

CERTIFIED RETURN RECEIPT REQUESTED NO. P049595 424

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Health Services v.

Kathleen Stoneburner, LPN, License No. 019540

110-B Victoria Road

Hartford, CT 06114

CASE PETITION NO. 890106-11-001

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 November 9, 1990. (State's Exhibit 1) The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Kathleen Stoneburner, LPN (hereinafter the "Respondent").

The Board issued a Notice of Hearing dated February 13, 1991. (State Exhibit 1) The hearing, originally scheduled for March 20, 1991 was continued on several occasions. (Hearing Transcript January 23, 1992, p. 4) The hearing was rescheduled and heard on January 23, 1992 in Room 112, National Guard Armory, Maxim Road, Hartford, Connecticut.

During the hearing on January 23, 1992 the Department verbally amended the Statement of Charges by withdrawing Subsection 4c of the First Count. (Hearing Transcript January 23, 1992, p. 4)

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. Kathleen Stoneburner, hereinafter referred to as Respondent, is and was at all times referenced in the Statement of Charges the holder of Practical Nurse License Number 019540. (Hearing Transcript January 23, 1992, pp. 4-5)
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. (State's Exhibit 3) (Hearing Transcript January 23, 1992, pp. 19-20)
3. The Respondent was aware of the time and location of the hearing. (Hearing Transcript January 23, 1992, p. 20)
4. The Respondent was present at the hearing and was represented by counsel.

5. During 1988 and subsequent thereto, the Respondent was employed as a licensed practical nurse for Med Source, Hartford, Connecticut and/or the Veterans Hospital and Home, Rocky Hill, Connecticut. (Answer: Hearing Transcript January 23, 1992, pp. 4-5)
6. During 1988 and subsequent thereto, while working as a licensed practice nurse, the Respondent abused or utilized to excess alcohol and/or Cocaine. (Answer: Hearing Transcript January 23, 1992, pp. 4-5)
7. The Respondent began abusing alcohol on or about 1985 which subsequently led to the abuse of the controlled substance Cocaine. (Hearing Transcript January 23, 1992, pp. 12-13)
8. On or about July 3, 1991 the Respondent was terminated from Buckley Convalescent Home, Hartford, Connecticut due to abuse of alcohol. The Respondent was rehired at Buckley Convalescent Home on or about November 12, 1991. (Hearing Transcript January 23, 1992, pp. 15-16)
9. On or about July 17, 1991 the Respondent entered treatment for alcohol abuse at HMA Behavioral Health, Inc., Glastonbury, Connecticut. (Respondent Exhibit's A and B)
10. During 1988 and subsequent thereto, while working as a licensed practical nurse, the Respondent failed to properly report for duty or to properly report her absence from her scheduled duty. (Answer: Hearing Transcript January 23, 1992, pp. 4-5)

DISCUSSION AND CONCLUSIONS

The FIRST COUNT SUBSECTION 3a of the Statement of Charges alleges that during 1988 and subsequent thereto, while working as a licensed practical nurse, the Respondent "abused or utilized to excess alcohol and/or cocaine...."

The Respondent admitted to this charge. (Hearing Transcript January 23, 1992, p. 4)

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

Based on the Respondent's admission (FACTS 6-8) the Board concludes that the Respondent's conduct, as specified in the First Count Subsection 3a, violated the General Statutes of Connecticut Section 20-99(b)(5).

The FIRST COUNT SUBSECTION 3b of the Statement of Charges alleges that during 1988 and subsequent thereto, while working as a licensed practical nurse, the Respondent "failed to properly report for duty or to properly report her absence for her scheduled duty."

The Respondent admitted to this charge. (Hearing Transcript January 23, 1992, p.4)

The General Statutes of Connecticut Section 20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...."

Based on the Respondent's admission (FACT 11) the Board concludes that the Respondent's conduct, as specified in the First Count Subsection 3b, violated the General Statutes of Connecticut Section 20-99(b)(2).

ORDER

Pursuant to its authority under the General Statutes of Connecticut Sections 19a-17 and 20-99, the Board hereby orders:

1. That the Practical Nurse License Number 019540 of the Respondent be placed on probation for a minimum of three (3) years probation as follows:
 - A. as to the First Count Subsection 3a, minimum three (3) years probation;
 - B. as to the First Count Subsection 3b, minimum three (3) years probation;
 - C. the minimum three (3) year probation period referenced in A and B above, are to run concurrently for an effective minimum probationary period of three (3) years.

2. If any of the following conditions of probation are not met, the Respondent's license may be immediately revoked.
- A. She shall provide a copy of this Memorandum of Decision to any and all employers. The Board will be notified in writing by her employer(s) within thirty (30) days of the effective date, as to receipt of a copy of this Memorandum of Decision.
 - B. Should the Respondent change employment at any time during the probationary period, she shall provide a copy of this Memorandum of Decision to her employer and said employer shall notify the Board in writing, within thirty (30) days, as to receipt of a copy of this Memorandum of Decision.
 - C. She shall not accept employment as a nurse for a personnel provider service, Visiting Nurse Association or home health care agency for the period of her probation.
 - D. She shall be responsible for the provision of bi-monthly employer reports from her nursing supervisor (i.e. Director of Nursing) during the entire period of probation.
Bi-monthly employer reports are due on the first business day of January, March, May, July, September and November.
Bi-monthly reports shall commence with the report due July 1, 1992.

- E. Said reports cited in D above, shall include documentation of her ability to safely and competently practice nursing. Said reports shall be issued to the Board at the address listed in paragraph N below.

- F. At her own expense, she shall engage in counselling with a licensed therapist for the entire period of probation.

- G. She shall provide a copy of this Memorandum of Decision to her therapist. The Board will be notified in writing by her therapist within thirty (30) days of the effective date, as to receipt of a copy of this Memorandum of Decision.

- H. She shall be responsible for bi-monthly reports from her therapist for the entire period of probation. Bi-monthly reports are due by the first business day of January, March, May, July, September and November. Bi-monthly reports shall commence with the report due July 1, 1992.

- I. She shall be responsible for submitting to random urine and/or blood screens for alcohol and drugs for the entire probationary period, at the discretion of her therapist and/or personal physician. Said screens shall be legally defensible in that the specimen donor and chain of custody must be identified throughout the screening. She shall be responsible for notifying the laboratory, her therapist and/or personal physician and the Board of Examiners for Nursing of any drug(s) she is taking. There must be at

least one such alcohol and drug screen bi-monthly for the entire period of probation. Said screens shall be negative for alcohol and drugs. All positive results shall be confirmed by a second independent testing method. Reports of bi-monthly random alcohol and drug screens are due by the first business day of January, March, May, July, September and November. Bi-monthly reports shall commence with the report due July 1, 1992.

- J. Said reports in H and I above, shall include documentation of dates of treatment; an evaluation of her progress and alcohol and drug free status; and copies of all laboratory reports. Said reports shall be issued to the Board at the address cited in paragraph N below.
- K. She 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.
- L. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.
- M. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- N. Any correspondence and reports are to be addressed to:

OFFICE OF THE BOARD OF EXAMINERS FOR NURSING
Department of Health Services
150 Washington Street
Hartford CT 06106

3. Any deviation from the terms of probation without prior written approval by the Board of Examiners for Nursing will constitute a violation of probation and will subject the Respondent to sanctions under the General Statutes of Connecticut, Section 19a-17(a) and (c) including but not limited to the revocation of her license. Any extension of time or grace period for reporting granted by the Connecticut Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take action at a later time. The Connecticut Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to her address of record (most current address reported to the Licensure and Renewal Section of the Division of Medical Quality Assurance of the Department of Health Services or the Connecticut Board of Examiners for Nursing).

4. This Memorandum of Decision becomes effective and the period of probation shall commence on June 15, 1992.

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

Dated at Hartford, Connecticut, this 23 day of April, 1992.

BOARD OF EXAMINERS FOR NURSING

Janice A. Thibodeau