

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health

Petition No. 991108-011-036

vs.

Jacquelyn Hodgson, LPN, Lic. No. 012730
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 and Motion for Summary Suspension dated November 24, 1999. (Dept. Exh. 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Jacquelyn Hodgson (hereinafter "respondent") which would subject respondent's Licensed Practical 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 December 15, 1999, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that respondent's Licensed Practical Nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. (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, first class mail, and were served on respondent by deputy sheriff on December 20, 1999.

The Board issued a Notice of Hearing dated December 15, 1999, scheduling a hearing for January 5, 2000. Dept. Exh. 1. Respondent requested three continuances of the hearing that was originally scheduled for January 5, 2000. All of respondent's requests were granted.

The hearing took place on November 15, 2000, 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. 1).

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 Licensed Practical Nurse license number 012730 on June 19, 1972. Respondent was the holder of said license at all times referenced in the Statement of Charges. (Dept. Exh. 2-B; Resp. Exh. 1).
2. During the period of approximately July through September of 1999, while she was working at Bridgeport Health Center, respondent diverted several dozen tablets of Percocet, Darvocet, and Tylox for her own use. In addition, respondent falsified or omitted entries on various documents to conceal the diversion. (Dept. Exh. 2-A; Resp. Exh. 1; Tr., p. 17).
3. Respondent's use of Percocet, Darvocet, and/or Tylox, does, and/or may, affect her practice as a Licensed Practical Nurse. (Dept. Exh. 2; Resp. Exh. 1; Tr., p. 18.)

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered: Jacquelyn Hodgson held a valid Licensed Practical 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 §4-177(a) and (b), and §4-182(c) of the General Statutes of Connecticut. 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 §4-182(c) of the General Statutes of Connecticut.

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

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 . . .

PARAGRAPH 2 of the Statement of Charges alleges that during the period of approximately July through September of 1999, while she was working at Bridgeport Health Center, respondent allegedly diverted several dozen tablets of Percocet, Darvocet, and Tylox for her own use. In addition, respondent falsified or omitted entries on various documents to conceal the diversion.

Respondent admits this allegation. Resp. Exh. 1; Tr., p. 17.

PARAGRAPH 3 of the Statement of Charges alleges that respondent's use of Percocet, Darvocet, and Tylox, does, and/or may, affect her practice as a Licensed Practical Nurse.

Respondent admits this allegation only to the extent that it applies to the time period of approximately July through September 1999. Resp. Exh. 1; Tr., p. 18.

PARAGRAPH 4 of the Statement of Charges alleges that the above described facts constitute grounds for disciplinary action pursuant to §20-99(b) of the General Statutes of Connecticut, including but not limited to:

- a. §20-99(b)(2) and/or;
- b. §20-99(b)(5).

Respondent admits this allegation. Resp. Exh. 1. c

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 2, and 3 of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes violations of §20-99(b) (2) and (5) of the General Statutes of Connecticut, as alleged in paragraph 4 of the Statement of Charges. Therefore, respondent's Licensed Practical 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:

1. For Paragraphs 2 and 3 of the Statement of Charges, respondent's Licensed Practical Nurse license number 012730 shall remain suspended until this Memorandum of Decision becomes effective pursuant to Paragraph 5 below. Respondent's license is placed on probation for a period of four (4) years, beginning on the effective date of this decision as described in Paragraph 5 below.

2. If any of the following conditions of probation are not met, respondent's Licensed Practical 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.
 - 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.
- 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 weekly random alcohol/drug screens during the first, second, and fourth years of the probationary period. There must also be two random alcohol/drug screens per month during 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.
- Q. 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

4. 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).

5. This Memorandum of Decision becomes effective on the first day of the month after this Memorandum of Decision is signed by the Board of Examiners for Nursing.

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

Dated at Wethersfield, Connecticut this 21st day of March 2001.

BOARD OF EXAMINERS FOR NURSING

By

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

CERTIFICATION

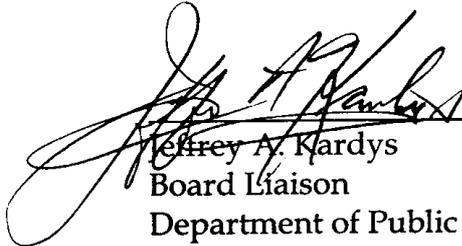
I hereby certify that, pursuant to Connecticut General Statutes §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 22nd day of MARCH 2001, by certified mail, return receipt requested to:

Jacquelyn Hodgson
c/o Michelle Holmes, Esq.
51 Elm Street, Suite 307
New Haven, CT 06510

Certified Mail 70993220000974681553

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
Board Liaison
Department of Public Health
Public Health Hearing Office

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH



December 15, 1997

Jacquelyn Hodgson
PO Box 27313, Allingtown
West Haven, CT 06516

RE: Licensed Practical Nurse License No. 012730

Dear Ms. Hodgson:

Please be advised that you have successfully fulfilled the terms of probation of your licensed practical nurse license. The probationary status of your license has been removed with an effective date of December 15, 1997.

Should you have any questions concerning this matter, please contact me at 860-509-7623.

Very truly yours,

Jeffrey A. Kardys
Special Investigator
Health Systems Regulation - Monitoring & Compliance

JAK:

PROBEND.DOC

cc: Debra Tomassone, HSS, Licensure & Registration
Bonnie Pinkerton, Nurse Consultant, Health Systems Regulation
Robert A. Horwitz, Ph.D.
Izola Hogan, RN
Beatrice Coulombe, RN



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