

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

Department of Public Health

Petition No. 2004-0831-011-018

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 "the Department") with a Statement of Charges and a Motion for Summary Suspension dated September 17, 2004. 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 October 6, 2004, 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 dated October 6, 2004, scheduling a hearing for October 20, 2004. Dept. Exh. 1. Respondent requested a continuance; the Board granted the request, scheduling a hearing for March 16, 2005. 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 March 16, 2005, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was present during the hearing and was not represented by counsel. Tr. 3/16/05 p. 3.

Respondent submitted an oral Answer to the Statement of Charges. Tr. pp. 7-9.

At the conclusion of the hearing, the Board vacated the Summary Suspension ordered on October 6, 2004, 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-Index 1b.
2. Pursuant to a Memorandum of Decision (hereinafter "Memorandum") dated July 21, 2004, the Board ordered that respondent's licensed practical nurse license be placed on probation until March 15, 2008. Said Memorandum provides, among other things, that respondent shall submit to random urine screens throughout the probationary period, and that all such screens shall be negative for the presence of alcohol and drugs. Dept. Exh. 1-Index 1b.
3. On August 4, 2004, respondent submitted to a urine screen, which tested positive for alcohol at a level of 57.2 mg/dl. The cut-off level for a positive alcohol result is 50 mg/dl. Dept. Exh. 1- tab 1a.
4. On or about September 2003, respondent underwent gastric bypass surgery. Respondent's treating physician reports that respondent has had post-operative complications inclusive of ketosis. He states that part of the process of fat break down results in the production of alcohol. Resp. Exh. A; Tr., p. 16.
5. With the exception of the urine screen dated August 4, 2004, all other urine screen required pursuant to the Memorandum have been negative for alcohol and drugs. Dept. Exh. 1- tab 1a.
6. Respondent's denial of alcohol consumption is credible.

Conclusions of Law and Discussion

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

Debra 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 Summary Suspension Order, 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 4 of the Statement of Charges alleges that on August 4, 2004, respondent tested positive for alcohol.

Respondent denies this charge. Tr. p. 9.

Based on its findings, the Board concludes that although respondent's urine screen of August 4, 2004 was positive for alcohol, the evidence presented does not substantiate that respondent used or abused alcohol in violation of the terms of her probation.

The Board concludes that the evidence suggests the positive urine specimen in question is a result of respondent's post-operative complications.

Order

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

That the Statement of Charges dated September 17, 2004 is dismissed and the Memorandum of Decision in Petition Number 2002-0131-001-003 shall continue in full force and effect.

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

Dated at Hartford, Connecticut this 20th day of July, 2005.

BOARD OF EXAMINERS FOR NURSING

By 