

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

Department of Public Health

Petition No. 2001-0802-010-049

vs.

Marilyn Po, R.N., Lic. No. R53097  
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 dated September 3, 2002. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Marilyn Po (hereinafter "respondent") which would subject respondent's registered nurse license to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b).

The Board issued a Notice of Hearing dated September 18, 2002, scheduling a hearing for December 4, 2002. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. The Notice of Hearing and Statement of Charges were delivered by certified mail to respondent and respondent's attorney. Dept. Exh. 1

The hearing took place on December 4, 2002, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was present during the hearing and was represented by counsel. Tr. p. 2.

Respondent submitted a written Answer to the Statement of Charges. Resp. Exh. A.

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 Connecticut registered nurse license number R53097 on August 23, 1996, and held this license at all times referenced in the Statement of Charges. Resp. Exh. A; Dept. Exh. 2-1,2-(1)G-2.

2. At all relevant times, respondent worked as a nursing supervisor at Litchfield Woods Health Care Center ("Litchfield Woods") in Torrington, Connecticut. Litchfield Hills is a skilled nursing home, having 160 beds. Resp. Exh. A; Tr. pp. 13-14.
3. On the evening of May 20, 2001 through May 21, 2001, A.N., a resident of Litchfield Woods, had vomited several times. At approximately 3:45 a.m. on May 21, 2001, after A.N. vomited what appeared to be blood, the charge nurse called A.N.'s physician. Dept. Exh. 2-1, 2B-3, 2B-6, 2B-8, 2B-10, 2C-1; Tr. pp. 15-18, 84-85.
4. During the 7:00 p.m. through 7:00 a.m. shift on the evening of May 20, 2001 through the morning of May 21, 2001, respondent was the supervising nurse, and Frances Salwierz was the charge nurse. Tr. pp. 17, 83.
5. The charge nurse reported to respondent that the physician authorized admitting A.N. to the hospital, if necessary. Tr. pp. 30-31, 45, 84, 87, 89-90; Dept. Exh. 2-1, 2C-3; 2F-2.
6. Respondent evaluated A.N. after the charge nurse obtained the physician's authorization to admit A.N. to the hospital, and determined, based on her assessment, that it was not necessary to admit A.N. at that time. Tr. pp. 46-47, 70, 85-86, 89-91, 96-99, 104; Dept. Exh. 2-1, 2B-7, 2C-1
7. Respondent then wrote an order for Compazine for A.N. without a physician's authorization, and instructed Ms. Salwierz to administer the Compazine, which she did. Tr. pp. 25-26, 29, 47, 51-52, 57, 89, 91; Dept. Exh. 2-1, 2B-3, 2B-5, 2B10, 2C-1, 2D-1.
8. On or about May 21, 2001, A.N. was admitted to the hospital for what was later diagnosed as a bowel obstruction. Dept. Exh. 2-1, 2G(1)-7.

#### ***Conclusions of Law and Discussion***

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

Marilyn Po 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 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 *Conn. Gen. Stat.* § 4-182(c).

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

**PARAGRAPH 2** of the Statement of Charges alleges that at all relevant times, respondent worked as a nursing supervisor at Litchfield Woods on the 11 p.m. to 7 a.m. shift.

A preponderance of evidence establishes that respondent was working as the nursing supervisor on the 7:00 p.m. to 7:00 a.m. shift, at Litchfield Woods on May 20, 2001 through May 21, 2001.

**PARAGRAPH 3** of the Statement of Charges alleges that on the evening of May 20, 2001 through May 21, 2001, A.N., a resident of Litchfield Woods, had vomited several times. At approximately 3:45 a.m. on May 21, 2001, after the resident vomited what appeared to be blood, the charge nurse called the resident's physician.

This allegation is proven by a preponderance of the evidence.

**PARAGRAPH 4** of the Statement of Charges alleges that the charge nurse reported to respondent that the physician authorized admitting the resident to the hospital.

A preponderance of evidence supports this allegation. However, respondent's testimony and the record further establish that the order provided that the resident should only be admitted to the hospital if admission was deemed necessary by respondent.

**PARAGRAPH 5** of the Statement of Charges alleges that respondent violated the standard of care for nurses in that she:

- a. failed to send A.N. to the hospital as ordered by the resident's doctor;
- b. wrote an order for Compazine for A.N. without a physician's authorization; and/or,
- c. instructed the charge nurse to administer the Compazine to A.N.

With regard to the allegation in Paragraph 5a, the Department failed to sustain its burden of proof. The evidence establishes that the physician authorized the admission of A.N., *if necessary*. The record further establishes that respondent conducted an assessment of A.N. that satisfied the standard of care and, based on that assessment, reasonably determined that it was not necessary to admit A.N.

With regard to the allegation in Paragraph 5b, respondent admits this allegation.

With regard to the allegation in Paragraph 5c, respondent admits this allegation.

**PARAGRAPH 6** of the Statement of Charges alleges that on or about May 21, 2001, A.N. was admitted to the hospital for what was later diagnosed as a bowel obstruction.

A preponderance of evidence establishes this allegation.

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 . . . (2) illegal conduct, incompetence or negligence in performing usual nursing functions . . .

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraph 2 is generally established by a preponderance of the evidence, with the exception of respondent's work hours; Paragraph 3 is established by a preponderance of evidence; Paragraph 4 is established by a preponderance of evidence with the addition that the physician ordered admission to the hospital, *if necessary*; Paragraph 5a is not supported by a preponderance of evidence; and, Paragraphs 5b and 5c are proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§20-99(b)(2) and 19a-17. Therefore, respondent's registered nurse license is subject to disciplinary action pursuant to *Conn. Gen. Stat.* § 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 Paragraphs 5b and 5c of the Statement of Charges, respondent's registered nurse license number R53097, is placed on probation for a period of two (2) years.
2. If any of the following conditions of probation are not met, respondent's registered nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.
  - A. During the period of probation the Board shall pre-approve respondent's employment and/or change of employment within the nursing profession.
  - B. 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 any employer(s), within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.

- C. If employed as a nurse, respondent shall cause monthly employer reports to be submitted to the Board by her immediate supervisor during the entire probationary period.
- D. The employer reports cited in Paragraph C above shall include documentation of respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph I below.
- E. Should respondent's employment as a nurse be involuntarily terminated, respondent and/or her employer shall notify the Board, within seventy-two (72) hours, of such termination.
- F. If respondent pursues further training in any subject area that is regulated by the Department, respondent shall provide a copy of this Memorandum of Decision to the educational institution or, if not an institution, to respondent's instructor. Such institution or instructor shall notify the Department in writing as to receipt of a copy of this Memorandum of Decision within fifteen (15) days of receipt. Said notification shall be submitted directly to the Department at the address cited in Paragraph I below.
- G. The Board must be informed in writing prior to any change of employment
- H. The Board must be informed in writing prior to any change of address.
- I. All correspondence and reports are to be addressed to:

**Bonnie Pinkerton, RN, Nurse Consultant**  
**Department of Public Health**  
**Division of Health Systems Regulation**  
**Board of Examiners For Nursing**  
410 Capitol Avenue, MS #12HSR  
P. O. Box 340308  
Hartford CT 06134-0308

- 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, and the two (2) year probation of respondent's registered nurse license number R53097 shall commence, on April 15, 2003.

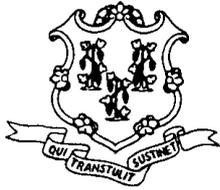
The Board of Examiners for Nursing hereby informs respondent, Marilyn Po, R.N., and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 2nd day of April 2003.

BOARD OF EXAMINERS FOR NURSING

By

A handwritten signature in cursive script, appearing to read "Nancy St. Laurent", is written over a horizontal line.



# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

April 15, 2005

Marilyn Po, RN  
20 Eden Street  
East Haven, CT 06512

Re: Memorandum of Decision  
Petition No. 2001-0802-010-049  
License No. R53097  
[REDACTED]

Dear Ms. Po:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective April 15, 2005.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your license related to the above-referenced Memorandum of Decision.

Please be certain to retain this letter as documented proof that you have completed your license probation.

Thank you for your cooperation during this process.

Very truly yours,

Bonnie Pinkerton, RN, Nurse Consultant  
Division of Health Systems Regulation

cc: J. Filippone  
J. Wojick



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