

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
HEALTHCARE SYSTEMS BRANCH**

In Re: David Chomick, R.N.

Petition No. 2008-0327-010-040

CONSENT ORDER

WHEREAS, David Chomick (hereinafter "respondent") of Manchester, Connecticut has been issued license number E60024 to practice as a registered nurse by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 378 of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. From on or about September 24, 2007 through February 25, 2008, respondent was employed by Patient Care, Inc., with a branch office in Wethersfield, CT, to make home visits to provide nursing services to various patients.
2. On various occasions in February 2008, respondent's conduct in the course of providing nursing services to these home care patients failed to conform to the standards of nursing in that:
 - a. he submitted false documentation of visits for two of his patients, on or about February 19, 2008, when the patients were hospitalized;
 - b. for approximately seven other patients, he submitted false documentation of patient visits on dates ranging from on or about February 14, 2008 to on or about February 21, 2008.
3. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-99(b), including but not limited to:
 - a. §20-99 (b)(2); and/or
 - b. §20-99 (b)(6).

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest the above allegations at a hearing in front of the Board of Examiners for Nursing (hereinafter "the Board"). Respondent does not admit to having violated any statute or regulation, including but not limited to §20-99(b) of the General Statutes of Connecticut. Respondent further agrees that this Consent Order shall have the same effect as if ordered after a full hearing pursuant to §§19a-9, 19a-10, and 20-99(a) of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §19a-17 and §20-99(a) of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

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1. Respondent waives his right to a hearing on the merits of this matter.
2. Respondent shall comply with all federal and state statutes and regulations applicable to his profession.
3. Respondent's license number E60024 to practice as a nurse in the State of Connecticut is hereby reprimanded.
4. Respondent shall pay a civil penalty of one thousand dollars (\$1,000.00) by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number on the face of the check, and shall be payable at the time respondent submits the executed Consent Order to the Department.
5. Respondent's license number E60024 to practice as a nurse in the State of Connecticut is hereby placed on probation for one (1) year, subject to the following terms and conditions:
 - A. Within the first six (6) months of the probationary period, respondent shall successfully complete a class pre-approved by the Department on professional ethics. Respondent shall provide proof of his successful completion of said course within thirty days of the completion of said course.
 - B. Respondent shall provide a copy of this Consent Order to all current and future employers for the duration of his probation. The Board and the Department shall be notified in writing by any employer(s) within fifteen (15) days of the commencement of employment as to the receipt of a copy of this Consent Order.
 - C. Respondent 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 his probation. Respondent represents and warrants that he is currently employed as Administrator with Around The Clock Nursing Services, L.L.C., a home health care agency in Vernon, CT. Notwithstanding the restrictions on nursing employment in the first sentence of this paragraph 5C, the Department agrees that during his probation, respondent can continue to be employed as Administrator with Around the Clock Nursing Service, L.L.C, with the following restrictions:
 - 1) All areas of clinical practice will be supervised by the Supervisor of Clinical Services (who is a registered nurse);
 - 2) Respondent shall not carry a case load of patients for which he is responsible for case managing;
 - 3) Respondent shall limit the amount of nursing visits to not more than fifteen (15) per week; and
 - 4) Respondent shall verbally report on each nursing visit made to the Primary Care Nurse (i.e. Case Manager), as well as to the Supervisor of Clinical Services.

During the period of probation, the Department shall pre-approve each change of respondent's employment within the nursing profession, including, without limitation, any change of position with his current employer.

- D. Respondent shall be responsible for the provision of written reports directly to the Board and the Department from his nursing supervisor (i.e., Supervisor of Clinical Services) quarterly for the duration of his probation. Employer reports shall include documentation of respondent's ability to safely and competently practice nursing, and shall be issued to the Board and the Department at the address cited in paragraph 5I below.
- E. Respondent shall notify the Board and the Department in writing of any change of employment within fifteen (15) days of such change.
- F. Respondent shall notify the Board and the Department of any change in his home or business address within fifteen (15) days of such change.
- G. If respondent pursues further training or is engaged at the time of the implementation of the Consent Order, in an educational program in any subject area that is regulated by the Department, respondent shall provide a copy of this Consent Order to the educational institution or, if not an institution, to respondent's instructor. Such institution or instructor shall notify the Department of receipt of the Consent Order within fifteen (15) days of receipt.
- H. All reports required by the terms of this Consent Order shall be due according to a schedule to be established by the Department of Public Health.
- I. All correspondence and reports shall be addressed to:

Bonnie Pinkerton
Department of Public Health
Practitioner Licensing and Investigations
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

- 6 Any violation of the terms of this Consent Order without prior written approval by the Board shall constitute grounds for the Department to seek revocation of respondent's nursing license following notice and an opportunity to be heard.
- 7. 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 action at a later time. The Board shall not be required to grant future extensions of time or grace periods.
- 8. Legal notice of any action shall be deemed sufficient if sent to respondent's last known address of record reported to the Practitioner Licensing and Investigations Section of the Healthcare Systems Branch of the Department.

9. This Consent Order is effective on the first day of the month immediately following the month in which this Consent Order is approved and accepted by the Board.
10. Respondent understands this Consent Order is a matter of public record.
11. The Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Board in which (1) his compliance with this same order is at issue, or (2) his compliance with §20-99(b) of the General Statutes of Connecticut, as amended, is at issue. Further, respondent understands that any discipline imposed by this Consent Order, except for a civil penalty, shall be reported to the National Practitioner Data Bank.
12. In the event respondent violates a term of this Consent Order, respondent agrees immediately to refrain from practicing as a registered nurse, upon request by the Department, with notice to the Board, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation, and to submit to and complete a medical, psychiatric or psychological evaluation, if requested to do so by the Department; and, that the results of the evaluation shall be submitted directly to the Department. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that failure to cooperate with the Department's investigation shall be considered by the Board and shall be given due weight by the Board in determining whether respondent's conduct constitutes a clear and immediate danger as required pursuant to Connecticut General Statutes, sections 4-182(c) and 19a-17(c). The Department and respondent understand that the Board has complete and final discretion as to whether a summary suspension is ordered.
13. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of respondent's license before the Board.
14. In the event that respondent is not employed as a nurse for periods of thirty (30) consecutive days or longer, respondent shall notify the Department in writing. Such periods of times shall not be counted in reducing the probationary period covered by this Consent Order and such terms shall be held in abeyance. During such time period, respondent shall not be responsible for complying with the terms of probation of this Consent Order. In the event that respondent resumes the practice of nursing, respondent shall provide the Department with thirty (30) days prior written notice. Respondent shall not return to the practice of nursing without written pre-approval from the Department. Respondent agrees that the Department, in its complete discretion, may require additional documentation from respondent and/or require respondent to satisfy other conditions or terms as a condition precedent to respondent's return to practice. Respondent understands that any return to practice of nursing without pre-approval from the Department shall constitute a violation of this Consent Order and may subject

the respondent to further disciplinary action. Notwithstanding anything contained in this paragraph 14, respondent must successfully complete the coursework required by paragraph 5A above within six (6) months of the effective date of this Consent Order.

15. If, during the period of probation, respondent practices nursing outside Connecticut, he shall provide written notice to the Department concerning such employment. During such time period, respondent shall not be responsible for complying with the terms of probation of this Consent Order, and such time period shall not be counted in reducing the probationary period covered by this Consent Order. Respondent may comply with the terms of probation while practicing outside Connecticut if pre-approved by the Department. In the event respondent returns to the practice of nursing in Connecticut, respondent shall provide the Department with thirty (30) days prior written notice. Respondent shall not return to the practice of nursing in Connecticut without written pre-approval from the Department. In the event respondent returns to the practice of nursing in Connecticut, respondent agrees to comply with all terms and conditions contained in paragraph 5 above. Respondent further agrees that the Department, in its complete discretion, may require additional documentation from respondent and/or require respondent to satisfy other conditions or terms as a condition precedent to respondent's return to the practice of nursing in Connecticut. Respondent understands that any return to the practice of nursing in Connecticut without pre-approval from the Department shall constitute a violation of this Consent Order and may subject the respondent to further disciplinary action.
16. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Consent Order is not subject to appeal or review under the provisions of Chapters 54 and 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any other rights that respondent may have under the laws of the State of Connecticut or of the United States.
17. Respondent permits a representative of the Department to present this Consent Order and the factual basis for this Consent Order to the Board. The Department and respondent understand that the Board has complete and final discretion as to whether an executed Consent Order is approved or accepted.
18. This Consent Order is a revocable offer of settlement, which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
19. Respondent has had the opportunity to consult with an attorney prior to signing this document.
20. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau. The purpose of this Consent Order is to resolve the pending administrative license disciplinary petition only, and is not intended to affect any civil or criminal liability or defense.

21. This Consent Order embodies the entire agreement of the parties with respect to this case. All previous communications or agreements regarding the subject matter of this consent order, whether oral or written, between the parties are superseded unless expressly incorporated herein or made a part hereof.

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I, David Chomick, have read the above Consent Order, and I agree to the terms set forth therein. I further declare the execution of this Consent Order to be my free act and deed.


David Chomick

Subscribed and sworn to before me this 20 day of May, 2009.

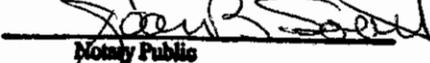
Date Commission Expires: June 30 2011

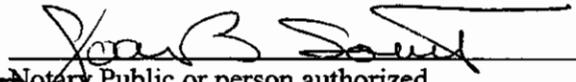
Subscribed and Sworn to me, a Notary Public

in and for County of Hartford

And State of Connecticut this 20 day of

May 2009

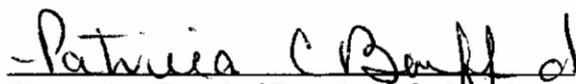

Notary Public


Notary Public or person authorized
by law to administer an oath or affirmation

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 17th day of June, 2009, it is hereby accepted.


Jennifer Filippone, Section Chief,
Practitioner Licensing and Investigations
Healthcare Systems Branch

The above Consent Order having been presented to the duly appointed agent of the Connecticut Board of Examiners for Nursing on the 15th day of July, 2009, it is hereby ordered and accepted.

BY: 
Connecticut Board of Examiners for Nursing