

STATE OF CONNECTICUT  
BOARD OF EXAMINERS FOR NURSING

Department of Health Services v.

Robin Fogarty, LPN, 017080

326 Park Avenue

Naugatuck, CT 06770

CASE PETITION NO. 900301-11-007

MEMORANDUM OF DECISION

INTRODUCTION

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Health Services (hereinafter the "Department") with a Statement of Charges dated March 11, 1991. (State Exhibit 1) The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Robin Fogarty (hereinafter the "Respondent").

The Board issued a Notice of Hearing dated March 12, 1991. The hearing took place on May 22, 1991 in Room 112, National Guard Armory, Maxim Road, Hartford, Connecticut.

During the hearing on May 22, 1991 the Department verbally amended the Statement of Charges, adding a Second Count. (Hearing Transcript May 22, 1991 p.p. 3-5)

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 and their specialized professional knowledge in evaluating the evidence.

#### FACTS

Based on the testimony given and the exhibits offered into evidence, the Board made the following findings of fact.

1. Robin Fogarty, hereinafter the Respondent, was issued practical nurse license number 017080 on December 1, 1977. (Department Exhibit 2)
2. Pursuant to the General Statutes of Connecticut, Section 4-182(c), the Respondent was provided full opportunity prior to the institution of agency action to show compliance with all the terms for the retention of her license. (Department Exhibit 3)
3. The Respondent was aware of the time and location of the hearing. Department Exhibit 1 indicates that notice of the location and time of this hearing were delivered by certified mail to the Respondent.
4. The Respondent was present at the hearing on May 22, 1991, but was not represented by counsel.

5. On February 1, 1989 the Respondent's license was placed on probation for two (2) years as ordered by the Board of Examiners for Nursing in a Memorandum of Decision dated November 29, 1988. The terms of probation required that the Respondent submit to the Board, monthly random urine and/or blood screens for drugs and alcohol during the first year of probation and bi-monthly screens during the second year of probation, and that said screens were to be negative for drugs and alcohol. (Hearing Transcript May 22, 1991, p.p. 11-12, 15)
6. On or about February 28, 1989 the Respondent's license was summarily suspended by the Board of Examiners for Nursing. A hearing was held on the Summary Suspension on March 8, 1989.
7. On February 1, 1990 the Respondent's license was suspended for two (2) years along with two(2) years of concurrent probation followed by two (2) additional years of probation, as ordered by the Board of Examiners for Nursing in a Memorandum of Decision dated November 29, 1989. (Department Exhibit 2) (Hearing Transcript May 22, 1991 p. 12) The terms of probation required that the Respondent submit to the Board, bi-monthly random urine and/or blood screens for drugs and alcohol, for the duration of probation, and that said screens were to be negative for drugs and alcohol. (Hearing Transcript May 22, 1991 p. 12, 15-16)
8. The Respondent, while on probation, violated the terms of the Memorandum of Decision dated November 29, 1988 by not submitting or causing to be submitted, monthly random urine and/or blood screen reports for drugs and alcohol, which were due on the

first day of May 1989, July 1989, September 1989, December 1989, January 1990 and February 1990. (Department Exhibit 7)

9. The Respondent, while on probation, violated the terms of the Memoranda of Decision dated November 29, 1988 and November 29, 1989, by not submitting or causing to be submitted random urine and/or blood screen reports, from October 1989 through April 1991, which included screens for alcohol. (Hearing Transcription May 22, 1991, p. 12) (Department Exhibit 6)
10. The Respondent's urine drug screen dated March 28, 1990 was positive for benzodiazepines. (Department Exhibits 5, 6) (Hearing Transcript May 22, 1991, p. 13, 14-15, 26-27)
11. On or about March 1990 the Respondent, while on probation, without the direction of a physician, medicated herself with a tranquilizer from a non-current prescription. (Hearing Transcript May 22, 1991, p. 8, 43)

#### DISCUSSION AND CONCLUSIONS

The FIRST COUNT PARAGRAPH 3a of the Statement of Charges, alleges that during the period of probation, the Respondent "violated the terms of the Memorandum of Decision dated November 29, 1989 by not submitting or causing to be submitted bi-monthly random negative drug and alcohol screen reports on the first day of the month..."

The Respondent neither admits or denies this charge.

The General Statutes of Connecticut, Section 20-99(b), prohibits "...conduct which fails to conform to the accepted standards of the nursing profession...."

Based on Findings of Fact of Numbers 9-10 the Board concludes that the Respondent did not comply with the terms of probation, by her conduct of failing to submit or causing to be submitted alcohol and drug screen reports which were negative and which included screening for alcohol, and therefore, violated the General Statutes of Connecticut Section 20-99(b).

The FIRST COUNT PARAGRAPH 3b of the Statement of Charges, alleges that during the period of probation, the Respondent "abused or utilized to excess benzodiazepine."

The Respondent neither admits or denies this charge.

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

Based on Findings of Fact of Numbers 10 and 11 the Board concludes the Respondent abused benzodiazepine by her conduct of self-medicating with a tranquilizer from a non-current prescription without the direction of a physician, and therefore, violated the General Statutes of Connecticut Section 20-99(b)(5).

The SECOND COUNT PARAGRAPH 3a, of the Statement of Charges as amended, alleges that during the period of probation, the Respondent "violated the terms of the Memorandum of Decision dated November 29, 1988 by not submitting or causing to be submitted monthly random negative drug and alcohol screen reports on the first day of the month..."

The Respondent neither admits or denies this charge.

The General Statutes of Connecticut, Section 20-99(b), prohibits "...conduct which fails to conform to the accepted standards of the nursing profession..."

Based on Findings of Fact of Numbers 8-10 the Board concludes that the Respondent did not comply with the terms of probation, by her conduct of failing to submit or causing to be submitted, a) alcohol and drug screen reports, b) alcohol and drug screen reports which included screening for alcohol and c) alcohol and drug screen reports which were negative, and therefore, violated the General Statutes of Connecticut Section 20-99(b).

The SECOND COUNT PARAGRAPH 3b of the Statement of Charges as amended, alleges that during the period of probation, the Respondent violated the terms of the Memorandum of Decision dated November 29, 1988 when she "abused or utilized to excess benzodiazepine."

The Respondent neither admits or denies this charge.

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

Based on Findings of Fact of Numbers 10 and 11 the Board concludes the Respondent abused benzodiazepine by her conduct of self-medicating with a tranquilizer from a non-current prescription without the direction of a physician, and therefore, violated the General Statutes of Connecticut Section 20-99(b)(5).

#### ORDER

Pursuant to its authority under the General Statutes of Connecticut Sections 19a-17 and 20-99, it is the unanimous decision of those members of the Board of Examiners who were present and voting that:

1. For the First Count the license of the Respondent be revoked;
2. For the Second Count the license of the Respondent be revoked;
3. The date of revocation shall commence on December 15, 1991.

The Respondent, Robin Fogarty, is hereby directed to surrender her Practical Nurse License No. 017080 to the Board of Examiners for Nursing, 150 Washington Street, Hartford, Connecticut 06106, on or before December 15, 1991.

The Board of Examiners for Nursing hereby informs the Respondent and the Department of Health Services of the State of Connecticut of this decision.

Dated at *Hartford*, Connecticut, this *22nd* day of *October*,  
1991.

BOARD OF EXAMINERS FOR NURSING

BY *Sister Jane M. Murphy L.N.*

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