

Jillana Giamette
276 Peck Street
New Haven, CT 06513

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

State of Connecticut
Department of Public Health

vs.

Jillana Giamette, LPN
Licensed Practical Nurse License No. 020114
Respondent.

CASE PETITION NO. 941214-11-048

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 dated February 13, 1997 (Department Exhibit 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Jillana Giamette (hereinafter the "Respondent") which would subject the Respondent's Licensed Practical Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

The Board issued a Notice of Hearing dated February 19, 1997, scheduling a hearing for May 21, 1997 (Department Exhibit 1).

The Respondent was provided notice of the hearing and charges against her. Department Exhibit 1 indicates that the Notice of Hearing and Statement of Charges were delivered by certified mail to the Respondent.

Pursuant to the Respondent's request the hearing was continued (Board's Exhibit 1). The hearing was rescheduled and began on June 18, 1997, in Conference Room C, 470 Capitol Avenue, Hartford,

Connecticut. The hearing concluded on July 16, 1997 in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

The Respondent was present on both hearing dates and was represented by counsel. (Hearing Transcript, June 18, 1997, p. 3) (Hearing Transcript, July 16, 1997, p. 2)

The Respondent submitted a written answer to the Statement of Charges. (Respondent's Exhibit A)

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.

FACTS

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Jillana Giamette, hereinafter referred to as the Respondent, was issued Licensed Practical Nurse License Number 020114 on November 22, 1982. (Department Exhibit 1)
2. The Respondent has a history of abusing or excessively using alcohol and drugs beginning on or before 1980. Medical records from the Southeastern Council On Alcoholism & Drug Dependence, Inc. indicate the Respondent's abuse of alcohol and pain pills began on or about 1978. Said records further indicate the Respondent has abused the controlled substances Marijuana and had freebased Cocaine on a daily basis. (Department Exhibit 1) (Answer: Respondent's Exhibits A) (Respondent's Exhibit C) (Hearing Transcript, June 18, 1997, pp. 30-33, 40-41)
3. The Respondent has undergone treatment for alcohol and drug abuse in or about 1985 or 1986, 1988, 1989 and 1993. (Department Exhibit 1) (Respondent's Exhibit C)

4. On or about October 1985 the Respondent was arrested for possession of Marijuana. The Respondent was convicted of said offense on or about January 1986. (Department Exhibit 1)
(Answer: Respondent's Exhibit A)

5. On or about February 1993 the Respondent was arrested for possession of Marijuana. The Respondent was convicted of said offense on or about July 1993. (Department Exhibit 1)
(Answer: Respondent's Exhibit A)

6. The Respondent has not engaged in substance abuse treatment since on or about October 1993.
(Hearing Transcript, June 18, 1997, pp. 37-38, 41-42)

DISCUSSION AND CONCLUSIONS

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

Jillana Giamette 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 sufficiently provided legal notice as mandated by the General Statutes of Connecticut §4-177, §4-182 and §19a-17. The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19-2a-1 through §19-2a-30 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided the Respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by the General Statutes of Connecticut §4-182(c).

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

The Statement of Charges dated February 13, 1997 alleges:

- ◇ During the time period of 1975 through 1986, the Respondent abused and/or excessively used alcohol, pain medication, and/or Marijuana.
- ◇ In October of 1985, the Respondent was arrested for possession of Marijuana and subsequently convicted of said offense in January 1986.
- ◇ On or about 1988, the Respondent began freebasing cocaine on a daily basis and resumed the abuse or excessive use of alcohol.
- ◇ In February 1993, the Respondent was arrested for possession of Marijuana and subsequently convicted of said offense in July 1993.

The Respondent admits these charges to the extent that the Respondent's initial substance abuse began in 1980 and did not include pain medication, and that the Respondent's freebasing of cocaine was not on a daily basis. (Answer: Respondent's Exhibit A)

The General Statutes of Connecticut §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 its review of the evidence presented, the Respondent's testimony and the answer to the Statement of Charges, the Board finds that the Respondent has a history of substance abuse which encompasses the periods of time in which the Respondent was the holder of a licensed practical nurse license in the State of Connecticut. The Board further finds that the Respondent has abused or excessively used the substances as alleged in the Statement of Charges.

Based on its findings and the Respondent's admissions, the Board concludes that the Respondent's conduct as alleged in the Statement of Charges is proven and that said conduct constitutes a violation of the General Statutes of Connecticut §20-99(b)(5). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

In determining appropriate sanctions in this matter the Board may consider, in addition to the charges upon which there is a finding of guilt, any evidence presented during the hearing which is relevant to the

Respondent's ability to practice nursing in accordance with the accepted standards of the nursing profession. The finds that the Respondent has engaged in treatment for substance abuse, however, at least three of the episodes of treatment have not been successful, resulting in the Respondent's relapse.

ORDER

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. The Respondent's licensed practical nurse license, No. 020114, is placed on probation for a period of three (3) years.
2. If any of the following conditions of probation are not met, the Respondent's registered 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 the Respondent's employment or change of employment within the nursing profession.
 - B. The 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. If employed as a nurse, the Respondent shall cause monthly employer reports to be submitted to the Board by her immediate supervisor during the entire probationary period. Employer reports shall commence with the report due on the first business day of December 1997.

- D. The employer reports cited in Paragraph C above shall include documentation of the Respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph M below.
- E. Should the Respondent's employment as a nurse be voluntarily or involuntarily terminated, the Respondent and/or her employer shall notify the Board, within seventy-two (72) hours, of such termination.
- F. At her expense, the Respondent shall undergo a psychiatric evaluation to assess the Respondent's ability to safely and competently practice nursing. Said evaluation shall also assess the issue of the Respondent's substance abuse and the need for treatment and/or counseling.
1. The psychiatric evaluation shall be conducted by psychiatrist licensed in the State of Connecticut and approved by the Board, and shall be concluded within sixty (60) days of the effective date of this decision. A written report of the evaluation shall be submitted directly to the Board by the evaluator within fifteen (15) days of the conclusion of the evaluation.
 2. If the evaluation concludes that the Respondent is unable to practice nursing with reasonable skill and safety, that fact shall constitute a violation of this Order.
- G. In the event the psychiatric evaluation cited in Paragraph F determines that the Respondent requires treatment, the Respondent shall comply with any and all treatment recommendations.
1. At her expense, the Respondent shall engage in such treatment with a licensed or certified therapist for the entire period of probation.
 2. The Respondent shall cause monthly evaluation reports to be submitted to the Board by her therapist. Reports shall be submitted directly to the Board, on the first business day of each month, at the address cited in Paragraph M below.
 3. Therapist evaluation reports shall include documentation of dates of treatment, and an evaluation of the Respondent's progress, including alcohol and drug free status, and ability to safely and competently practice nursing.

H. At her expense, the Respondent shall be responsible for submitting to random urine and/or blood screens for alcohol and drugs for the entire probationary period, as ordered by her therapist, and/or personal physician, and/or employer, and/or the Board of Examiners for Nursing. Random alcohol/drug screens shall be legally defensible in that chain of custody procedures must be followed throughout the screening process. The Respondent shall be responsible for immediately 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 (1) such random alcohol/drug screen weekly during the first year of the probationary period; at least two (2) such random alcohol/drug screens monthly during the second year of the probationary period; and at least one (1) such random alcohol/drug screen monthly during the final year of the probationary period.

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.

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

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

Reports of random alcohol and drug screens shall be submitted directly to the Board, at the address cited in Paragraph M below, by the Respondent's therapist, personal physician or the testing laboratory. Reports of said random alcohol/drug screens are due on the first business day of the month commencing with the reports due in December 1997.

- I. The 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. The Respondent shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.
- J. The Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine. For that reason, any food substance containing poppy seeds should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine, the ingestion of poppy seeds shall not constitute a defense to such positive screen.
- K. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.
- L. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- M. All correspondence and reports are to be addressed to:

**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 of Examiners for Nursing, will constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order. Any finding that the Respondent has violated this Order will subject the 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 of Examiners for Nursing

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 the Respondent's address of record (most current address reported to the Licensure and Registration Section, Division of Health Systems Regulation of the Department of Public Health or the Board of Examiners for Nursing).

4. This Memorandum of Decision becomes effective, and the three (3) year probation of the Respondent's licensed practical nurse license shall commence, on November 15, 1997.

The Board of Examiners for Nursing hereby informs the Respondent, Jillana Giamette, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 5th day of November 1997.

BOARD OF EXAMINERS FOR NURSING

By 