

11-017122



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

May 10, 2007

Valery Covello, LPN
239 Knickerbocker Avenue
Apt. # 2R
Stamford, CT 06907

Re: Memorandum of Decision
Petition No. 2003-0213-011-008
License No. 017122

Dear Ms. Covello:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective December 29, 2006.

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

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

Very truly yours,

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

cc: J. Filippone
J. Wojick



Phone: (860) 509-7400

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

Department of Public Health

Petition No. 2003-0213-011-008

vs.

Valery Covello, LPN, Lic. No. 017122
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "Board") was presented by the Department of Public Health (hereinafter "Department") with a Statement of Charges dated June 9, 2004. Dept. Exh. 2. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Valery Covello (hereinafter "respondent") which would subject respondent's licensed practical nurse license to disciplinary action pursuant to Conn. Gen. Stat. §§ 19a-17 and 20-99(b).

The Board issued a Notice of Hearing dated June 16, 2004 scheduling a hearing for August 18, 2004. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. The Notice of Hearing and Statement of Charges were delivered to respondent by certified mail. Dept. Exh. 1.

At respondent's request, the hearing scheduled for August 18, 2004 was continued. (Transcript August 18, 2004, p. 6.) The hearing was rescheduled and took place on February 16, 2005 and April 20, 2005, at the Hartford Hospital Newington Campus, 181 Patricia M. Genova Drive, Newington, Connecticut.

Respondent was present during the hearing and was represented by counsel. Transcript, February 16, 2005, p. 2; Transcript, April 20, 2005, p. 2.

Respondent submitted a written Answer to the Statement of Charges. Dept. Exh. 2.

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. Valery Covello is, and has been at all times referenced in the Statement of Charges, the holder of Connecticut licensed practical nurse license number 017122. Dept. Exh. 2, tab G.
2. At all relevant times, respondent was employed as a licensed practical nurse by Maxim Healthcare Services, Inc. of Hamden, Connecticut (hereinafter "Maxim"). Dept. Exh 2; Dept. Exh. 3, tab B3; Transcript February 16, 2005, p. 18.
3. On or about June 11, 2002 to June 12, 2002, while working as a licensed practical nurse for Maxim, respondent was assigned to provide homecare for an infant in Wilton, Connecticut. The infant, an eight-month-old girl had a diagnosis of perinatal chronic respiratory disease and reflux esophagitis. The infant had a tracheotomy and was on a ventilator with BiPAP at night.
4. On or about June 12, 2002, at approximately 6:00 a.m., respondent was asleep and/or was unable to respond to an alarm that activated as a result of the infant's oxygen apparatus becoming disconnected. Respondent was alerted to the alarm by the infant's brother. Dept. Exh. 3, tabs B, C, F; Transcript, February 16, 2005, pp. 27, 35-38, 46-47.
5. On or about June 12, 2002, respondent did not properly and/or accurately document the infant's oxygen saturation or the time of the infant's tube feeding. Dept. Exh. 3, tab B; Transcript, February 16, 2005, pp. 24-25.
6. On July 1, 2002, respondent was diagnosed with Type II Diabetes Mellitus. She had a prior history of gestational diabetes. Respondent is of the opinion that her blood sugar may have been elevated on the morning of June 12, 2002, thus resulting in a decrease in her response level. Dept. Exh. 3, tabs B, E, F; Resp. Exh. A.
7. Respondent is currently under the care of a physician for the treatment of her diabetes and respondent has completed a diabetes self-management education program. Resp. Exhs. B, C, D.
8. On June 1, 2005, respondent completed a continuing education course in documentation: Resp. Exh. F.
9. Since January 5, 2005, respondent has been employed as a licensed practical nurse with Caring, Inc., in Stamford, Connecticut. Respondent's employer states that she has provided excellent nursing services.

Conclusions of Law and Discussion

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

Valery Covello 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 Conn. Gen. Stat. §§ 4-177(a) and (b), and 4-182(c). The hearing was held in accordance with Conn. Gen. Stat. Chapters 54 and 368a 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 Conn. Gen. Stat. § 4-182(c).

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

PARAGRAPH 3 of the Statement of Charges alleges that on or about June 12, 2002, while respondent was assigned to provide homecare for an infant in Wilton, Connecticut, respondent:

- a. fell asleep and/or was not alert and/or was unable to respond to an alarm that was ringing as a result of the infant's oxygen apparatus becoming disconnected.
- b. failed to administer feedings via NG tube, every three hours as ordered; and/or
- c. failed to completely, properly and/or accurately document medical records.

Respondent denies these allegations in her Answer but, during her testimony, admitted to the allegations in paragraphs 3a and 3b. Dept. Exh. 2; Transcript, February 16, 2005, pp. 35-38, 40, 46-47, 49-50

PARAGRAPH 4 of the Statement of Charges alleges that the above facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, § 20-99(b), including but not limited to § 20-99(b)(2).

Respondent denies this allegation. Dept. Exh. 2.

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 carrying out usual nursing functions . . .

Based on its findings, the Board concludes that respondent's conduct, as alleged in Paragraphs 3a and 3c, of the Statement of Charges is proven by a preponderance of the evidence presented. There was insufficient evidence to prove the allegations in Paragraph 3b of the

Statement of Charges. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to Conn. Gen. Stat. §§ 20-99(b)(2) and 19a-17.

At the time of the hearing, it was clear to the Board that respondent has a history of diabetes that may not have been properly controlled on June 12, 2002. Respondent has since been under the care of a physician and has taken steps to control her diabetes. In addition, respondent has taken continuing education to address nursing documentation issues.

Order

Pursuant to its authority under Conn. Gen. Stat. §§ 19a-17 and 20-99, the Board of Examiners for Nursing hereby orders the following:

1. That for Paragraphs 3a and 3c of the Statement of Charges, respondent's licensed practical nurse license number 017122, is placed on probation for a period of one (1) year.
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. 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.
 - B. 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.
 - C. The employer reports cited in Paragraph B 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 G below.
 - D. Should respondent's employment as a nurse be involuntarily terminated or suspended, respondent and his employer shall notify the Board within seventy-two (72) hours of such termination or suspension.
 - E. 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 G below.

- F. The Board must be informed in writing prior to any change of address.
- G. 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

- 3. Any deviation from the terms of probation, without prior written approval by the Board, 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 shall not be a waiver or preclude the Board's right to take subsequent action. The Board 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 Office of Practitioner Licensing and Certification of the Department of Public Health or the Board).
- 4. This Memorandum of Decision becomes effective, and the one (1) year probation of licensed practical nurse license 017122 shall commence, on December 29, 2005.

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

Dated at Hartford, Connecticut this 21st day of December 2005.

BOARD OF EXAMINERS FOR NURSING

By 