

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

Ruth Dushay, R.N.  
License No. E60422

Petition No. 2012-965

**MEMORANDUM OF DECISION**

*Procedural Background*

On December 1, 2010, the Board of Examiners for Nursing ("Board") issued a Memorandum of Decision ("Decision") in Petition No. 2009-20091183 revoking the registered nurse license of Ruth Dushay ("Petitioner"). The Decision was based on sufficient evidence that Petitioner had a history of alcohol and drug abuse which affected her practice as a registered nurse. Bd. ("Bd.") Exhibit ("Exh.") 2, pp. 1-9.

On July 12, 2012, Petitioner requested a hearing before the Board, seeking reinstatement of her license. Bd. Exh. 2, pp. 11-17. The Department of Public Health ("Department") did not file an objection to Petitioner's request.

Pursuant to Petitioner's request, the Board issued a Notice of Hearing ("Notice") dated October 4, 2012. Bd. Exh. 1.

On December 19, 2012, the Board heard Petitioner's request for reinstatement of her license. At the hearing, Petitioner was not represented by an attorney. Attorney Joelle Newton represented the Department. The Board conducted fact finding immediately after the record was closed.

Each member of the Board attests that 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. *Pet v. Department of Health Services*, 228 Conn. 651 (1994).

*Findings of Fact*

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

1. Petitioner previously held Connecticut registered nurse license number E60422. Bd. Exh. 2, pp. 2, 5; Transcript ("Tr.") p. 2.
2. On February 20, 2008, the Board ordered a Consent Order in Petition Number 2006-1108-010-100 that placed Petitioner's R.N. license on probation for four years. Such disciplinary action was imposed on Petitioner's license because Petitioner violated the

- terms of an earlier consent order when she tested positive for Tramadol and morphine and when she reported to work impaired after having ingested alcohol. Bd. Exh. 2, p. 4.
3. The probationary terms of the February 20, 2008 Consent Order included the requirements that Petitioner shall not obtain or use controlled substances or alcohol, submit to random urine screens and participate in therapy and counseling for the entire period of probation. Bd. Exh. 2, p. 5.
  4. On or about August 9, 2009, Petitioner tested positive for Tramadol. Bd. Exh. 2, p. 5.
  5. On or about August 18, 2009, Petitioner claimed she had no explanation for the positive screen for Tramadol. Bd. Exh. 2, p. 5.
  6. On or about August 25, 2009, Petitioner admitted that she had obtained Tramadol without a physician's prescription from an internet site. Bd. Exh. 2, p. 5.
  7. On or about September 7, 2009, Petitioner tested positive for Tramadol. Bd. Exh. 2, p. 5.
  8. On October 7, 2009, the Board summarily suspended Petitioner's license, pending the Board's final determination of allegations contained in Charges filed by the Department. Bd. Exh. 2, p. 3.
  9. On December 1, 2010, the Board revoked Petitioner's license for violating the February 20, 2008 Consent Order when she obtained Tramadol without a physician's prescription from an internet site and tested positive for Tramadol on August 25 and September 7, 2009. Bd. Exh. 2, p. 8.
  10. On July 12, 2012, Petitioner requested a hearing before the Board, seeking reinstatement of her license. Bd. Exh. 2, pp. 11-17.
  11. On July 12, 2012, Petitioner submitted documentation in support of her request for reinstatement. Bd. Exh. 2, pp. 12-102.
  12. On December 15, 2012, Petitioner submitted supplemental documentation in support of her reinstatement request. Bd. Exh. 3, pp. 1-9.
  13. Petitioner submitted her resume, a description of her current employment duties, a list and copies of the nursing continuing education courses she has successfully completed voluntarily during her probation. Bd. Exh. 2, pp. 15-17, 63-102.
  14. Petitioner submitted a letter from a physician who was her primary care physician from December 2009 until December 2011; and, a letter from another physician who was her primary care physician from December 2011 to the present. Both physicians attest to Petitioner's fitness to resume her nursing career. Petitioner's current physician also provides a list of Petitioner's current medications and the purpose for which they are prescribed. Bd. Exh. 2, pp. 18-20; Bd. Exh. 3, p. 6.

15. Petitioner submitted a reference letter from her former supervisor from the Center for Women and Families. Petitioner's former supervisor commends her dedication, dependability and trustworthiness. Bd. Exh. 2, p. 23; Bd. Exh. 3, p. 3.
16. Petitioner submitted a reference letter from a former coworker from the Center for Women and Families who attests to Petitioner's strong work ethic, commitment, honesty, compassion and support for her clients. Bd. Exh. 2, p. 24.
17. Petitioner submitted letters from her therapist dated August 8 and December 13, 2012. Both letters attest to Petitioner's recovery and sobriety, active participation in 12 step programs and her support network of family and friends. Bd. Exh. 2, pp. 25-26; Bd. Exh. 3, pp. 7-8.
18. Petitioner submitted urine screen reports, from May 13, 2010 through May 8, 2012. All test results have been negative. Bd. Exh. 2, pp. 27-53.
19. Petitioner submitted letters from her AA sponsor, dated July 6 and December 10, 2012. Both letters attest to Petitioner's dedication and commitment to her sobriety, recovery, and active participation in 12 step programs. Bd. Exh. 2, p. 54; Bd. Exh. 3, p. 9.
20. Petitioner submitted letters from members of her family, including a sister who is also a nurse. Each of these letters discuss Petitioner's family history of alcoholism and drug addiction and her personal struggles and determination to overcome the same; her three years of sobriety, her nurturing, caring and unselfish personality, positive attitude, and ability to keep her promises and her priorities straight. Bd. Exh. 2, pp. 21-22, 55-60; Bd. Exh. 3, p. 5.
21. Petitioner submitted a letter, dated December 1, 2011, from the Exclusions Director of the Office of Investigations, Department of Health and Human Services, confirming that Petitioner's license to practice in Medicare, Medicaid or Federal health care programs will not be restricted. Bd. Exh. 2, pp. 61-62.

#### *Discussion and Conclusions of Law*

Section 19a-17(d) of the Connecticut General Statutes ("Statutes") provides, in pertinent part, that the Board "may reinstate a license that has been suspended or revoked, if after a hearing, such board . . . is satisfied that the practitioner . . . is able to practice with reasonable skill and safety to patients, customers or the public in general. As a condition of reinstatement, the Board may impose disciplinary or corrective measures authorized under this section."

Petitioner has the burden of satisfying the Board that she is able to practice nursing with reasonable skill and safety. The Board finds that Petitioner has presented sufficient evidence to satisfy her burden.

Prior to the hearing, Petitioner was informed that she would be required to provide evidence at the hearing that documented the “outcomes of [her] efforts toward recovery” over an extended period of time. Bd. Exh. 1. Petitioner was also advised that such evidence should include documentary or testimonial evidence from her therapist; personal references documenting a lengthy period of drug/alcohol free status, her emotional health and work habits; documentary or testimonial evidence from current and past employers documenting her ability to carry out assigned duties responsibly and accurately and her potential for functioning safely and effectively as a nurse; copies of random urine screen reports documenting the frequency, the conditions under which the specimens were taken, and the results of the tests; documentation of Petitioner’s participation in support groups and support of a sponsor, as well as the outcome of her participation in such support groups; and, a list of current medications prescribed by her health care providers, including a need for such medications and an assessment of a continued need for such medications. Bd. Exh. 1.

Prior to and at the hearing, Petitioner submitted documents evidencing more than three years of her drug/alcohol free status. As described above, Petitioner submitted urine screen reports for the period from May 13, 2010 through May 8, 2012. All test results have been negative. Bd. Exh. 2, pp. 27-53. Petitioner submitted letters from her past employer, the Center for Women and Families, documenting her dedication and advocacy for victims of family violence. Petitioner submitted two letters from her AA sponsor of four years, attesting to her recovery, sobriety and active participation in 12 step programs. In addition, Petitioner submitted letters from her health care professionals, therapist, family and friends, all attesting to Petitioner’s motivation, preparation, and determination to resume her nursing career. To that end, Petitioner has successfully completed 42 nursing continuing education courses voluntarily (Bd. Exh. 2, pp. 63-102) and has recently started a new job in a private law firm that combines her legal training as a paralegal and her medical training as a registered nurse. Bd. Exh. 3, p. 4.

As noted in the Findings of Fact and foregoing discussion, the Board finds that Petitioner has made great strides in overcoming an admitted predisposition to addiction and recovering from alcoholism and substance abuse. At the hearing, Petitioner was honest and forthright, introspective and direct about her past mistakes. She expressed gratitude for the opportunities the Board extended to her in the past to keep her license and for the steady progress she has made with others’ support since her license was revoked. Tr. pp. 5-8. Thus, the Board finds that Petitioner has presented relevant and credible evidence to sustain her burden of satisfying the

Board that she is able to return to the practice of nursing with reasonable skill and safety, under the terms of the Order described below.

***Order***

Pursuant to §§ 19a-17 and 20-99 of the Connecticut General Statutes (“Statutes”), the Board hereby orders the following:

1. Registered Nurse license number E60422, of Petitioner, Ruth Dushay, is hereby reinstated and shall be placed on probation for a period of four years under the following terms and conditions:
  - A. Petitioner shall not be employed as an R.N. 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 an R.N. for the entire probationary period.
  - B. Petitioner shall not administer, count or have access to controlled substances, or have responsibility for such activities in the course of nursing duties during the first year of working as an R.N. during the probationary period.
  - C. Petitioner shall provide a copy of this Memorandum of Decision (“Decision”) to any and all employers if employed as an R.N. during the probationary period. The Department shall be notified in writing by any employer(s), within 30 days of the commencement of employment, as to the receipt of a copy of this Decision.
  - D. If employed as an R.N., Petitioner shall cause employer reports to be submitted to the Department by her immediate supervisor during the entire probationary period. Employer reports shall be submitted monthly for the entire probationary period. Employer reports shall be submitted commencing with the report due on the first business day of the month following employment as an R.N.
  - E. The employer reports cited in paragraph D above shall include documentation of Petitioner’s ability to practice nursing safely and competently. Employer reports shall be submitted directly to the Department at the address cited in Paragraph P below.
  - F. Should Petitioner’s employment as an R.N. be involuntarily terminated or suspended, Petitioner and her employer shall notify the Department within 72 hours of such termination or suspension.

- G. If Petitioner pursues further training in any subject area that is regulated by the Department, Petitioner shall provide a copy of this Decision to the educational institution or, if not the institution, to Petitioner's instructor. Such institution or instructor shall notify the Department in writing of receipt of a copy of this Decision within 15 days of receipt. Said notification shall be submitted directly to the Department at the address cited in paragraph P below.
- H. At her expense, Petitioner shall continue to engage in therapy and counseling with a licensed or certified therapist, approved by the Department, during the entire probationary period.
- I. Petitioner shall provide a copy of this Decision to her therapist. The Department shall be notified in writing by her therapist, within 30 days of the effective date of this Decision, as to receipt of a copy of this Decision.
- J. Petitioner shall cause evaluation reports to be submitted to the Department by her therapist during the entire probationary period. Therapist reports shall be submitted monthly for the entire probationary period.
- K. The therapist reports cited in Paragraph J above shall include documentation of dates of treatment, an evaluation of Petitioner's progress, including alcohol and drug free status, and her ability to practice nursing safely and competently. Therapist reports shall be submitted directly to the Department at the address cited in Paragraph P below.
- L. Observed random urine screens
  - (1) At her expense, Petitioner shall be responsible for submitting to observed, 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) Petitioner 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, Petitioner shall cause the provider prescribing the controlled substance(s) to submit quarterly reports to the Department until such time as the controlled substance(s) are no longer prescribed. The reports shall include the following:

- a. A list of controlled substances prescribed by this provider for Petitioner;
- b. A list of controlled substance(s) prescribed by other providers;
- c. An evaluation of the Petitioner's need for the controlled substance;
- d. An assessment of the Petitioner's continued need for the controlled substance(s).

- (3) There must be at least one such observed, random alcohol/drug screen per week during the first year of the probationary period; one observed, random screening per month during the second and third years of the probationary period; and, one observed, random screening per week during the fourth year of the probationary period.
- (4) Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive *drug* screen results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. All positive *alcohol* screen results shall be confirmed by the urine Ethyl Glucuronide (EtG) 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 to the Department, at the address cited in Paragraph P below, by Petitioner's therapist, personal physician or the testing laboratory.

- M. Petitioner 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. Petitioner shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.
- N. Petitioner 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.
- O. The Department must be informed in writing prior to any change of address.
- P. All correspondence and reports are to be addressed to:

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

- 2. 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 Petitioner has violated this Order will subject Petitioner to sanctions under §19a-17(a) and (c) of the Statutes, 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 Petitioner's address of record (most current address reported to the Practitioner Licensing and Investigations Section of the Healthcare Quality and Safety Branch of the Department).

3. This Memorandum of Decision becomes effective on the date signed by the Board.

The Board hereby informs Petitioner, Ruth Dushay, and the Department of this decision.

Dated at Hartford, Connecticut this <sup>10<sup>th</sup></sup> <sup>4<sup>th</sup></sup> day of April, 2013.

BOARD OF EXAMINERS FOR NURSING

by Patricia Bouffard, D.N.Sc.

Patricia Bouffard, D.N.Sc.,  
Chairperson

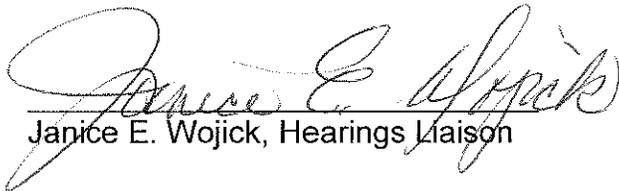
## CERTIFICATION

I hereby certify that, pursuant to Connecticut General Statutes Section 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 17<sup>th</sup> day of April 2013, certified mail return receipt requested mail to:

Ruth Dushay  
29 Mountainside Drive  
Monroe CT 06468

*and E-Mail to:*

Matthew Antonetti, Principal Attorney  
Office of Licensure Regulation and Compliance  
Department of Public Health – MS#12LEG  
410 Capitol Avenue  
P. O. Box 340308  
Hartford CT 061343-0308

  
Janice E. Wojick, Hearings Liaison