said order also required that respondent engage in therapy and counseling sessions for the entire probationary period. Dept. Exh. 4 -tab A, pp.5-14.
3. Respondent submitted to a random urine screening on December 29, 2005. Laboratory results for the December 29, 2005 urine specimen were positive for the presence of opiates. Dept. Exh. 4-tab A, p. 15.
4. Respondent has failed to submit therapist reports to the Department since November 15, 2005. Dept. Exh. 4-tab A, p. 16.
5. Respondent's conduct constitutes violations of the terms of probation set forth in the Consent Order dated August 17, 2005.

Conclusions of Law and Discussion

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

Marcia Parent held a valid registered nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing, Continued 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, Continued 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 her 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 2 of the Statement of Charges alleges that on or about August 17, 2005, the Connecticut Board of Examiners for Nursing ordered a Consent Order in Petition Number 2004-0908-010-073 that placed respondent's registered nursing license on probation for a period of four years. Such disciplinary action was based upon proof of respondent's diversions of Oxycontin and Lorazepam.

COUNT ONE PARAGRAPH 3 of the Statement of Charges alleges that the August 17, 2005 Consent Order requires that respondent shall not obtain or use controlled substances, legend drugs or alcohol unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications.

COUNT ONE PARAGRAPH 4 of the Statement of Charges alleges that on or about December 29, 2005, respondent's urine screen results were positive for opiates.

COUNT TWO PARAGRAPH 7 of the Statement of Charges alleges that the August 17, 2005 Consent Order requires that respondent be responsible for the provision of written reports from her therapist to the Board and the Department for the entire probationary period.

COUNT TWO PARAGRAPH 8 of the Statement of Charges alleges that no therapy reports were received for December 2005, January 2006, February 2006 and/or March 2006.

Respondent did not submit an Answer to the Statement of Charges. Pursuant to § 19a-9-20 of the Regulations of Connecticut State Agencies the Board deems the allegations in Count One and Count Two of the Statement of Charges to be admitted.

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. . . .

Based on its findings, the Board concludes that respondent's conduct as alleged in Count One and Count Two of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct violates the terms of probation as set forth in the Consent Order dated August 17, 2005. Therefore, respondent's registered nurse license is subject to disciplinary action pursuant to Conn. Gen. Stat. § 19a-17.

Order

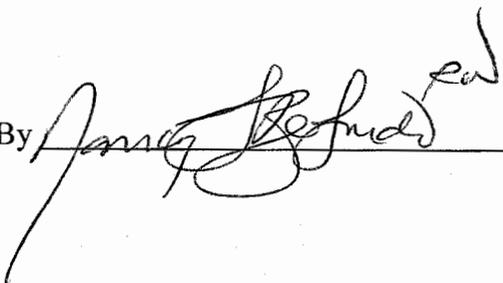
Pursuant to its authority under Conn. Gen. Stat. §§ 19a-17 and 20-99, the Board of Examiners for Nursing hereby orders the following:

1. That for Count One and Count Two of the Statement of Charges, respondent's registered nurse license number E56454, is revoked effective the date this Memorandum of Decision is signed by the Board.
2. The Board finds the violations set forth in the First Count, Second Count and Third Count are severable and each separate Count warrants the revocation of respondent's license.

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

Dated at Hartford, Connecticut this 15th day of November, 2006.

BOARD OF EXAMINERS FOR NURSING

By  _____

CERTIFICATION

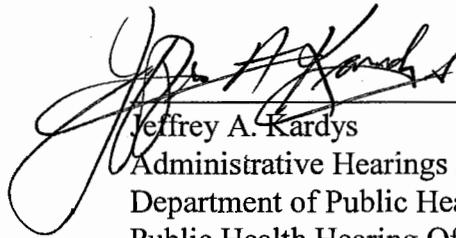
I hereby certify that, pursuant to Connecticut General Statutes §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 10th day of November 2006, by certified mail, return receipt requested and first class mail, to:

Marcia Parent, RN
48 Moreland Avenue
Oakville, CT 06779

Certified Mail RRR #70042510000753840725

and by Inter-Departmental Mail to:

Stanley K. Peck, Director
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