

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health and Addiction Services v.

Deborah Ash, R.N.

License No. R37440

100 Hope Street #9

Stamford CT 06906

CASE PETITION NO. 920114-10-004

MEMORANDUM OF DECISION

INTRODUCTION

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Public Health and Addiction Services (hereinafter the "Department") with a Statement of Charges dated September 14, 1993. (Department Exhibit 1) The Statement of Charges alleged, in four (4) counts, violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Deborah Ash (hereinafter the "Respondent").

The Board issued a Notice of Hearing dated September 23, 1993. The hearing took place on November 17, 1993 in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

During the hearing on November 17, 1993 the Department verbally amended the Statement of Charges, without objection from the Respondent, by changing the Fourth Count Paragraph 14c. (Hearing Transcript, November 17, 1993, pp. 44-45).

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 and his/her specialized professional knowledge in evaluating the evidence.

FACTS

Based on the testimony given and the exhibits offered into evidence, the Board made the following findings of fact:

1. Deborah Ash, hereinafter referred to as the Respondent, was issued Registered Nurse License Number R37440 on December 30, 1983 and was the holder of said license at all times referenced in the Statement of Charges. (Department Exhibit 2)
2. Pursuant to the General Statutes of Connecticut, Section 4-182(c), the Respondent was provided full opportunity prior to the institution of agency action to show compliance with all the terms for the retention of her license. (Department Exhibit 3)
3. The Respondent was aware of the time and location of the hearing. Department Exhibit 1 indicates that the Notice of Hearing and Statement of Charges were delivered by certified mail to the Respondent's address of record.
4. The Respondent was present during the hearing but was not represented by counsel. (Hearing Transcript, November 17, 1993, pp. 8-9)
5. During the hearing the Respondent provided written and verbal answers to the Statement of Charges. (Respondent Exhibit A) (Hearing Transcript, November 17, 1993, pp. 13-17)
6. That from on or about June 1991 through January 1992 the Respondent was employed as a registered nurse at The DuBois Center, Stamford, Connecticut. (Department Exhibit 6) (Respondent Exhibits B and C) (Hearing Transcript, November 17, 1993, pp. 14, 21-22)
7. That on or about June 1991, and at subsequent times while working as a registered nurse at The DuBois Center, the Respondent abused and utilized alcohol to excess. (Department Exhibits 4-6) (Respondent Exhibits A-D) (Hearing Transcript, November 17, 1993, pp. 14, 24, 28, 30-31)

8. That the Respondent has suffered from traumatic stress syndrome, depression and alcoholism such that she has been unable to consistently practice as a registered nurse with reasonable skill and safety. (Department Exhibits 4-6) (Respondent Exhibits A-D, G, I-J) (Hearing Transcript, November 17, 1993, pp. 14-15, 24, 36-37, 42, 46, 48, 88)
9. That on November 27 and 28, 1991 while assigned on call duty, while employed as a registered nurse at the DuBois Center, the Respondent became unavailable due to intoxication from excessive use of alcohol. (Department Exhibits 4-6) (Respondent Exhibits A-D) (Hearing Transcript, November 17, 1993, pp. 15, 23-25)
10. That the Respondent completed her payroll time record indicating she should be compensated for on call duty for November 27 and 28, 1991. (Department Exhibits 5-6) (Respondent Exhibits A, C) (Hearing Transcript, November 17, 1993, pp. 15-16)
11. That the Respondent has and continues to receive treatment and/or therapy, for traumatic stress syndrome, alcoholism and depression. That said treatment began on or about December 12, 1991. (Respondent Exhibits G and J) (Hearing Transcript, November 17, 1993, pp. 57-58, 94-95)

DISCUSSION AND CONCLUSIONS

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

Deborah Ash 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 sufficiently provided information as mandated by the General Statutes of Connecticut Sections 4-177, 4-182 and 19a-17.

The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as 19-2a-1 through 19-2a-30 of the Regulations of Connecticut State Agencies. The Notice of Hearing, Statement of Charges and the hearing process provided the Respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by the General Statutes of Connecticut Section 4-182(c).

The FIRST COUNT of the Statement of Charges alleges, that on or about June 1991 and at subsequent times while employed as a registered nurse at the DuBois Center, Stamford, Connecticut, the Respondent "abused or utilized to excess alcohol."

The Respondent admits this charge. (Respondent Exhibit A) (Hearing Transcript, November 17, 1993, p. 14)

The General Statutes of Connecticut Sections 20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions... (4) emotional disorder or mental illness; (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...."

It is the opinion of the Board that the abuse of alcohol and drugs constitutes an emotional disorder and/or mental illness.

Based on its findings and the Respondent's admission, the Board concludes that the Respondent's conduct as specified in the First Count is proven and that said conduct violates the General Statutes of Connecticut Section 20-99(b)(2), (4) and (5). Therefore, the Respondent is subject to disciplinary action pursuant to the General Statutes of Connecticut.

The **SECOND COUNT** of the Statement of Charges alleges that that Respondent, since at least 1990, has suffered from traumatic stress syndrome, depression and alcoholism such that she has been unable to consistently practice as a registered nurse with reasonable skill and safety.

The Respondent admits this charge. (Respondent Exhibit A) (Hearing Transcript, November 17, 1993, pp. 14-15)

The General Statutes of Connecticut Section 20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "...**(4) emotional disorder or mental illness; (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals....**"

Based on its findings and the Respondent's admission, the Board concludes that the Respondent's conduct as specified in the Second Count is proven and that said conduct violates the General Statutes of Connecticut Section 20-99(b)(4) and (5). Therefore, the Respondent is subject to disciplinary action pursuant to the General Statutes of Connecticut.

The **THIRD COUNT** of the Statement of Charges alleges the Respondent, while working as a registered nurse at the DuBois Center, Stamford, Connecticut on at least one occasion in November 1991, was unavailable while on call and submitted reimbursement claims for on-call pay when she was unavailable.

The Respondent admits these charges, however, the submitting of reimbursement claims for on-call pay when she was unavailable was not intentional. (Respondent Exhibit A) (Hearing Transcript, November 17, 1993, pp. 15-16)

The General Statutes of Connecticut, Section 20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "...**(2) illegal conduct, incompetence or negligence in carrying out usual nursing functions....**"

Based on its findings and the Respondent's admission, the Board concludes that the Respondent's conduct as specified in the Third Count is proven and that said conduct violates the General Statutes of Connecticut Section 20-99(b)(2). Therefore, the Respondent is subject to disciplinary action pursuant to the General Statutes of Connecticut.

The FOURTH COUNT of the Statement of Charges alleges that on one occasion while employed at the DuBois Center, Stamford, Connecticut, the Respondent falsely used a physician's name to obtain a prescription for Amoxicillin.

The Respondent denies this charge. (Respondent Exhibit A) (Hearing Transcription, November 17, 1993, pp. 16-17)

The Board concludes the Department presented insufficient evidence to prove this charge. Therefore, the Fourth Count is dismissed.

ORDER

Pursuant to its authority under the General Statutes of Connecticut Sections 19a-17 and 20-99, the Board of Examiners for Nursing hereby orders:

1. That for the First Count, Second Count and the Third Count the Respondent's registered nurse license, No. R37440, is placed on probation for a period of three (3) years.
2. If any of the following conditions of probation are not met, the Respondent's registered nurse license may be immediately revoked:
 - A. The 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 her employer(s) within thirty (30) days as to receipt of a copy of this Memorandum of Decision.

- B. Should the Respondent change employment at any time during the probationary period, she shall provide a copy of this Memorandum of Decision to her employer and said employer shall notify the Board in writing, within thirty (30) days, as to receipt of a copy of this Memorandum of Decision.
- C. The Respondent shall not accept employment as a nurse for a personnel provider service, Visiting Nurse Association or home health care agency and shall not be self-employed as a nurse during the period of her probation.
- D. The Respondent shall cause bi-monthly employer reports to be submitted to the Board by her immediate supervisor during the entire period of probation. Bi-monthly employer reports are due on the first business day of January, March, May, July, September and November and shall commence with the report due May 1, 1994.
- E. Said bi-monthly reports cited in paragraph D above, shall include documentation of the Respondent's ability to safely and competently practice nursing. Bi-monthly employer reports shall be issued to the Board at the address listed in paragraph N below.
- F. At her own expense, the Respondent shall engage in counseling with a licensed or certified therapist for the entire period of probation.
- G. The 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, as to receipt of a copy of this Memorandum of Decision.
- H. The Respondent shall cause bi-monthly reports to be submitted to the Board by her therapist during the entire period of probation. Bi-monthly therapist reports are due on the first business day of January, March, May, July, September and November and shall commence with the report due May 1, 1994.

- I. The therapist reports cited in paragraph H above, shall include documentation of dates of treatment and an evaluation of the Respondent's progress, alcohol and drug free status and ability to safely and competently practice nursing. Bi-monthly therapist reports shall be issued to the Board at the address cited in paragraph N below.

- J. The Respondent shall be responsible for submitting to random urine and/or blood screens for alcohol and drugs for the entire probationary period, as ordered by her therapist and/or personal physician. Said screens shall be legally defensible in that the specimen donor and chain of custody must be identified throughout the screening process. She shall be responsible for immediately notifying the laboratory, her therapist and/or personal physician and the Board of Examiners for Nursing of any drug(s) she is taking. There must be at least one such alcohol/drug screen bi-monthly for the entire period of probation. Bi-monthly reports of random alcohol/drug screens are due on the first business day of January, March, May, July, September and November and shall commence with the report due May 1, 1994.

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. Laboratory reports must indicate that the chain of custody procedure has been followed.

Reports of random alcohol and drug screens shall be submitted directly to the Board at the address listed in paragraph N below, by the Respondent's therapist or personal physician or the testing laboratory.

- K. The 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.

- L. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.
- M. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- N. Any correspondence and reports are to be addressed to:

OFFICE OF THE BOARD OF EXAMINERS FOR NURSING
Department of Public Health and Addiction Services
150 Washington Street
Hartford CT 06106

- 3. Any deviation from the terms of probation without prior written approval by the Board of Examiners for Nursing will constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order and will subject the Respondent to sanctions under Section 19a-17(a) and (c) of the Connecticut General Statutes including but not limited to, the revocation of her license. Any extension of time or grace period for reporting granted by the Connecticut Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take action at a later time. The Connecticut Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to her address of record (most current address reported to the Licensure and Renewal Section of the Division of Medical Quality Assurance of the Department of Public Health and Addiction Services or the Connecticut Board of Examiners for Nursing).
- 4. This Memorandum of Decision becomes effective, and the three (3) year probation period of the Respondent's license shall commence on March 15, 1994.

The Board of Examiners for Nursing finds the misconduct regarding the First Count, the Second Count and the Third Count is severable and each specific offense warrants the disciplinary action imposed.

The Board of Examiners for Nursing hereby informs the Respondent, Deborah Ash and the Department of Public Health and Addiction Services of the State of Connecticut of this decision.

Dated at Hartford, Connecticut, this 10th day of March, 1994.

BOARD OF EXAMINERS FOR NURSING

By

Jeanice Thibodeau

9350Q

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH



March 17, 1997

Deborah Ash
5430 Three Points Boulevard, #116
Mound, MN 55364

RE: Registered Nurse License No. R37440

Dear Ms. Ash:

Please be advised that you have fulfilled the terms of probation of your registered nurse license. The probationary status of your license has been removed with an effective date of March 15, 1997.

Should you have any questions concerning this matter, please contact me at 860-509-7600.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jeffrey A. Kardys".

Jeffrey A. Kardys
Investigator
Legal Office - Monitoring & Compliance

JAK:

PROBEND.DOC

cc: Stanley Peck, Director, Legal Office
Debra Tomassone, HSS, Licensure & Registration



Phone: 860-509-7600

FAX 860-509-7650

Telephone Device for the Deaf (860) 509-7191

410 Capitol Avenue - MS # 12 LEG

P.O. Box 340308 Hartford, CT 06134

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