

Rose Danko
479 Greenwood Street
Bridgeport, CT 06606

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

State of Connecticut
Department of Public Health

vs.

Rose Danko, LPN
Licensed Practical Nurse License No. 021211
Respondent.

CASE PETITION NO. 950905-11-025

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 Motion for Summary Suspension dated September 26, 1995 (Department Exhibit 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Rose Danko (hereinafter the "Respondent") which would subject the Respondent's Licensed Practical Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of the Respondent presented a clear and immediate danger to public health and safety. On September 27, 1995, the Board ordered pursuant to its authority under §19a-17(c) of the General Statutes of Connecticut, that the Licensed Practical Nurse license of the Respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges (Department Exhibit 1).

The Board issued a Notice of Hearing dated September 27, 1995 scheduling a hearing for October 17, 1995. The hearing was continued and took place on May 15, 1996, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. (Department Exhibits 1 and 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 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. Rose Danko, hereinafter referred to as the Respondent, was issued Licensed Practical Nurse License Number 021211 on June 12, 1985. The Respondent was the holder of said license at all times referenced in the Statement of Charges. (Department Exhibit 1-C)
2. The Respondent was given due notice of the hearing and charges against her. Department Exhibit 1 indicates that the Summary Suspension Order, Statement of Charges, and Notice of Hearing were served at the Respondent's address of record by Deputy Sheriff.
3. The Respondent was present during the hearing but was not represented by counsel. (Hearing Transcript, May 15, 1996 p. 2)
4. During the hearing the Respondent orally answered the Statement of Charges. (Hearing Transcript, May 15, 1996 pp. 6-8)
5. The Respondent was employed as a licensed practical nurse at Elm City Health Care, New Haven, Connecticut. (Department Exhibit 1-A)

6. From on or about April 1995 to June 1995, while working as a licensed practical nurse at Elm City Health Care, the Respondent on numerous occasions signed out doses of Percocet, Tylenol with Codeine #3, Darvocet, and Darvon on controlled substance proof of use sheets indicating that said doses had been administered to patients, however, corresponding documentation that said doses were administered to patients did not appear in medication administration records or "prn" nurses notes. (Department Exhibit 1-A)
7. From on or about April 1995 to June 1995, while working as a licensed practical nurse at Elm City Health Care the Respondent diverted for her own personal use the controlled substances Percocet, Darvocet, Darvon, and Tylenol with Codeine. The Respondent documented on controlled substance proof of use records that the controlled substances she diverted for her own use, had been administered to patients. (Department Exhibit 1-A) (Hearing Transcript, May 15, 1996, p. 7)
8. Between in or about April and August 1995 the Respondent abused or excessively used the controlled substances Percocet, Darvocet, Darvon, and Tylenol with Codeine. (Hearing Transcript, May 15, 1996, p.8)
11. During July 1995, the Respondent underwent in-patient chemical dependency treatment at the Elmcrest Rehabilitation Center, Portland, Connecticut. The Respondent is currently engaged in individual therapy for chemical dependency and has been participating in Alcoholics Anonymous and the support group Nurses for Nurses. (Department Exhibit 1-A6, 1-C) (Respondent's Exhibit A)

DISCUSSION AND CONCLUSIONS

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

Rose Danko held a valid Licensed Practical Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Summary Suspension Order, 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).

PARAGRAPH 3 of the Statement of Charges alleges that while working as a licensed practical nurse at Elm City Health Care, New Haven, Connecticut, the Respondent:

- a. diverted Percocet, Darvocet, Darvon, and tylenol with codeine;
- b. failed to completely, properly and/or accurately document medical or hospital records; and/or,
- c. falsified one or more Controlled Substance Receipt Records.”

PARAGRAPH 4 of the Statement of Charges alleges that between in or about April and August 1995, the Respondent abused or excessively used controlled substances, including but not limited to, Percocet, Darvocet, Darvon, and Tylenol with Codeine.

The Respondent admits these charges. (Answer: Hearing Transcript, May 15, 1996, pp. 7-8)

The General Statutes of Connecticut §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 performing usual nursing functions...(5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...(6) fraud or material deception in the course of professional services or activities....”

Based on its findings and the Respondent’s admissions, the Board concludes that the Respondent’s conduct as alleged in Paragraphs 3 and 4 of the Statement of Charges is proven and that said conduct constitutes violations of the General Statutes of Connecticut §20-99(b)(2)(5) and (6). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

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. That the Summary Suspension of the Respondent's licensed practical nurse license, No. 021211, ordered on September 27, 1995, is vacated on the effective date of this Memorandum of Decision.
2. That for Paragraphs 3 and 4 of the Statement of Charges, the Respondent's licensed practical nurse license, No. 021211 is placed on probation for a period of three (3) years.
3. If any of the following conditions of probation are not met, the Respondent's licensed practical nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.
 - A. 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. Said employer shall notify the Board in writing, within thirty (30) days of commencement of employment, as to receipt of a copy of this Memorandum of Decision.
 - B. Should the Respondent change employment 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 of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
 - C. The 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 six (6) months of working as a nurse during the probationary period.

- D. The Respondent shall not accept employment as a nurse for a personnel provider service, Visiting Nurse Association or any home health care agency and shall not be self-employed as a nurse during the period of her probation.
- E. 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 day of the month following employment as a nurse.
- F. The employer reports cited in Paragraph E above shall include documentation of the Respondent's ability to safely and competently practice nursing. Employer reports shall be issued to the Board at the address cited in Paragraph Q below.
- G. Should the Respondent's employment as a nurse be voluntarily or involuntarily terminated, the Respondent's employer shall notify the Board, within seventy-two (72) hours, of such termination.
- H. At her own expense, the Respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist during the entire period of probation.
- I. The 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. The Respondent shall cause monthly evaluation reports to be submitted to the Board by her therapist during the entire probationary period. Therapist reports are due commencing with the report due September 1, 1996.
- K. The therapist reports cited in Paragraph J above 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. Therapist reports shall be issued to the Board at the address cited in Paragraph Q below.

- L. At her own 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 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 monthly during the entire probationary period, with the following exception:

1. For the six month period immediately following the resumption of medication administration activities there must be at least two (2) random alcohol/drug screens monthly.

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

Reports of random alcohol and drug screens shall be submitted directly to the Board, at the address cited in Paragraph Q below, by the Respondent's therapist or personal physician or the testing laboratory. Reports of said random alcohol/drug screens are due on the first day of the month commencing on September 1, 1996.

- M. 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, and the Respondent shall not abuse and/or excessively use alcohol and/or drugs.
- N. 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.
- O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.
- P. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- Q. All correspondence and reports are to be addressed to:

BOARD OF EXAMINERS FOR NURSING
DEPARTMENT OF PUBLIC HEALTH
410 Capitol Avenue, MS #12NUR
P. O. Box 340308
Hartford CT 06134-0308

- 4. 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 and 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 action at a later time. The 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 the Respondent's address of record (most current address reported to the Licensure and Renewal Section of the Division of Medical Quality Assurance of the Department of Public Health or the Board of Examiners for Nursing).

5. This Memorandum of Decision becomes effective, and the three (3) year probation of the Respondent's licensed practical nurse license shall commence, on August 1, 1996.

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

Dated at Hartford, Connecticut this 24th day of July, 1996.

BOARD OF EXAMINERS FOR NURSING

By 