

**STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH**

Patricia S. Hall, LPN  
Lic. No. 015107

Petition No. 2008-1120-011-060

**MEMORANDUM OF DECISION**

*Procedural Background*

On January 5, 2009, the Department of Public Health ("the Department") filed a Motion for Summary Suspension ("the Motion") and a Statement of Charges ("the Charges") with the Board of Examiners for Nursing ("the Board"). Dept. Exhs. 1 and 2. The Charges allege violations of certain provisions of Chapter 378 of the General Statutes ("the Statutes") by Patricia S. Hall ("respondent") that would subject respondent's licensed practical nurse ("LPN") license to disciplinary action pursuant to §§ 19a-17 and 20-99(b) of the Statutes.

Based on the allegations in the Charges and the affidavits and reports accompanying the Motion, the Board found that respondent's continued nursing practice presented a clear and immediate danger to public health and safety and ordered, on January 21, 2009, pursuant to §§ 4-182(c) and 19a-17(c) of the Statutes, that respondent's LPN license be summarily suspended pending a final determination by the Board of the allegations contained in the Charges ("the Order"). Dept. Exh. 1.

On January 22, 2009, the Order, the Charges, and a Notice of Hearing were delivered to respondent by certified mail. Dept. Exh. 2.

The hearing was held on February 4 and 18, 2009.

At the hearing, respondent appeared *pro se*; attorney Diane Wilan represented the Department. Tr., 2/4/09, pp. 2-3.

During the hearing, the Department orally amended the Charges to correct an error in respondent's license number. Tr., 2/4/09, pp. 11-13.

Respondent orally answered the Charges at the hearing. Tr., 2/4/09, pp. 13-18.

Following the close of the record on February 18, 2009, the Board conducted fact-finding.

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.

### *Allegations*

#### *Count One*

1. In paragraphs one and five of the Charges, the Department alleges that respondent, Patricia S. Hall, of West Haven is, and has been at all times referenced in the Charges, the holder of Connecticut licensed practical nurse license number 015107.
2. In paragraphs two and five of the Charges, the Department alleges that at all relevant times, respondent was employed as a licensed practical nurse at the Jewish Home for Aged in New Haven, Connecticut.
3. In paragraph three of the Charges, the Department alleges that on or about October 30, 2008, while working as licensed practical nurse at the Jewish Home for Aged, respondent failed to assess or attend to a patient's pain from a fracture of the femur; failed to notify a nursing supervisor or physician of the patient's condition; and/or failed to document the patient's condition.
4. In paragraph four of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to § 20-99(b), including but not limited to § 20-99(b)(2) of the Statutes.

#### *Count Two*

5. In paragraph six of the Charges, the Department alleges that on November 27, 2007, the Board ordered a Consent Order in Petition Number 2007-0227-011-009 ("the Consent Order") that placed respondent's licensed practical nurse license on probation for a period of four years. Such disciplinary action was based upon respondent's admitted diversion of Percocet and falsification of controlled substance records.
6. In paragraph seven of the Charges, the Department alleges that the Consent Order specifically provided that respondent shall be responsible for the provision of written reports directly to the Board and the Department from her nursing supervisor, documenting respondent's ability to safely and competently practice nursing.
7. In paragraph eight of the Charges, the Department alleges that on or about October 31, 2008, respondent was terminated from her employment at the Jewish Home for the Aged, due to: respondent counting narcotics and carrying narcotics keys in violation of the Consent Order; respondent's failure to attend mandatory in-services; and, respondent's difficulty in passing in-service tests, need for constant supervision, failure to assess or attend to patient's pain from a fracture of the femur, failure to notify a nursing supervisor or physician, and failure to document a patient's condition.
8. In paragraph nine of the Charges, the Department alleges that in a letter dated November 17, 2008, the Director of Nursing Services at the Jewish Home for the Aged stated that respondent "practices unsafe nursing and is a risk to residents".
9. In paragraph ten of the Charges, the Department alleges that the Consent Order also specifically requires that respondent submit to weekly random urine screens in accordance with the Department's Requirements for Drug and Alcohol Screens.

10. In paragraph eleven of the Charges, the Department alleges that from approximately December 1, 2007 until February 22, 2008, respondent failed to submit to any urine screens.
11. In paragraph twelve of the Charges, the Department alleges that on or about May 2, 2008, respondent failed to submit to a urine screen when called.
12. In paragraph thirteen of the Charges, the Department alleges that the respondent's conduct as described above constitutes violations of the terms of probation as set forth in the Consent Order, and subjects respondent's license to revocation or other disciplinary action authorized by §§ 19a-17 and 20-99(b) of the Statutes.

***Findings of Fact***

1. At all times referenced in the Charges, respondent held Connecticut licensed practical nurse license number 015107. Tr. 2/4/09, pp. 11-12.
2. At all relevant times, respondent was employed as a licensed practical nurse at the Jewish Home for Aged in New Haven, Connecticut. Tr. 2/4/09, p. 13.
3. On November 21, 2007, the Board ordered the Consent Order that placed respondent's licensed practical nurse license on probation for a period of four years. Such disciplinary action was based upon respondent's admitted diversion and abuse of Percocet and falsification of controlled substance records. Tr. 2/4/09, pp. 14 and 19.
4. Among other things, the Consent Order requires that respondent be responsible for the provision of written reports directly to the Board and the Department from her nursing supervisor, documenting respondent's ability to safely and competently practice nursing. Tr. 2/4/09, p. 15.
5. The Consent Order also requires that respondent submit to weekly random urine screens in accordance with the Department's Requirements for Drug and Alcohol Screens. Tr. 2/4/09, pp. 16 and 19.
6. Pursuant to the Consent Order, the four-year probation of respondent's licensed practical nurse license commenced on December 1, 2007.
7. Respondent failed to submit to any urine screening, required during the period of probation of her licensed practical nurse license, from approximately December 1, 2007 until February 22, 2008. Dept. Exh. 3-tab A; Resp. Exh. B; Tr. 2/18/09, p. 22.
8. On or about May 2, 2008, respondent failed to submit to a random urine screen when called to do so. Dept. Exh. 3-tab A., Tr. 2/18/09 p. 25.
9. On or about October 30, 2008, while working as a licensed practical nurse at the Jewish Home for the Aged, respondent failed to assess or attend to a patient's pain from a fracture of the femur; failed to notify a nursing supervisor or physician of the patient's condition; and, failed to document the patient's condition. Tr. 2/18/09, pp. 12 – 15.

10. On or about October 31, 2008 respondent was terminated from her employment at the Jewish Home for the Aged, because she counted narcotics and carried the narcotics keys in violation of the Consent Order; failed to attend mandatory in-services; had difficulty passing in-service tests; needed constant supervision; failed to assess or attend to a patient's pain from a fracture of the femur; failed to notify a nursing supervisor or physician; and, failed to document a patient's condition. Dept. Exh. 3, tabs A-B; Tr. 2/18/09, pp. 7-19.
11. In a letter dated November 17, 2008, the Director of Nursing Services at the Jewish Home for the Aged stated that respondent "practices unsafe nursing and is a risk to residents." Tr. 2/18/09, pp. 15-16.

### *Discussion and Conclusions of Law*

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Goldstar Medical Services, Inc., et al. v. Department of Social Services*, 288 Conn. 790 (2008); *Swiller v. Comm'r of Public Health*, CV-950705601, Superior Court, J.D. Hartford/New Britain at Hartford, October 10, 1995; *Steadman v. SEC*, 450 U.S. 91, 101 S. Ct. 999, *reh'g den.*, 451 U.S. 933 (1981).

Section 20-99 of the Statutes provides, in pertinent part, that:

- (a) The Board. . . 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 carrying out usual nursing functions . . . .

Respondent admits to the allegations in paragraphs 1, 2, 5, 6, 7 and 10 of the Charges. Respondent denies paragraphs 3, 8, 9, 11 and 12. The Department sustained its burden of proof as to all of the allegations in the Charges.

Respondent admits at all relevant times she was licensed as a licensed practice nurse in Connecticut and was employed as such at the Jewish Home for the Aged in New Haven, as alleged in paragraphs 1, 2, and 5 of the Charges.

Donna Perguini, who was respondent's supervisor, provided credible and reliable testimony that, on October 30, 2008, respondent failed to assess or attend to a patient's pain from a fracture of the femur; failed to notify a nursing supervisor or physician of the patient's condition and/or failed to document the patient's condition, as alleged in paragraph 3 of the Charges. Respondent's testimony regarding these allegations was not credible.

Respondent admits, and the evidence establishes that, the Consent Order was based on respondent's admitted diversion and abuse of Percocet and falsification of controlled substances, and that it placed respondent's license on probation for four years commencing on December 1, 2007, as alleged in paragraph 6 of the Charges. Among other things, the Consent Order required that respondent be responsible for providing written reports directly to the Board and the Department from her nursing supervisor, documenting respondent's ability to safely and competently practice nursing, and that respondent submit to weekly random urine screens in accordance with the Department's Requirements for Drug and Alcohol Screens, as alleged in paragraphs 6, 7, and 10 of the Charges.

While respondent denies that she engaged in any wrongful conduct resulting in her termination, the allegation contained in paragraph 8 is not that she actually engaged in the misconduct (except with respect to the patient with a fractured femur as alleged in paragraph 3 of the Charges), but that her termination was based on the facility's conclusion that she was counting narcotics and carrying the narcotic keys in violation of her Consent Order; failed to attend the mandatory in-service; was unable to pass mandatory in-service tests; required excessive supervision; failed to assess or attend to a patient's pain from a fracture of the femur; failed to notify a nursing supervisor or physician; and, failed to document a patient's condition. The Department sustained its burden of proof regarding this allegation.

The Department also sustained its burden of proof concerning the allegation in paragraph 9 of the Charges that the Department received a letter dated November 17, 2008, from Ms. Perguini wherein Ms. Perguini stated that respondent practices unsafe nursing and is a risk to residents. Dept. Exh. 3-tab B.

With regard to the allegations in paragraph 11 of the Charges, the Department sustained its burden of proof that respondent did not submit to urine screening from December 1, 2007 until February 22, 2008. Resp. Exh. B.

The Department also sustained its burden of proof concerning the allegation in paragraph 12 of the Charges. Bonnie Pinkerton provided credible and reliable testimony that respondent did not report for a urine screen on or about May 2, 2008, Tr. 2/18/09 pp. 25-26.

The Board concludes that respondent's conduct as alleged in the Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to §§20-99(b)(2) and 19a-17 of the Statutes.

***Order***

Based on the record in this case, the above findings of fact and conclusions of Law, the Board hereby orders, with respect to the LPN license number 015107 held by Patricia S. Hall as follows:

Respondent's license number 015107 to practice as a licensed practical nurse in the State of Connecticut is hereby revoked effective the date this Memorandum of Decision is signed by the Board.

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

Dated at Hartford, Connecticut this 19th day of August 2009.

BOARD OF EXAMINERS FOR NURSING

By Patricia C. Buffal

**CERTIFICATION**

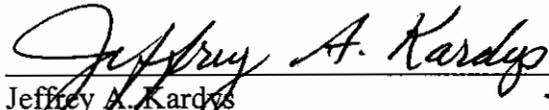
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 20<sup>th</sup> day of AUGUST 2009, by certified mail, return receipt requested, and first class mail to:

Patricia Hall  
68 Ellsworth Street  
West Haven, CT 06516

Certified Mail RRR #91-7108-2133-3932-0551-0386

and by Inter-Departmental Mail to:

Matthew Antonetti, Principal Attorney  
Legal Office  
Department of Public Health  
410 Capitol Avenue, MS #12LEG  
Hartford, CT 06134-0308

  
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Jeffrey A. Kardys *JW*  
Administrative Hearings Specialist/Board Liaison  
Department of Public Health  
Public Health Hearing Office