

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

Department of Public Health

Petition No. 2006-1004-010-086

vs.

Judy A. Follert, RN, Lic. No. E56705
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "Board") was presented by the Department of Public Health (hereinafter "Department") with a Statement of Charges and Motion for Summary Suspension dated November 9, 2006. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Judy A. Follert (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 December 6, 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. 2.

The Board issued a Notice of Hearing dated December 6, 2006, scheduling a hearing for December 20, 2006. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. The Summary Suspension Order, Notice of Hearing and Statement of Charges were delivered to respondent's address of record by certified mail and by State Marshal. Dept. Exh. 1.

The hearing took place on December 20, 2006, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was not present during the hearing and was not represented by counsel. Transcript, p. 2.

Respondent did not submit an Answer to the Statement of Charges.

During the hearing, the Department orally moved that the Statement of Charges be deemed admitted. The Board granted the motion with respect to Count One, Count Three and Count Five. The Board dismissed Count Two, Count Four and Count Six. Transcript, p. 6.

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.¹

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 E56705 on July 8, 1994. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh.3-tab C.
2. Pursuant to a Consent Order dated May 19, 2004, 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 diversion and abuse of the controlled substances Oxycodone and Percocet and the falsification of controlled substance records. Said Order specifically provided that respondent shall be responsible for the provision of written reports from her therapist and her employer on a monthly basis during the first year of the probationary period, and quarterly during the second year of probation. Dept. Exh.3-tab A.
3. From July 31, 2004 to January 25, 2005 the Department received therapist reports pertaining to respondent from Ellen Robbins, MFT. Respondent was discharged from Ms. Robbins care in February 2005. Dept. Exh. 3-tab A18, A20, A31.
4. Therapist reports pertaining to respondent, presumably signed by Patricia Adab, LMFT, were received by the Department on September 23, 2005. The reports were dated May 31, 2005, June 29, 2005 and July 2005. Subsequently, therapist reports dated September 2005, December 2005 and March 2006, signed Patricia Adab, LMFT, were also received by the Department. Dept. Exh. 3-tab A3, A22-A24, A26-A28.
5. On or about September 28, 2006, Patricia Adab, LMFT advised the Department that respondent was not a patient of hers and that she had never submitted therapist reports on respondent's behalf. Dept. Exh. 3-tab A3, A19.
6. In a letter dated October 3, 2006, respondent admitted to the Department that she falsified the May 31, 2005 to March 17 2006 therapist reports and forged the name of Patricia Adab, LMFT. Dept. Exh. 3-tab A3, A15.

¹ After the close of the hearing, the Board received a letter dated December 20, 2006 from Respondent. Since this letter was received after the close of the hearing, the Board has not reviewed said letter or considered it in making its determination. This decision is based solely on the evidence adduced at the hearing.

7. On October 10, 2006, respondent admitted to the Department that she falsified all employer reports received by Department for the time period July 5, 2004 to September 11, 2006. Dept. Exh. 3-tab A3.

Conclusions of Law and Discussion

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

Judy Follert 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 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 of the Statement of Charges alleges that from February 2005 through about September 2005, no therapist reports as required pursuant to a May 19, 2004 Consent Order were received by the Department. It is further alleged that said conduct constitutes violations of the terms of probation as set forth in the Consent Order dated May 19, 2004.

COUNT THREE of the Statement of Charges alleges that from October 2005 through about March 2006, respondent provided falsified therapist reports to the Department on which she signed the name of a therapist who never treated respondent. It is further alleged that said conduct constitutes violations of the terms of probation as set forth in the Consent Order dated May 19, 2004.

COUNT FIVE of the Statement of Charges alleges that from July 2004 through about September 2006, respondent provided falsified employer reports to the Department. It is further alleged that said conduct constitutes violations of the terms of probation as set forth in the Consent Order dated May 19, 2004.

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 the Count One, Count Three, and Count Five of the Statement of Charges to be admitted.

Based on its findings, the Board concludes that respondent's conduct as alleged in Count One, Count Three, and Count Five 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 May 19, 2004 and Conn. Gen. Stat. § 20-99(b)(2).

Conn. Gen. Stat. § 20-99(b)(2) provides:

(b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following: ...

(2) illegal conduct, incompetence or negligence in carrying out usual nursing functions ...

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, Count Three, and Count Five of the Statement of Charges, respondent's registered license number E56705, is revoked effective the date this Memorandum of Decision is signed by the Board.
2. The Board finds the violations set forth in the Count One, Count Three, and Count Five of the Statement of Charges are severable and each separate Count warrants the revocation of respondent's license.

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

Dated at Hartford, Connecticut this 4th day of April 2007.

BOARD OF EXAMINERS FOR NURSING

By Jean Dolibens CRNA, APPN

CERTIFICATION

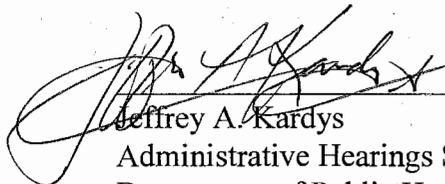
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 5th day of April 2007, by certified mail, return receipt requested and first class mail, to:

Judy Follert, RN
185 Albert Drive
Torrington, CT 06790

Certified Mail RRR #9171082133393206029863

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