



# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

February 9, 2009

Carlene Shaw, RN  
27 Derek Lane  
Windsor, Ct 06095

Re: Memorandum of Decision  
Petition No. 2004-0507-010-035  
License No. E60269

Dear Ms. Shaw:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective September 1, 2008.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your license related to the above-referenced Memorandum of Decision.

Please be certain to retain a copy of this letter as documented proof that you have completed your license probation.

Thank you for your cooperation during this process.

Very truly yours,

Bonnie Pinkerton, RN, Nurse Consultant  
Practitioner Licensing and Investigations Section

cc: J. Filippone  
J. Wojick



Phone: (860) 509-7400

Telephone Device for the Deaf (860) 509-7191

410 Capitol Avenue - MS # 12HSR

P.O. Box 340308 Hartford, CT 06134

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STATE OF CONNECTICUT  
BOARD OF EXAMINERS FOR NURSING

Department of Public Health

Petition No. 2004-0507-010-035

vs.

Carlene Shaw, R.N. Lic. No. E60269  
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 dated December 23, 2004. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Carlene Shaw (hereinafter "respondent") which would subject respondent's registered license to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b).

The Board issued a Notice of Hearing dated December 30, 2004, scheduling a hearing for April 20, 2005. 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. Respondent submitted a written Answer to the Statement of Charges. Board Exh. 2.

At respondent's request, the hearing scheduled for April 20, 2005 was continued until September 7, 2005. Dept. Exh. 2. Respondent's attorney subsequently withdrew her representation on June 17, 2005. Board. Exh. 3.

The hearing took place on September 7, 2005, in the Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Respondent was not present during the hearing and was not represented by counsel. Transcript, September 7, 2005, p. 2.

On September 8, 2005, respondent's attorney renewed her representation of respondent and filed a Motion to Reopen. Board. Exh. 9. The Board heard oral argument by respondent and the Department on the Motion to Reopen on September 21, 2005. Transcript, September 21, 2005.

The Motion to Reopen was granted and a hearing was scheduled for December 21, 2005. At respondent's request the December 21, 2005 hearing was continued and rescheduled to February 1, 2006. Board Exhs. 6, 12.

The hearing took place on February 1, 2006, in the Legislative Office Building, Capitol Avenue, Hartford, Connecticut, and on March 1, 2006, at the Hartford Hospital - Newington Campus, 181 Patricia M. Genova Drive, Newington, Connecticut.

Respondent was present on both hearing dates and was represented by counsel. Transcripts, February 1, 2006, p. 2; March 1, 2006, p. 3.

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. At all times referenced in the Statement of Charges respondent has been the holder of registered nurse license number E60269. Dept. Exh. 1; Board Exh. 2.
2. Beginning on or about 2002, respondent was employed as a registered nurse by Gentiva Health Services, Farmington, Connecticut. Dept. Exh. 8; Board Exh. 2; Transcript, March 1, 2006, p. 9.
3. On or about July 30, 2003, patient EA was admitted to the care of Gentiva Health Services. Admission orders provided that patient EA was to receive twice-daily nursing care visits at her home in New Britain, Connecticut. In addition, patient E.A. had medication orders to receive one 10mg tablet of Zocor each night. Respondent was assigned to provide nursing care to patient E.A. Board Exh. 2; Dept. Exh. 3, p. 4 (sealed); Transcript, March 1, 2006, p. 14.
4. On or about September 20, 2003 patient E.A. was admitted to New Britain General Hospital, New Britain, Connecticut because of chest pain. Patient E.A. was discharged on September 22, 2003. Dept. Exh. 4 (sealed).
5. Despite patient E.A. being in the hospital, respondent submitted nursing notes indicating that she made twice-daily skilled nursing visits, for a total of six visits, to the patient at her home on September 20, 21 and 22, 2003. In addition respondent made entries on the medication administration record that she administered medications to patient E.A. on these dates. Dept. Exh. 3, pp. 23, 79, 80, 81 (sealed); Transcript, March 1, 2006, pp. 22-24, 29.
6. Respondent failed to accurately transcribe the medication administration records for patient E.A. for the month of September 2003 by omitting the order of Zocor. Dept. Exh. 3, pp. 22-24 (sealed); Transcript, March 1, 2006, pp. 16-19.
7. Despite patient E.A. having an order to receive one 10mg tablet of Zocor each night, respondent did not document that the patient received the medication during the month of September 2003. There is no physician order discontinuing the Zocor for the month of September 2003. Dept. Exh. 3 (sealed).

*Conclusions of Law and Discussion*

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

Carlene Shaw 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.

PARAGRAPH 2 of the Statement of Charges alleges that respondent was employed as a registered nurse at Gentiva Health Services.

PARAGRAPH 3 of the Statement of Charges alleges that respondent was assigned to provide twice daily nursing visits to patient E.A.

PARAGRAPH 4 of the Statement of Charges alleges that respondent documented that she had conducted six skilled nursing visits to E.A. between September 20, 2003 and September 22, 2003, while E.A. was, in fact, admitted to a hospital.

PARAGRAPH 5 of the Statement of Charges alleges that respondent failed to administer E.A.'s Zecor (sic) medication during September 2003, without evidence of its approved discontinuation.

PARAGRAPH 6 of the Statement of Charges alleges that respondent failed to accurately transcribe E.A.'s medical administration records for September 2003, by omitting the order for Zecor (sic).

PARAGRAPH 7 of the Statement of Charges alleges that respondent's conduct constitutes grounds for disciplinary action pursuant to the General Statutes of Connecticut.

Respondent admits the charges in paragraphs 2, 3, and 4, but denies the allegations in paragraphs 5, 6, and 7. Board Exh. 2.

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 . . .

Based on its findings and respondent's admissions, the Board concludes that the conduct as alleged in Paragraphs 2, 3 and 4 of the Statement of Charges is proven by a preponderance of the evidence presented.

As to the allegations in paragraphs 5 and 6 of the Statement of Charges, a review of the patient medical records establishes that respondent failed to transcribe the Zocor medication order for patient E.A. to the Medication Administration Record for the month of September 2003. In addition, there does not exist an order discontinuing the administration of this medication. The medical record further establishes that there is no documentation that patient E.A. received Zocor during the month of September 2003. The Board can therefore infer that respondent did not administer Zocor to patient E.A. during September 2003.

The respondent testified that during the time period alleged in the Statement of Charges she was overwhelmed with work in that she was covering for other nurses as well as caring for her own patients. She explained that she did not complete her nursing notes contemporaneously with patient visits and that she relied on her memory when she attempted to complete her documentation at the end of the week. Board does not find respondent's explanations to be credible.

The Board concludes that respondent's conduct as alleged in the Statement of Charges constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§20-99(b)(2) and 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 Paragraphs 4, 5 and 6 of the Statement of Charges, respondent is assessed a civil penalty in the amount of five hundred dollars (\$500.00).
  - A. The \$500.00 civil penalty is payable on or before November 15, 2006.
  - B. Payment of the civil penalty shall be made by certified check payable to "Treasurer, State of Connecticut" and shall be sent to:

**Bonnie Pinkerton, RN, Nurse Consultant  
Department of Public Health  
410 Capitol Avenue, MS #12HSR  
P. O. Box 340308  
Hartford CT 06134-0308**

2. That for Paragraphs 4, 5 and 6 of the Statement of Charges, respondent's registered nurse license, number E60269, is placed on probation for a period of two (2) years.
3. 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.

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 probation.
  - 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 nursing 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. If employed as a nurse, respondent shall cause employer reports to be submitted to the Board, by her immediate supervisor during the entire probationary period. Employer reports shall be submitted quarterly during the probation period.
  - E. The employer reports cited in Paragraph D 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 I below.
  - F. Should respondent's employment as a nurse be involuntarily terminated or suspended, respondent and her employer shall notify the Board within seventy-two (72) hours of such termination or suspension.
  - G. 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 I below.

- H. The Board must be informed in writing prior to any change of address.
- I. All correspondence and reports are to be addressed to:

**Bonnie Pinkerton, RN, Nurse Consultant  
Department of Public Health  
410 Capitol Avenue, MS #12HSR  
P. O. Box 340308  
Hartford CT 06134-0308**

- 4. 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).
- 5. This Memorandum of Decision becomes effective, and the two (2) year probation of registered nurse license number E60269 shall commence, on September 1, 2006.

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

Dated at Hartford, Connecticut this 16th day of August 2006.

BOARD OF EXAMINERS FOR NURSING

By

