

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

Department of Public Health

Petition No. 2006-0727-010-062

vs.

Pamela L. Iovino, RN, Lic. No. E56760
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 August 21, 2006. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Pamela L. Iovino (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 September 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. 1.

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

Respondent was provided notice of the hearing and charges against her. The Notice of Hearing and Statement of Charges were delivered by certified mail to respondent and respondent’s attorney. Dept. Exh. 1.

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

Respondent was present during the hearing and was not represented by counsel. Transcript, 09/20/06, p. 1.

Respondent submitted an oral Answer to the Statement of Charges. Transcript, pp. 14-18.

Subsequent to the on September 20, 2006, the Board unanimously voted to vacate the Summary Suspension of respondent’s registered nurse license, which was ordered on September 6, 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.

Allegations and Responses

PARAGRAPHS 1, 5, 9, 13, 17, 20, and 23 of the Statement of Charges alleges that Pamela Iovino of Hamden is, and has been at all times referenced in this statement of Charges, the holder of Connecticut registered nursing license number E56760.

Respondent admits this charge. Tr. p. 14.

PARAGRAPHS 2, 5, 9, 13, 17, 20, and 23 of the Statement of Charges alleges that from about January 2006 through about May 2006, respondent was employed as a registered nurse at Griffin Hospital in Derby, Connecticut.

Respondent admits this charge. Tr. 15.

PARAGRAPHS 3, 5 of the Statement of Charges alleges that from about January 2006 through about May 2006, while working as a registered nurse at Griffin Hospital, respondent failed to completely, properly and/or accurately document medical or hospital records.

Respondent admits this charge. Tr. p. 15.

PARAGRAPH 6 of the Statement of Charges alleges that on November 17, 2004, the Board ordered a Consent Order placed respondent's registered nursing license on probation for a period of four years. Such disciplinary action was based upon respondent's admitted diversion of Percocet.

Respondent admits this charge. Tr. p. 16.

PARAGRAPHS 7, 18, and 24 of the Statement of Charges alleges that said Consent Order specifically provided that respondent shall comply with all federal and state statutes and regulations applicable to her profession.

Respondent admits this charge. Tr. p. 16.

PARAGRAPH 10 of the Statement of Charges alleges that the Consent Order specifically provided that respondent shall be responsible for the provisions of written reports directly to the Board and the Department from her nursing supervisor quarterly for the second and third year of probation.

Respondent admits this charge. Tr. p. 16.

PARAGRAPH 11 of the Statement of Charges alleges that from about January 2006 through about May 2006, while working as a registered nurse at Griffin Hospital in Derby, Connecticut, no employer reports were received by the Board or the Department.

Respondent admits this charge. Tr. p. 16.

PARAGRAPH 14 of the Statement of Charges alleges that from about June 2006 through about July 2006, respondent was employed as a registered nurse at Gaylord Hospital, Wallingford, Connecticut.

Respondent admits this charge. Tr. p. 17.

PARAGRAPH 15 of the Statement of Charges alleges that from about June 2006 through about July 2006, while working as a registered NURSE at Gaylord Hospital, respondent failed to completely, properly and/or accurately document medical or hospital [or hospital] records.

Respondent denies this allegation. Tr. pp. 17-18.

PARAGRAPH 21 of the Statement of Charges alleges that from about June 2006 through about July 2006, while working as a registered nurse at Gaylord Hospital, respondent:

- a. diverted Dilaudid, Oxycodone, Fentanyl patches, Diazepam and/or Morphine;
- b. failed to completely, properly and/or accurately document medical or hospital records; and/or,
- c. falsified one or more Controlled Substance Receipt Records.

Respondent admits the charge in Paragraph 21b, but denies the allegations in Paragraphs 21a and 21C [21b]. Tr. pp. 18-19.

Findings of Fact

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

1. Pamela Iovino of Hamden is, and has been at all times referenced in this statement of Charges, the holder of Connecticut registered nursing license number E56760. Tr. p. 14.
2. On November 17, 2004, the Board ordered a Consent Order in Petition number 2004-0629-010-057 ("the Consent Order") that placed respondent's registered nursing license on probation for a period of four years. Such disciplinary action was based upon respondent's admitted diversion of Percocet. Tr. p. 16.
3. Said Consent Order specifically provided that respondent shall comply with all federal and state statutes and regulations applicable to her profession. Tr. p. 16.
4. The Consent Order specifically provided that respondent shall be responsible for the provision of quarterly written reports directly to the Board and the Department from her nursing supervisor for the second and third year of probation. Tr. p. 16.
5. From about January 2006 through about May 2006, respondent was employed as a registered nurse at Griffin Hospital, Derby Connecticut. Tr. p. 15.
6. From about January 2006 through May 2006, while working as a registered nurse at Griffin Hospital in Derby, Connecticut, no employer reports were received by the Board or the Department. Tr. p. 17.

7. From about January 2006 through about May 2006, while working as a registered nurse at Griffin Hospital, respondent failed to completely, properly and/or accurately document medical or hospital records. Tr. p. 15.
8. From about June 2006 through about July 2006, respondent was employed as a registered nurse at Gaylord Hospital in Wallingford, Connecticut. Tr. p. 17.
9. From about June 2006 through about July 2006, while working as a registered NURSE at Gaylord Hospital, respondent failed to completely, properly and/or accurately document medical or hospital records. Tr. pp. 28-33.
10. The evidence is insufficient to establish that from about June 2006 through about July 2006, while working as a registered nurse at Gaylord Hospital, respondent diverted Dilaudid, Oxycodone, Fentanyl patches, Diazepam and/or Morphine. Tr. p. 18.
11. From about June 2006 through about July 2006, while working as a registered nurse at Gaylord Hospital, respondent: failed to completely, properly and/or accurately document medical or hospital records, and falsified one or more Controlled Substance Receipt Record. Tr. pp. 18-19, 29-37.

Conclusions of Law and Discussion

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

Pamela L. Iovino 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.

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 . . . (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions . . . (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 all of the Paragraphs of the Statement of Charges, with the exception of Paragraph 21a, is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§ 20-99(b)(2), (5), (6) and 19a-17, and violates the terms of probation as set forth in the Consent Order. 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 all the Paragraphs of the Statement of Charges, with the exception of Paragraph 21a, the probation of respondent's registered nurse license number E56760, as set forth in the Consent Order dated November 17, 2004, is extended until December 1, 2010, subject to the following conditions.
2. If any of the following conditions of probation are not met, respondent'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 respondent's employment and/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. During the first six months of the probationary period respondent, at her expense, shall successfully complete a continuing education course in medication administration and documentation, pre-approved by the Board. Respondent shall provide proof to the satisfaction of the Board of her successful completion of the course within thirty days of completion.
 - D. During the first six months of the probationary period, respondent shall administer, count or have access to controlled substances, or have responsibility for such activities while under the direct supervision of a nursing supervisor or preceptor.
 - E. If employed as a nurse; petitioner shall cause employer reports to be submitted to the Board, by her 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.

- F. The employer reports cited in Paragraph E 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 Q below.
- G. 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.
- H. 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 Q below.
- I. 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.
- J. 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.
- K. Petitioner shall cause evaluation reports to be submitted to the Board by her 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.
- L. The therapist reports cited in Paragraph k 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 Q below.

- M. (1) At her expense, respondent shall be responsible for submitting to observed weekly 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) Respondent 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, the respondent 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 respondent;
 2. A list of controlled substance(s) prescribed by other providers;
 3. An evaluation of the respondent's need for the controlled substance;
 4. An assessment of the respondent'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 Q below, by respondent's therapist, personal physician or the testing laboratory.

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

Bonnie Pinkerton, RN, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
Board of Examiners For Nursing
410 Capitol Avenue, MS #12HSR
P. O. Box 340308
Hartford CT 06134-0308

- 3. 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 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 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 respondent's address of record (most current address reported to the Office of Practitioner Licensing and Certification of the Department of Public Health or the Board).
- 4. This Memorandum of Decision becomes effective on the date signed by the Board

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

Dated at Newington, Connecticut this 7th day of February 2007.

BOARD OF EXAMINERS FOR NURSING

By 