

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
HEALTHCARE SYSTEMS BRANCH

In Re: Kathy Gallagher, LPN

Petition No. 2008-0814-011-043

CONSENT ORDER

WHEREAS, Kathy Gallagher (hereinafter "respondent") of Manchester, Connecticut has been issued license number 011180 to practice as a practical nurse by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 378 of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. Between at least December 2007 and March 2008, respondent, who worked at the Family Birthing Unit at Manchester Hospital in Manchester, Connecticut:
 - a. withdrew more than twice as many Percocet tablets than any other comparable nurse on the same unit, and failed to accurately document withdrawals, administrations and/or wastes in patient records; and,
 - b. failed to accurately document withdrawals, administrations and/or wastes in patient records for non-controlled medications including Promethazine (Phenergan), Fluoxetine (Prozac) Cephalexin (Keflex), and Ondasteron (Zofran).
2. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-99(b)(2).

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest the above allegations at a hearing in front of the Board of Examiners for Nursing (hereinafter "the Board"). Respondent does not admit to having violated any statute or regulation, including but not limited to §20-99(b) of the General Statutes of Connecticut. Respondent further agrees that this Consent Order shall have the same effect as if ordered after a full hearing pursuant to §§19a-9, 19a-10, and 20-99(a) of the General Statutes of Connecticut.

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NOW THEREFORE, pursuant to §19a-17 and §20-99(a) of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives her right to a hearing on the merits of this matter.
2. Respondent shall comply with all federal and state statutes and regulations applicable to her profession.
3. Respondent's license number 011180 to practice as a nurse in the State of Connecticut is hereby placed on probation for one (1) year, subject to the following terms and conditions:
 - A. Respondent shall provide a copy of this Consent Order to all current and future employers within fifteen (15) days of its effective date or within fifteen (15) days of commencement of employment at a new facility. The Department shall be notified in writing by any employer(s) within fifteen (15) days as to the receipt of a copy of this Consent Order.
 - B. Respondent shall be responsible for the provision of written reports directly to the Department from her nursing supervisor (i.e., Director of Nursing) in any clinical setting in which she may be employed and/or her supervising registered nurse in any office based practice in which she may be employed. Such reports shall be submitted quarterly for the period of probation. Employer reports shall include documentation of respondent's ability to safely and competently practice as a nurse, and shall be issued to the Department at the address cited in paragraph 3G below.
 - C. Within the first six (6) months of the probationary period, respondent shall successfully complete courses, pre-approved by the Department, in medication administration and documentation standards. Within thirty (30) days of the completion of each course, respondent shall provide the Department with proof, to the Department's satisfaction, of the successful completion of such course.
 - D. Respondent shall not be employed as a nurse for a personnel provider service, assisted living services agency, homemaker - home health aide agency, or home health care agency, and shall not be self-employed as a nurse for the period of her probation.
 - E. Respondent shall notify the Board and the Department in writing of any change of employment within fifteen (15) days of such change. Respondent shall notify the Board and the Department

in writing of any change in her home or business address within fifteen (15) days of such change.

F. All reports required by the terms of this Consent Order shall be due according to a schedule to be established by the Department of Public Health.

G. All correspondence and reports shall be addressed to:

Bonnie Pinkerton
Department of Public Health
Practitioner Licensing and Investigations
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

4. Any violation of the terms of this Consent Order without prior written approval by the Board shall constitute grounds for the Department to seek revocation of respondent's nursing license following notice and an opportunity to be heard.
5. 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 action at a later time. The Board shall not be required to grant future extensions of time or grace periods.
6. This Consent Order is effective on the first day of the month immediately following the month in which this Consent Order is approved and accepted by the Board.
7. Legal notice of any action shall be deemed sufficient if sent to respondent's last known address of record reported to the Practitioner Licensing and Investigations Section of the Healthcare Systems Branch of the Department.
8. Respondent understands this Consent Order is a matter of public record.
9. The Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Board in which (1) her compliance with this same order is at issue, or (2) her compliance with §20-99(b) of the General Statutes of Connecticut, as amended, is at issue. Further, respondent understands that any discipline imposed by this Consent Order, except for a civil penalty, shall be reported to the National Practitioner Data Bank.

10. In the event respondent violates a term of this Consent Order, respondent agrees immediately to refrain from practicing as a licensed nurse, upon request by the Department, with notice to the Board, for a period not to exceed forty-five (45) days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation, and to submit to and complete a medical, psychiatric or psychological evaluation, if requested to do so by the Department; and, that the results of the evaluation shall be submitted directly to the Department. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45-day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that failure to cooperate with the Department's investigation shall be considered by the Board and shall be given due weight by the Board in determining whether respondent's conduct constitutes a clear and immediate danger as required pursuant to Connecticut General Statutes, sections 4-182(c) and 19a-17(c). The Department and respondent understand that the Board has complete and final discretion as to whether a summary suspension is ordered
11. In the event respondent is not employed as a nurse for periods of thirty (30) consecutive days or longer, respondent shall notify the Department in writing. Such periods of times shall not be counted in reducing the probationary period covered by this Consent Order and such terms shall be held in abeyance. During such time period, respondent shall not be responsible for complying with the terms of probation of this Consent Order. In the event respondent resumes the practice of nursing, respondent shall provide the Department with thirty (30) days prior written notice. Respondent shall not return to the practice of nursing without written pre-approval from the Department. Respondent understands that any return to the practice of nursing without pre-approval from the Department shall constitute a violation of this Consent Order and may subject the respondent to further disciplinary action.
12. If, during the period of probation, respondent practices nursing outside Connecticut, she shall provide written notice to the Department concerning such employment. During such time period, respondent shall not be responsible for complying with the terms of probation of this Consent Order, and such time period shall not be counted in reducing the probationary period covered by this Consent Order.
Respondent may comply with the terms of probation while practicing outside Connecticut if pre-

approved by the Department. In the event respondent intends to return to the practice of nursing in Connecticut, respondent shall provide the Department with thirty (30) days prior written notice and agrees to comply with all terms and conditions contained in paragraph 3 above.

13. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of respondent's license before the Board.
14. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Consent Order is not subject to appeal or review under the provisions of Chapters 54 and 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any other rights that respondent may have under the laws of the State of Connecticut or of the United States.
15. Respondent permits a representative of the Department to present this Consent Order and the factual basis for this Consent Order to the Board. The Department and respondent understand that the Board has complete and final discretion as to whether an executed Consent Order is approved or accepted.
16. This Consent Order is a revocable offer of settlement, which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
17. Respondent has had the opportunity to consult with an attorney prior to signing this document.
18. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau. The purpose of this Consent Order is to resolve the pending administrative license disciplinary petition only, and is not intended to affect any civil or criminal liability or defense.
19. This Consent Order embodies the entire agreement of the parties with respect to this case. All previous communications or agreements regarding the subject matter of this consent order, whether oral or written, between the parties are superseded unless expressly incorporated herein or made a part hereof.

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I, Kathy Gallagher, have read the above Consent Order, and I agree to the terms set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Kathy Gallagher
Kathy Gallagher

Subscribed and sworn to before me this 14th day of April, 2009.

TIFFANY C. DAVOL
NOTARY PUBLIC
MY COMMISSION EXPIRES AUG. 31, 2013

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

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 23rd day of April, 2009, it is hereby accepted.

Jennifer Filippone
Jennifer Filippone, Section Chief,
Practitioner Licensing and Investigations
Healthcare Systems Branch

The above Consent Order having been presented to the duly appointed agent of the Connecticut Board of Examiners for Nursing on the 20th day of May, 2009, it is hereby ordered and accepted.

BY: Patricia C. Buffard
Connecticut Board of Examiners for Nursing

RAS/Gallagher/legal/BOEN CO/31109



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

June 15, 2010

Kathy Gallagher, LPN
28 Edward Street
Manchester, CT 06040

Re: Consent Order
Petition No. 2008-0814-011-043
License No. 011180

Dear Ms. Gallagher:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective June 1, 2010.

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

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

Thank you for your cooperation during this process, and good luck to you in the future.

Very truly yours,

Bonnie Pinkerton, RN, Nurse Consultant
Practitioner Licensing and Investigations Section

cc: J. Filippone
J. Wojick



Phone: (860) 509-7400
Telephone Device for the Deaf (860) 509-7191
410 Capitol Avenue - MS # 12HSR
P.O. Box 340308 Hartford, CT 06134
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