

Judith Boughton
91 Stevens Street
East Haven, CT 06512

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

State of Connecticut
Department of Public Health

vs.

Judith Boughton, LPN
Licensed Practical Nurse License No. 012855
Respondent.

CASE PETITION NO. 940427-11-020

MEMORANDUM OF DECISION

PROCEDURAL BACKGROUND

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Public Health¹ (hereinafter the "Department") with a Statement of Charges dated October 20, 1994 (Department Exhibit 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Judith Boughton (hereinafter the "Respondent") which would subject the Respondent's Licensed Practical Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

The Board issued a Notice of Hearing dated December 7, 1994, scheduling a hearing for March 22, 1995. The hearing was continued and took place on September 18, 1996, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. (Department Exhibits 1-E, 2)

During the hearing on September 18, 1996 the Department presented a First Amended Statement of Charges dated April 19, 1996. (Department Exhibit 1-D)

¹ Prior to July 1, 1995, the Department of Public Health was known as the Department of Public Health and Addiction Services. (Connecticut Public Act No. 95-257)

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.

FACTS

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Judith Boughton, hereinafter referred to as the Respondent, was issued Licensed Practical Nurse license Number 012855 on December 29, 1972. The Respondent was the holder of said license at all times referenced in the Statement of Charges. (Department Exhibit 1-A)
2. The Respondent was given due notice of the hearing and charges against her. Department Exhibits 1-E1 and 2 indicate that the Statement of Charges, Notice of Hearing, and Notice of Continuance of Formal Hearing were delivered to the Respondent and the Respondent's attorney.
3. The Respondent was present during the hearing but was not represented by counsel. (Hearing Transcript, September 18, 1996, p. 3)
4. The Respondent submitted a written answer to the First Amended Statement of Charges. (Respondent's Exhibit A)
5. On numerous occasions beginning on or about January 1989 and continuing until February 1994, the Respondent obtained controlled substances, inclusive of Darvon, Acetaminophen with Codeine, and Lorazepam, from Stop & Shop Pharmacy, East Haven, Connecticut and from CVS Pharmacy and Colonial Pharmacy, Branford, Connecticut. The Respondent obtained the controlled substances by telephoning fraudulent prescriptions to said pharmacies. The respondent telephoned the pharmacies indicating that the prescriptions were for her or her mother-in-law and were authorized

by physicians. The physicians' whose names the Respondent used did not authorize the prescriptions. (Department Exhibits 1-F, 1-G, 3) (Hearing Transcript, September 18, 1996, p. 13)

6. The Respondent abused and/or excessively used the controlled substances she fraudulently obtained. In addition the Respondent has abused alcohol beginning on or about 1992. (Answer: Respondent's Exhibit A) (Hearing Transcript, September 18, 1996, p. 19)
7. Beginning on or about March 1994, the Respondent has engaged in treatment and counseling for chemical dependency and has been participating in Alcoholics Anonymous and the support group Nurses for Nurses. (Respondent's Exhibit B)

DISCUSSION AND CONCLUSIONS

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

Judith Boughton 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 sufficiently provided legal notice as mandated by the General Statutes of Connecticut §4-177, §4-182 and §19a-17. The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19-2a-1 through §19-2a-30 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided the Respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by the General Statutes of Connecticut §4-182(c).

PARAGRAPH 3 of the Statement of Charges alleges that between January 1989 and February 1994, the Respondent obtained by fraud and/or deceit, approximately one hundred seventy (170) prescriptions for controlled substances, including but not limited to, Tylenol with Codeine #3 and Lorazepam.

PARAGRAPH 4 of the Statement of Charges alleges that the Respondent has abused or utilized to excess the controlled substances she obtained by fraud and/or deceit.

The Respondent admits these charges. (Answer: Respondent's Exhibit A)

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...."

Based on its findings, the Board concludes that the Respondent's conduct as alleged in Paragraph 3 and 4 of the Statement of Charges is proven. The Board concludes that said conduct fails to conform to the accepted standards of the nursing profession and constitutes a violation of the General Statutes of Connecticut §20-99(b) (5). Therefore, the Respondent 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. That for Paragraphs 3 and 4 of the Statement of Charges, the Respondent's licensed practical nurse license, No. 012855, is placed on probation for a period of four (4) years.
2. If any of the following conditions of probation are not met, the 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 the Respondent's employment or change of employment within the nursing profession.

- B. The 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. The 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, the Respondent shall cause monthly employer reports to be submitted to the Board by her immediate supervisor during the entire probationary period. Employer reports shall commence on the first business day of the month following employment.
- E. The employer reports cited in Paragraph D above shall include documentation of the Respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph P below.
- F. Should the Respondent's employment as a nurse be voluntarily or involuntarily terminated, the Respondent and/or her employer shall notify the Board, within seventy-two (72) hours, of such termination.
- G. At her expense, the Respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist during the entire period of probation.
- H. The 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.

- I. The 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 April 1997.

- J. The therapist reports cited in Paragraph I above shall include documentation of dates of treatment, and an evaluation of the 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 P below.

- K. At her expense the Respondent shall be responsible for submitting to random urine and/or blood screens for alcohol and drugs for the entire probationary period, as ordered by her therapist, and/or personal physician, and/or the Board of Examiners for Nursing. Random alcohol/drug screens shall be legally defensible in that chain of custody procedures must be followed throughout the screening process. The 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.

There must be at least one (1) such random alcohol/drug screen monthly during the entire probationary period, with the following exception:

- 1. For the one year period immediately following the resumption of controlled substance administration activities, there must be at least two (2) random alcohol/drug screens monthly.

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.

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

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

Reports of random alcohol and drug screens shall be submitted directly to the Board, at the address cited in Paragraph P below, by the Respondent's therapist, personal physician or the testing laboratory. Reports are due commencing with the report due on the first business day of April 1997.

- L. The 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. The Respondent shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.
- M. The 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.
- N. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.
- O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.

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

**DEPARTMENT OF PUBLIC HEALTH
BOARD OF EXAMINERS FOR NURSING
LEGAL OFFICE - MONITORING & COMPLIANCE**

410 Capitol Avenue, MS #12LEG

P. O. Box 340308

Hartford CT 06134-0308

3. Any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, will constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order. Any finding that the Respondent has violated this Order will subject the 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 the 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).

4. This Memorandum of Decision becomes effective, and the four (4) year probation of the Respondent's licensed practical nurse license shall commence, on March 15, 1997.

The Board of Examiners for Nursing hereby informs the Respondent, Judith Boughton, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 5th day of March, 1997.

BOARD OF EXAMINERS FOR NURSING

By

