

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

Department of Public Health

Petition No. 2003-0116-011-003

vs.

Debra A. Trombetta, LPN, Lic. No. 017359
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "Department") with a Statement of Charges and Motion for Summary Suspension dated March 25, 2003. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Debra A. Trombetta (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).

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 April 2, 2003, 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.

The Board issued a Notice of Hearing April 2, 2003, scheduling a hearing for April 16, 2003. Dept. Exh. 1.

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

The hearing took place on January 21, 2004 in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was present during the hearing but was not represented by counsel. Transcript, pp. 2-3.

Respondent submitted an oral Answer to the Statement of Charges. Transcript, pp. 9-11.

At the conclusion of the hearing, the Board vacated the Summary Suspension ordered on April 12, 2003, pending the issuance of a final decision in this matter.

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 017359 on May 22, 1978. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1-B; Transcript, pp. 9-10.
2. Pursuant to a Memorandum of Decision (hereinafter "Memorandum") dated September 4, 2002, the Board ordered that respondent's licensed practical nurse license be suspended for six months followed by probation for a period of four years. Such disciplinary action was based upon the Board's findings that respondent violated the terms of a probation set forth in a June 6, 2001 Consent Order, in that respondent submitted to a random urine screen the results of which was positive. Dept. Exh. 1-B.
3. The Memorandum specifically provided that respondent shall not obtain or use controlled substances, legend drugs or alcohol in any form unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications and that respondent shall submit to random alcohol/drug screens that shall be negative for the presence of alcohol and drugs. The Memorandum further provides that any deviation from the terms of probation, without Board approval, shall constitute a violation of probation. Dept. Exh. 1-B.
4. From October 27, 2002 to November 9, 2002, respondent missed two required urine screens. Respondent's therapist reported that respondent stated the urine screens were missed because of medical reasons. Respondent failed to provide evidence of such medical reasons to the Department. Dept. Exhs. 1-G, 1-F; Transcript, p. 11.

Conclusions of Law and Discussion

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

Debra A. Trombetta 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.

The Statement of Charges alleges that between October 27, 2002 through November 9, 2002, respondent missed two required random drug/alcohol urine screens without prior Board approval. It is further alleged that said conduct constitutes a violation of probation of her licensed practical nurse license.

Respondent admits she missed two required drug/alcohol screens. Transcript, p. 11

Based on its findings and respondent's admissions, the Board concludes that respondent's conduct as alleged in the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct violates the terms of probation as set forth in the Memorandum of Decision dated September 4, 2002. Therefore, respondent's licensed practical nurse license is subject to disciplinary action pursuant to *Conn. Gen. Stat.* § 19a-17.

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. Respondent's licensed practical nurse license, number 017539, is placed on probation until March 15, 2008.
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 and/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; petitioner shall cause employer reports to be submitted to the Board, by her immediate supervisor during the entire probationary period. Employer reports shall be submitted commencing with the report due on the first business day of month following employment as a nurse. Employer reports shall be submitted monthly during the first and second years of probation, and quarterly during the third and fourth years of probation.
- 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 P 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 P 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. Petitioner shall cause evaluation reports to be submitted to the Board by her therapist during the entire probationary period. Therapist reports shall be submitted monthly during the first and second years of probation, and quarterly during the third and fourth years of probation.
- 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 P below.

- L. (1) At her expense, respondent shall be responsible for submitting to observed random chain of custody urine 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 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.
- (2) Respondent shall be responsible for notifying the laboratory, her therapist, the Board, the Department and her prescribing practitioner of any drug(s) she is taking. For any prescription of a controlled substance(s) for more than two consecutive weeks, the respondent shall cause the provider prescribing the controlled substance(s) to submit quarterly reports to the Board and the Department until such time as the controlled substance(s) are no longer prescribed. The reports shall include the following:
1. A list of controlled substances prescribed by this provider for the respondent;
 2. A list of controlled substance(s) prescribed by other providers;
 3. An evaluation of the respondent's need for the controlled substance;
 4. An assessment of the respondent's continued need for the controlled substance(s).
- (3) There must be at least one (1) random alcohol/drug screen weekly during the first and second years of the probationary period and at least two (2) such random alcohol/drug screens monthly during the entire third and fourth years of the probationary period.
- (4) 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.

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

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

(6) Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department, at the address cited in Paragraph P 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 and that the ingestion of mouthwash may produce a positive result indicating the presence of alcohol. For that reason, any food substance containing poppy seeds, and mouthwash should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine and/or alcohol, the ingestion of poppy seeds and/or mouthwash shall not constitute a defense to such positive screen.
- O. The Board must be informed in writing prior to any change of address.
- P. 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, 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).

5. This Memorandum of Decision becomes effective, and probation of licensed practical nurse license 017539 shall commence, on the date this decision is signed by the Board. This Order supercedes the required terms of the Memorandum of Decision dated September 4, 2002, such that respondent need only comply with the terms of this Order.

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

Dated at Hartford, Connecticut this 21st day of July 2004.

BOARD OF EXAMINERS FOR NURSING

By 