

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health

Petition No. 2007-0130-010-009

vs.

Shawna Bowers, RN, Lic. No. R44070
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 February 14, 2007. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Shawna Bowers (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 February 21, 2007, 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 February 21, 2007, scheduling a hearing for March 7, 2007. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. The Notice of Hearing, Statement of Charges, and Summary Suspension Order were served on respondent by State Marshal on February 25, 2007. Dept. Exh. 1.

At respondent’s request, the hearing scheduled for March 7, 2007 was continued to July 18, 2007. Dept. Exh. 1.

The hearing took place on July 18, 2007, in Room 1-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Respondent was not present during the hearing and was not represented by counsel. Transcript, July 18, 2007, p. 2.

Respondent submitted a written Answer to the Statement of Charges. However, the Answer only addressed Count One of the Charges. Dept. Exh. 1.

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 exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent is the holder of registered nurse license number R44070. Answer: Dept. Exh. 1.
2. On July 16, 1997, respondent entered into Consent Order in Petition No. 1997-0505-010-030 subsequent to her diversion and abuse of controlled substances in 1996 and 1997. Dept. Exh. 2, attachment C-tab a, p. 1.
3. On July 15, 1998, respondent voluntarily surrendered her registered nurse license subsequent to violating the terms of the July 16, 1997 Consent Order. Dept. Exh. 2, attachment C, tab a, p. 1.
4. On May 21, 2003, respondent entered into Reinstatement Consent Order, in Petition No. 2002-1119-010-097. Pursuant to this Reinstatement Consent Order respondent's registered nurse license was placed on probation for a period of four years. The Reinstatement Consent Order specifically provided that respondent shall not obtain or use controlled substances, legend drugs, or alcohol in any form unless prescribed or recommended for a legitimate therapeutic purpose by a license health care professional authorized to prescribe medications. Dept. Exh. 2, attachment C, tab-b.
5. Respondent has not worked as a nurse since on or around October 3, 2005, when she was laid off from the Groton Regency Center. Dept. Exh. 2, attachment C, tab-a, p. 2.
6. Respondent has suffered chronic knee pain and experienced dental problems for which she received controlled substances by prescriptions. Respondent's urine testing occasionally tested positive for controlled substances as a result of her taking the prescribed medication. Answer: Dept. Exh. 1; Dept. Exh. 2, attachment C, tab-a, p.1.
7. Since 1997, respondent has undergone inpatient substance abuse treatment at Elm Crest Hospital, the Stonehaven facility, Care Plus (associated with Natchaug Hospital), and the Care Center. From March 2004 through January 2007, respondent met with several therapists who concluded that respondent has suffered from anorexia, bulimia, anxiety, and depression and was not capable of practicing nursing with reasonable skill and safety. From March 29, 2007 through May 3, 2007, respondent was in treatment at Care Plus. Respondent demonstrated stable moods and absence of relapse and reported feeling compelled to show her abstinence in hopes of regaining her registered nurse license. The urine tests from the treatment period at Care Plus all were negative. Dept. Exh. 2, attachment C, tab a, pp. 2-5; Dept. Exh. 2, attachment C, tabs g-1 (under seal); Dept. Exh. 3 (under seal).

8. Between January 2006 and January 2007, respondent obtained and used controlled substances without a legitimate therapeutic purpose. Respondent obtained prescriptions from various health care professionals without informing these prescriber that she was obtaining controlled substances prescriptions from various practitioners. Dept. Exh. 2, attachment D, tab a (sealed); Dept. Exh. 2, attachment C, tab a, pp. 5-7.
9. Between January 2006 and January 2007, respondent filled numerous prescriptions for Fioricet with Codeine, Klonopin, Vicodin, Tylenol with Codeine, Fentanyl Patch, Oxycodone, Percocet, and Provigil, which she obtained from several physicians. Dept. Exh. 2, attachment C, tabs d-e (under seal).
10. Respondent did not keep her physicians apprised of the prescriptions she was receiving and using from various sources. Dept. Exh. 2, attachment D, tab a (sealed); Dept. Exh. 2, attachment C, tab f.

Conclusions of Law and Discussion

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

Shawna Bowers 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 Department bears the burden of proof by a preponderance of the evidence in this matter.

COUNT ONE, PARAGRAPH 2 of the Statement of Charges alleges that currently and for several months, respondent has obtained and used excessive quantities of narcotics and other controlled substances by doctor shopping.

COUNT ONE, PARAGRAPH 3 of the Statement of Charges alleges that respondent suffers from depression, anorexia, and bulimia.

COUNT ONE, PARAGRAPH 4 of the Statement of Charges alleges that the respondent's use and/or abuse of controlled substances, and/or respondent's emotional disorder and/or mental health illness, either alone or in combination, does and/or may impair her ability to practice as a registered nurse safely and effectively.

Respondent denies these charges. Answer: Dept. Exh. 1.

COUNT TWO, PARAGRAPH 7 of the Statement of Charges alleges that, pursuant to Reinstatement Consent Order in Petition No. 2002-1119-010-097, dated May 21, 2003, respondent's license has been under probation subject to certain terms and conditions, including paragraph 3E ("Respondent shall not obtain or use controlled substances, legend drugs or alcohol in any form unless prescribed or recommended for a legitimate therapeutic purpose...").

COUNT TWO, PARAGRAPH 8 alleges that respondent has violated paragraph 3E of her Reinstatement Consent Order by obtaining controlled substances without a valid therapeutic purpose, by withholding from various prescribing physicians and dentists that she receives the same medications or other pain medications from other prescribers.

The Department proved the allegations in Count One by preponderance of the evidence. Respondent did not submit an Answer to Paragraphs 7 and 8 of the Statement of Charges. Pursuant to § 19a-9-20 of the Regulations of Connecticut State Agencies the Board deems the allegations in Paragraphs 7 and 8 of the Second Count to be admitted.

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:... (4) emotional disorder or mental illness;... (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 Count One and Count Two of the Statement of Charges constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§ 20-99(b)(4)(5) 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 the Paragraphs 2, 3, and 4 of Count One and Paragraphs 7 and 8 of Count Two, respondent's registered nurse license number R44070 is revoked effective the date this Memorandum of Decision is signed by the Board.

2. The Board finds the violations set forth in Count One and Count Two of the Statement of Charges are severable and each separate Count warrants the revocation of respondent's license.

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

Dated at Hartford, Connecticut this 21st day of November, 2007.

BOARD OF EXAMINERS FOR NURSING

By  _____

CERTIFICATION

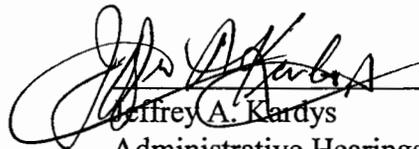
I hereby certify that, pursuant to Connecticut General Statutes §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 21st day of November 2007, by certified mail, return receipt requested, and first class mail to:

Shawna Bowers
22 McElaney Drive
Niantic, CT 06357

Certified Mail RRR #9171082133393205602241

and by Inter-Departmental Mail to:

Stanley K. Peck, Director
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
Hartford, CT 06134-0308



Jeffrey A. Kardys
Administrative Hearings Specialist/Board Liaison
Department of Public Health
Public Health Hearing Office