

Kelley Wuensch
283 Noroton Avenue
Darien, CT 06820

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

State of Connecticut
Department of Public Health
vs.
Kelley Wuensch, RN
Registered Nurse License No. R46691
respondent.

CASE PETITION NO. 990225-010-013

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 March 1, 1999 (Dept. Exh. 2). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Kelley Wuensch (hereinafter "respondent") which would subject 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 respondent presented a clear and immediate danger to public health and safety. On March 17, 1999, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that the Registered Nurse license of respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. 2.

The Board issued a Notice of Hearing dated March 17, 1999, scheduling a hearing for April 7, 1999. Dept. Exh. 1-B.

Respondent was provided notice of the hearing and charges against her. Department Exhibit 1-B indicates that the Notice of Hearing and Statement of Charges were delivered by certified mail to respondent.

The hearing took place on April 7, 1999, at the Wethersfield Town Hall, 505 Silas Deane Highway, Council Chambers, Wethersfield, Connecticut.

Respondent was present during the hearing but was not represented by counsel. Tr., April 7, 1999, pp. 4.

During the hearing, the Department presented a Motion to Deem Allegations Admitted (Dept. Exh. 1). The Board denied the Motion based on respondent's verbal answer to the Statement of Charges. Tr., April 7, 1999, pp. 2-9.

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. Respondent was issued Registered Nurse License Number R46691 on January 2, 1991. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 2A.
2. Pursuant to Consent Order dated March 4, 1998, respondent's Registered Nurse license was placed on probation for a period of four years as a result of her diversion and use of Percocet while employed as a registered nurse at Norwalk Hospital. Dept. Exh. 2-D.
3. Probation of respondent's registered nurse license prohibited respondent from obtaining or using controlled substances, legend drugs or alcohol in any form unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications and that respondent submit to random urine screens for drugs and alcohol which were to be negative for the presence of drugs and alcohol. Dept. Exh. 2-D.
4. Random urine screening to which respondent submitted on January 27, 1999 and on February 5, 1999, indicated that respondent tested positive for the presence of morphine and codeine. Dept. Exh. 2-F, 2-G, and 3.
5. Respondent admits to a relapse in January and February of 1999. Tr., April 7, 1999, pp. 18; Rt. Exh. A.

Conclusions of Law and Discussion

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

Kelley Wuensch 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 legal notice as mandated by the General Statutes of Connecticut §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut 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 the General Statutes of Connecticut §4-182(c).

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

COUNT ONE of the Statement of Charges alleges that respondent's random urine samples of January 27, 1999 and February 5, 1999 tested positive for morphine and codeine. It further alleged that respondent's abuse of morphine and codeine does, and/or may, affect her practice as a registered nurse.

Respondent admits these charges. Tr., April 7, 1999, pp. 7-9.

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: . . . (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 respondent's conduct as alleged in Count One of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes violations of the General Statutes

of Connecticut §20-99(b)(5). Therefore, respondent's license is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

COUNT TWO of the Statement of Charges alleges that respondent's conduct as described above constitutes a violation of the terms of probation as set forth in the Consent Order dated March 4, 1998, and subjects respondent's license to revocation or other disciplinary action authorized by the General Statutes of Connecticut, §§19a-17 and 20-99(b).

Respondent admits this charge. Tr., April 7, 1999, pp. 7-9.

Based on its findings, and the respondent's admission, the Board concludes that respondent's conduct as alleged in Count Two of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes a violation of the probation of her registered nurse license as set forth in a Consent Order dated March 4, 1998. Therefore, respondent's registered nurse license is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

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:

That for Count One and Count Two of the Statement of Charges, respondent's registered nurse license, No. R46691, is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

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

Dated at Hartford, Connecticut this 21st day of July, 1999.

BOARD OF EXAMINERS FOR NURSING

By



CERTIFICATION

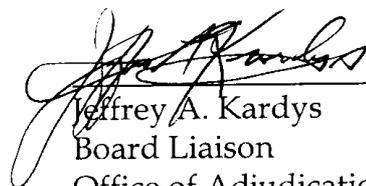
I hereby certify that, pursuant to Connecticut General Statutes §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 22nd day of July 1999, by certified mail, return receipt requested, and first class mail to:

Kelly Wuensch
283 Noroton Avenue
Darien, CT 06820

Certified Mail RRR #P505288554

and by inter-departmental mail to:

Joelle Newton, Staff Attorney
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
Hartford, CT 06134



Jeffrey A. Kardys
Board Liaison
Office of Adjudications