

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

Department of Public Health

Petition No. 2006-1025-010-094

vs.

Ewa Jurzyk, RN Lic. No. R52025
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "Board") was presented by the Department of Public Health (hereinafter "Department") with a Statement of Charges and Motion for Summary Suspension dated December 1, 2006. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Ewa Jurzyk (hereinafter "respondent") which would subject respondent's registered license to disciplinary action pursuant to Conn. Gen. Stat. §§ 19a-17 and 20-99(b). Dept. Exh. 1.

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, welfare and safety. On December 6, 2006, 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 December 6, 2006, scheduling a hearing for December 20, 2006. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. The Summary Suspension Order, Notice of Hearing and Statement of Charges were served on respondent by State Marshal on December 17, 2006. Dept. Exh. 1.

The hearing took place on December 20, 2006, in Room 1-A, Legislative Office Building, 300 Capitol Avenue, Hartford, Connecticut.

Respondent was present during the hearing but was not represented by counsel. Transcript, pp. 2-3.

During the hearing respondent orally answered the Statement of Charges. Transcript, pp. 12-15.

On January 17, 2007, the Board vacated the Summary Suspension of respondent's registered license, ordered on December 6, 2006. The Board ordered, pending issuance of this Memorandum of Decision, that respondent's registered nurse license be reinstated subject to the terms of the November 16, 2005 Consent Order.

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 R52025 on December 8, 1995. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 2-tab B.
2. Pursuant to a Memorandum of Decision effective April 15, 2003, the Board ordered that respondent's registered nurse be placed on probation for a period of four years. Such disciplinary action was based upon respondent's admitted diversions of Tylox, Percocet and Oxycontin incomplete, inaccurate and improper documentation of medical or hospital records and falsification of controlled substance records. Said Order specifically provided that respondent shall not obtain or use any 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 shall submit to random alcohol/drug screens that shall be negative for the presence of alcohol and drugs. Dept. Exh. 2-tab Ab.
3. In January 2005, respondent tested positive for morphine, which respondent attributed to her consumption of poppy seeds. Transcript, pp. 13-14.
4. Pursuant to a Consent Order dated November 16, 2005, the Board ordered that the probation of respondent's registered nurse license pursuant to the April 2003 Memorandum of Decision be extended for an additional of six months. Thus, the total length of probation was four years and six months, commencing from April 15, 2003, the effective date of the Memorandum of Decision. Dept. Exh. 2-tab Ac.
5. Respondent submitted to random urine screening on October 6, 2006. Laboratory results for the October 6, 2006 urine specimen were positive for the presence of Phenobarbital, which is a barbiturate. Dept. Exh. Dept. Exh. 2-tab Ae; Transcript, pp. 14-15.
6. During the week of October 2, 2006, respondent consumed an herbal remedy, which had been provided to her by her husband. Respondent's husband obtained the herbal remedy in Poland during June 2006. Respondent consumed the remedy without verifying its contents. The remedy contained Luminal, which is a barbiturate. Resp. Exh. A.; Transcript, pp. 19-20.

Conclusions of Law and Discussion

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

Ewa Jurzyk 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 Notice of Hearing, Statement of Charges¹, 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 Conn. Gen. Stat. § 4-182(c).

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

The Statement of Charges alleges that on or about October 6, 2006 respondent's urine screen tested positive for Phenobarbital and that said conduct violates the terms of probation of respondent's license as set forth in the Memorandum of Decision dated April 2, 2003 and the Consent Order dated November 2005.

Respondent admits the allegations in the Statement of Charges. Transcript, December 20, 2006, pp. 12-15. The Department has therefore satisfied its burden of proof with respect to these allegations. As set forth in the Board's Findings, respondent's urine screen tested positive for Phenobarbital on or about October 6, 2006, as a result of respondent's consumption of a herbal remedy containing Luminal, a barbiturate. Said herbal remedy was purchased by respondent's husband for his own personal use. Said remedy was not prescribed to the respondent by a licensed health care practitioner.

Based on the foregoing, the Board concludes that said conduct constitutes grounds for disciplinary action pursuant to Conn. Gen. Stat. §§ 20-99(b)(2), (5), (6) and 19a-17.

Based on its findings and respondent's admissions, the Board concludes that respondent's conduct as alleged in the Statement of Charges is proven. The Board further concludes that said conduct violates the terms of probation as set forth in the Memorandum of Decision dated April 2, 2003 and the Consent Order dated November 16, 2005. Therefore, respondent's registered nurse license is subject to disciplinary action pursuant to Conn. Gen. Stat. § 19a-17.

¹ The Statement of Charges consists of seven numbered paragraphs. Paragraphs 4 through 7 are incorrectly numbered 5 through 8 respectively.

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. The probation of respondent's registered nurse license number R52025, ordered pursuant to the Memorandum of Decision dated April 2, 2003 and the Consent Order dated November 16, 2005, is extended until April 15, 2008.
2. The terms of probation set forth in Memorandum of Decision dated April 2, 2003 and the Consent Order dated November 16, 2005, shall continue in full force or effect.
3. 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 respondent has violated this Order will subject respondent to sanctions under § 19a-17(a) and (c) of the General Statutes of Connecticut, 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 respondent's address of record (most current address reported to the Office of Practitioner Licensing and Certification of the Department of Public Health or the Board).
4. This Memorandum of Decision becomes effective on the date signed by the Board of Examiners for Nursing.

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

Dated at Newington, Connecticut this 2nd day of May 2007.

BOARD OF EXAMINERS FOR NURSING

By Nancy L. Babin rd

CERTIFICATION

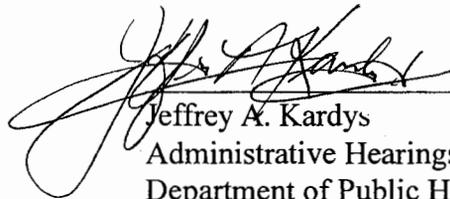
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 3rd day of May 2007, by certified mail, return receipt requested and first class mail, to:

Ewa Jurzyk, RN
69 Northwest Drive, #16
Plainville, CT 06062

Certified Mail RRR #9171082133393206029894

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