STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF HEALTHCARE SYSTEMS

In Re:Mary Sutton Hagan, R.N. Petition No. 2002-0910-010-075

MODIFICATION OF MEMORANDUM OF DECISION

WHEREAS, The Board of Examiners for Nursing (hereinafter "the Board") ordered a Memorandum of Decision on August 15, 2001, (a true and complete copy of which is attached hereto marked as Attachment "A"); and,

WHEREAS, respondent and the Department wish to modify the aforementioned Memorandum of Decision;

WHEREAS, respondent admits that:

1. Said Order specifically provided that respondent shall not obtain for personal use and/or use alcohol and, shall be responsible for immediately notifying the Board of any drug she is taking.
2. Respondent has used alcohol throughout her probation.
3. On or about August 25, 2002, respondent took the controlled substance Ambien. She failed to notify the Department of her prescription for Ambien until on or about September 10, 2002.
4. Respondent presented with suicidal ideation over her relapse and was admitted to the Institute of Living on August 26, 2002. She was discharged into the Day Treatment Program on August 28, 2002.

NOW THEREFORE, the following is added to paragraph 2 under "Order" in the Memorandum of Decision:

2. That for Paragraphs 1, 2, 3 and 4 of the Modification of Memorandum of Decision, respondent's registered nurse license number R56353 is placed on probation for a period of two (2) additional years. Thus, the total length of probation is six (6) years from September 1, 2001, the effective date of the Memorandum of Decision.

All other remaining terms and conditions of the Memorandum of Decision remain in effect. This Modification of Memorandum of Decision is effective upon the order and acceptance of the Board.

I, Mary Sutton Hagan, have read the foregoing Modification of Memorandum of Decision, and I agree to the terms and conditions therein. I further declare the execution of this document to be my free act and deed.

Mary Sutton Hagan

Mary Sutton Hagan

Subscribed and sworn to before me this 30th day of May 2003.

SCOTT D EATON

Notary Public or person authorized by law to administer an oath or affirmation

E-06/30/2005

The above Modification of Memorandum of Decision having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 11th day of June 2003, it is hereby accepted.

Stanley K. Peck, Director, Legal Office
Bureau of Healthcare Systems

Modification of Memorandum of Decision

The above ~~Consent Order~~ having been presented to the duly appointed agent of the Board of Examiners for Nursing on the 16 day of July 2003, it is hereby ordered and accepted.

Nancy Hafford

Board of Examiners for Nursing

S: milt/hagan/legal/mommod. 5/03

STATE OF CONNECTICUT

BOARD OF EXAMINERS FOR NURSING

Department of Public Health

vs.

Mary Sutton, R.N., Lic. No. R56353
Respondent

Petition No. 2001-0312-0~~18~~10-014

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 April 3, 2001. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Mary Sutton (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 respondent's continued nursing practice presented a clear and immediate danger to public health and safety. On April 18, 2001, 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 April 18, 2001, scheduling a hearing for May 2, 2001. Dept. Exh. 1.

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

The hearing took place on May 2, 2001, at the Wethersfield Town Hall, 505 Silas Deane Highway in Wethersfield, Connecticut.

Respondent was present during the hearing but was not represented by counsel. Transcript, May 2, 2001, p. 3.

Respondent submitted an oral Answer to the Statement of Charges. Transcript, May 2, 2001, pp. 7-10.

During the hearing the Department orally amended Paragraph 1 of the Statement of Charges by changing "Cheshire" to "West Simsbury." Transcript, May 2, 2001, p. 8.

Each member of the Board involved in this decision attests that 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 R56353 on January 29, 1999. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1-B

2. At all relevant times, respondent was employed as a registered nurse at McLean Health Center, Simsbury, Connecticut. Transcript, May 2, 2001 p. 8.

3. From approximately December 2000 through and including January 2001, while working as a registered nurse at McLean Health Center, respondent diverted for her own personal use the controlled substances hydromorphone, codeine and oxcycodone. Dept. Exh. 1; Transcript, May 2, 2001 p. 8.

4. Respondent experienced symptoms of depression, which she believes caused her to divert and abuse the controlled substances. Dept. Exh. 1; Transcript, May 2, 2001, p. 13.

5. From approximately December 2000 through and including January 2001, respondent abused and/or excessively used the controlled substances hydromorphone, codeine and oxcycodone as recently as January 2001. Dept. Exh. 1; Transcript, May 2, 2001, p. 9.

6. Respondent self-administered the controlled substances she diverted from McLean Health Center while on duty as a nurse and at home. Transcript, May 2, 2001, p. 27.

7. Since February 2001, respondent has been participating in Alcoholics Anonymous. Transcript, p. 17.

Conclusions of Law and Discussion

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

Mary Sutton 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 his 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 3 of the Statement of Charges alleges that from approximately December 2000 through and including January 2001, while working as a registered nurse at McLean Health Center , Simsbury, Connecticut, respondent diverted hydromorphone, tylenol with codeine and oxcycodone.

PARAGRAPH 4 of the Statement of Charges alleges that from approximately December 2000 through and including January 2001, respondent has abused or excessively used the controlled substances hydromorphone, tylenol with codeine and oxcycodone.

PARAGRAPH 5 of the Statement of Charges alleges that respondent's abuse of hydromorphone, tylenol with codeine and oxcycodone does, and/or may, affect her practice as a registered nurse.

Respondent admits these allegations. Transcript, May 2, 2001, p. 7-10..

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 . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals . . . (6) fraud or material deception in the course of professional services or activities . . . .

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 3 and 4 of the Statement of Charges is proven by a preponderance of the evidence presented.

With regard to Paragraph 5, the Board concludes respondent's abuse and excessive use of hydromorphone, tylenol with codeine and oxcycodone may affect her practice as a registered nurse. The Board further concludes that said conduct constitutes violations of *Conn. Gen. Stat.* §20-99(b) (2), (5), and (6). 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 the Summary Suspension of respondent's registered nurse license number R56353, ordered on April 18, 2001, is vacated on the effective date of this Memorandum of Decision.
2. That for Paragraphs 3, 4 and 5 of the Statement of Charges, respondent's registered nurse license number R56353, is placed on probation for a period of four (4) years.
3. 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 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. Respondent shall not administer, count or have access to controlled substances, or have responsibility for such activities in the course of nursing duties during the first year of working as a nurse during the probationary period.
   - D. 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.

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E. The employer reports cited in Paragraph D 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 Q below.

F. 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.

G. 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 Q below.

H. At her expense, respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist, approved by the Board and the Department, during the entire period of probation.

I. Respondent shall provide a copy of this Memorandum of Decision to her therapist. The Board shall be notified in writing by her therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.

J. Respondent shall cause monthly evaluation reports to be submitted to the Board by her therapist during the entire probationary period. Therapist reports are due commencing with the report due on the first business day of August 2001.

K. The therapist reports cited in Paragraph J above shall include documentation of dates of treatment, and an evaluation of respondent's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. Therapist reports shall be submitted directly to the Board at the address cited in Paragraph Q below.

L. At her expense, respondent shall be responsible for submitting to observed random chain of custody urine and/or blood screens for alcohol and drugs for the entire probationary period, at a testing facility approved by the Board, after consultation with the Department, as ordered by her therapist, and/or personal physician, and/or employer. Alcohol/drug screening may also be ordered by the Board of Examiners for Nursing to ensure compliance with this Order. Random alcohol/drug screens shall be

legally defensible in that specimen donor and chain of custody can be identified throughout the screening process. Respondent shall be responsible for immediately notifying the laboratory, her therapist and/or personal physician and the Board of Examiners for Nursing of any drug(s) she is taking.

(1) There must be at least one random alcohol/drug screen each week for the first, second, and fourth years of the probationary period. There must be at least two random alcohol/drug screens each month for the third year of the probationary period.

(2) Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

(3) Random alcohol/drug screens must include testing for the following substances:

Amphetamines	Methadone
Barbiturates	Methaqualone
Benzodiazepines	Opiates (Metabolites)
Cannabinoids (THC Metabolites)	Phencyclidine (PCP)
Cocaine	Propoxyphene
Meperidine (Demerol)	Ethanol (alcohol)

(4) Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department, at the address cited in Paragraph Q below, by respondent's therapist, personal physician or the testing laboratory.

M. Respondent shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for her, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications. Respondent shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.

N. Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine. For that reason, any food substance containing poppy seeds should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine, the ingestion of poppy seeds shall not constitute a defense to such positive screen.

O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.

P. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.

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Q. All correspondence and reports are to be addressed to:

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

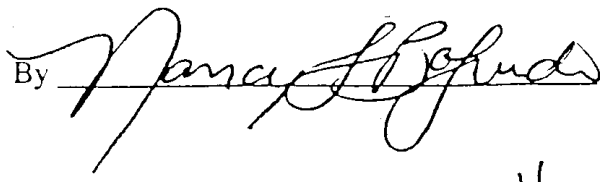
5. Any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, shall constitute a violation of probation, which will be cause for an immediate hearing on charges of violating this Order. Any finding that respondent has violated this Order will subject 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 of Examiners for Nursing shall not be a waiver or preclude the Board's right to take subsequent action. The Board of Examiners for Nursing 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 Licensure and Registration Section of the Division of Health Systems Regulation of the Department of Public Health or the Board of Examiners for Nursing).

6. This Memorandum of Decision becomes effective, and the four (4) year probation of respondent's registered nurse license shall commence, on September 1, 2001.

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

Dated at Hartford, Connecticut this 15th day of August 2001.

BOARD OF EXAMINERS FOR NURSING

By 

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