

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

Department of Public Health v.

Vincent Marino, R.N.

Registered Nurse License No. R44845

21 Lafayette Road

Marlborough, CT 06447

CASE PETITION NO. 950914-10-085

MEMORANDUM OF DECISION
INTRODUCTION

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 November 14, 1995. (Department Exhibit A-A3, A-A4,5). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Vincent Marino (hereinafter the "Respondent") which would subject the Respondent's Registered Nurse license to disciplinary action pursuant to the General Statutes of Connecticut..

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of the Respondent presented a clear and immediate danger to public health and safety. On November 15, 1995, the Board ordered, pursuant to its authority under §19a-17(c) of the General Statutes of Connecticut, that the Registered Nurse license of the Respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges (Department Exhibit A-A6).

The Board issued a Notice of Hearing dated November 15, 1995, scheduling a hearing for December 6, 1995 (Department Exhibit A-A7). The hearing took place on December 6, 1995, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

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 the Board's specialized professional knowledge in evaluating the evidence.

FACTS

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

1. The Respondent was issued Registered Nurse License Number R44845 on August 1, 1989. The Respondent was the holder of said license at all times referenced in the Statement of Charges. (Department Exhibits A-D)
2. The Respondent was given due notice of the hearing and charges against him. Department Exhibit A indicates that the Summary Suspension Order, Statement of Charges, and Notice of Hearing were served on the Respondent by Deputy Sheriff.
3. The Respondent was present during the hearing and was represented by counsel. (Hearing Transcript, December 6, 1995, pp. 2-3)
4. During the hearing the Respondent orally answered the Statement of Charges. (Hearing Transcript, December 6, 1995, pp. 24-25)
5. On June 30, 1993, the Respondent's registered nurse license was summarily suspended. (Department Exhibit A-D) Pursuant to a Consent Order dated March 22, 1995 (Department Exhibit A-B), the Respondent's registered nurse license was suspended for a period of two (2) years and placed on concurrent probation for a period of four and one half (4 1/2) years retroactive to June 30, 1993. The Consent order resulted from allegations by the Department that while working as a registered nurse at Hartford Hospital, Hartford, Connecticut on or about September 17, 1992, the Respondent:
 - a. engaged in sexually provocative conduct and/or used sexually explicit profanity in the presence of a female patient;

- b. moved the patient's call button to prevent her from summoning assistance;
 - c. threatened to shove a fan in the patient's face;
 - d. continued to care for the patient after the patient had communicated her fear of the respondent to other hospital staff members;
 - e. failed to document or report, in a timely fashion, to his supervisor the incidents described above and/or the patient's report of the same to other staff members.
6. The terms of probation of the Respondent's registered nurse license as set forth in the Consent Order dated March 22, 1995 included the conditions that the Respondent submit to a psychiatric evaluation conducted by a licensed psychiatrist and/or psychologist; that the evaluator's report shall include an opinion that the Respondent is able to practice nursing with reasonable skill and safety; and that it shall be considered a violation of the Consent Order if the evaluator's report does not conclude the Respondent is able to practice nursing with reasonable skill and safety. The Consent Order further provided that the Department's allegations contained in the Consent Order would be deemed true in any subsequent proceeding before the Board, in which the Respondent's compliance with the Consent Order or §20-99(b) of the General Statutes of Connecticut is at issue. (Department Exhibit A-B4, B7)
7. The Respondent underwent a psychiatric and psychological evaluation on or about June and July 1995. The evaluator concluded that the Respondent was not able to practice nursing with reasonable skill and safety. The evaluator further concluded that the Respondent undergo a course of intensive psychotherapy, for a minimum of one (1) year, after which the Respondent be re-evaluated. (Department Exhibit A-C5, C6 under seal) (Hearing Transcript, December 6, 1995, pp. 15-17, 20)
8. The Respondent began individual psychotherapy on or about September 25, 1995. (Respondent's Exhibit 1)

DISCUSSION AND CONCLUSIONS

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

Vincent Marino held a valid Registered Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Summary Suspension Order, Notice of Hearing and Statement of Charges sufficiently provided legal notice as mandated by the General Statutes of Connecticut §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 his license as required by the General Statutes of Connecticut §4-182(c).

COUNT ONE PARAGRAPH 3 of the Statement of Charges alleges the Respondent was subject to the conditions set forth in a Consent Order dated March 22, 1995. The Consent Order specifically provided that the Respondent was required to undergo a psychiatric evaluation and that “[i]f the evaluator’s report does not conclude that Respondent is able to practice with reasonable skill and safety, that fact shall constitute a violation of this Consent Order.”

COUNT ONE PARAGRAPH 4 of the Statement of Charges alleges that in letters dated August 23, 1995, and September 11, 1995, the evaluator found the Respondent was not able to practice nursing with reasonable skill and safety due to an emotional disorder or mental illness.

COUNT ONE PARAGRAPH 5 of the Statement of Charges alleges the Respondent suffers from an emotional disorder or mental illness.

COUNT ONE PARAGRAPH 6 of the Statement of Charges alleges that the Respondent’s conduct as described in Count One constitutes a violation of the Consent Order dated March 22, 1995, and subjects the Respondent to disciplinary action pursuant to the General Statutes of Connecticut §19a-17 and §20-99(b)(2) and (4).

The Respondent admits Paragraph 3 but denies Paragraphs 4, 5, and 6 of Count One. (Hearing Transcript, December 6, 1995, pp. 25)

The General Statutes of Connecticut §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...”

Based on its review of the evidence and testimony, the Board found that the Respondent underwent a psychiatric and psychological evaluation in which he was evaluated as suffering from an emotional disorder which is in need of intensive treatment and/or therapy, and which prevents the Respondent from practicing nursing with reasonable skill and safety.

The Board concludes the Respondent has no insight into his problem of handling his emotions, specifically his anger, and that said emotional disorder prevents the Respondent from practicing nursing with reasonable skill and safety.

Based on its findings, the Board concludes that Paragraphs 3 and 4 of Count One is proven and that said conduct constitutes a violation of the Respondent’s probation as set forth in the Consent Order dated March 22, 1995. The Board further concludes that Paragraph 5 of Count One, as it pertains to an emotional disorder, is proven and that said conduct constitutes a violation of the General Statutes of Connecticut §20-99(b)(4). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

Paragraph 5 of Count One, as it pertains to mental illness, is dismissed in that no evidence was presented at the hearing that the Respondent suffers from an Axis I psychiatric disorder.

COUNT TWO PARAGRAPHS 8 and 9 of the Statement of Charges alleges that the allegations set forth in the Consent Order dated March 22, 1995, are deemed true in that the Respondent’s compliance with the Consent Order is at issue in this hearing and that the Consent Order provides that the allegations shall be deemed true in any subsequent proceedings.

COUNT TWO PARAGRAPH 10 of the Statement of Charges alleges that the conduct described in Paragraph 9 constitutes grounds for disciplinary action pursuant to the General Statutes of Connecticut.

The Respondent admits Paragraphs 8 and 9, but denies Paragraph 10 of Count Two.

Although the allegations as set forth in the Consent Order dated March 22, 1995, constitute conduct which fails to conform to the accepted standards of the nursing profession, the Board makes no finding that said allegations subjects the Respondent to additional disciplinary action. Paragraph 10 of Count Two is dismissed.

ORDER

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

1. That for Count One of the Statement of Charges, the Respondent's registered nurse license, No. R44845, be revoked.
2. Revocation shall become effective on the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs the Respondent, Vincent Marino, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Wethersfield, Connecticut this 24th day of April 1996.

BOARD OF EXAMINERS FOR NURSING

By

