



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

PUBLIC HEALTH HEARING OFFICE

July 22, 2010

Kathleen Stearns
459 Mansfield City Road
Storrs, CT 06268

Certified Mail RRR #91-7108-2133-3932-0551-7668
and First Class Mail

Matthew Antonetti, Principal Attorney **Via Email**
Department of Public Health
410 Capitol Avenue, MS #12LEG
PO Box 340308
Hartford, CT 06134-0308

RE: Kathleen Stearns, LPN - Petition No. 2008-0115-011-006

Dear Ms. Stearns and Attorney Antonetti:

Enclosed please find a copy of the Memorandum of Decision issued by the **Board of Examiners for Nursing** in the above-referenced matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Kardys".

Jeffrey A. Kardys
Administrative Hearings specialist/Board Liaison
Public Health Hearing Office

c: Michael J. Purcaro, Chief of Administration
Wendy Furniss, Branch Chief, Healthcare Systems
Jennifer Filippone, Section Chief, Practitioner Licensing and Investigations
Bonnie Pinkerton, RN, Nurse Consultant, Department of Public Health
Lynn A. Rioux, Paralegal Specialist II, Office of the Attorney General

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**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BOARD OF EXAMINERS FOR NURSING**

Kathleen Stearns, LPN
License No. 021345

Petition No. 2008-0115-011-006

MEMORANDUM OF DECISION

Procedural Background

On October 5, 2009, the Department of Public Health ("the Department") filed a Statement of Charges ("the Charges") with the Board of Examiners for Nursing ("the Board"). Board. Exh. 1. The Charges allege violations of Chapter 378 of the General Statutes ("the Statutes") by Kathleen Stearns ("respondent") which would subject respondent's licensed practical nurse license to disciplinary action pursuant to §§ 19a-17 and 20-99(b) of the Statutes.

On November 18, 2009, the Charges and a Notice of Hearing were sent to respondent attorney by certified mail. Bd. Exh. 1. On November 3, 2009, respondent filed a written Answer to the allegations. Bd. Exh. 3. Respondent's attorney withdrew her representation of respondent effective December 22, 2009. Bd. Exh. 2. The hearing was held on January 20, 2010. Respondent was present during the hearing and appeared pro se; Attorney Ellen Shanley represented the Department. During the hearing, the Board granted a Department's motion to orally amend paragraph 4c of the charges (Tr. pp. 9-12), and respondent orally answered the amendment to the Charges. Tr. pp. 11-13. Following the close of the record on January 20, 2010, the Board conducted fact-finding.

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.

Allegations

1. In paragraph one of the Charges, the Department alleges that the respondent is, and has been at all times referenced in the Charges, the holder of Connecticut licensed practical nurse license number 021345.
2. In paragraph two of the Charges, the Department alleges that at all relevant times, respondent was employed as a licensed practical nurse at Haven Healthcare of Windham, in Windham, Connecticut.

3. In paragraph three of the Charges, the Department alleges that on or about December 25, 2007, the respondent spilled a liquid onto L.W.'s medication Kardex and created a new, replacement Kardex.
4. In paragraph four of the Charges, as amended, the Department alleges that the respondent deviated from the standard of care for nursing practice when she:
 - a. failed to have another nurse verify her transcription of the new Kardex;
 - b. destroyed a portion of the resident's medical record by throwing the soiled Kardex away; and/or,
 - c. erroneously transcribed the order for Lasix, and signed other staff member's initials for previous administrations, which made the document appear to have reflected administration of Lasix to L.W. on a daily basis instead of twice weekly.
5. In paragraph five of the Charges, the Department alleges that the above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-99(b), including but not limited to §20-99(b)(2).

Findings of Fact

1. Respondent admitted the factual allegations in paragraphs 1, 2, 3, 4a and 4b. Bd. Exh. 3.
2. Respondent transcribed the medication record (Kardex) for patient L.W. by writing that Lasix was to be given by mouth on Mondays and Thursdays. Respondent, however, entered the initials of other staff members on the Kardex indicating that the Lasix had been administered on a daily basis. Dept. Exh. 3.
3. The Director of Nursing Services reported that she was informed by staff that the original Kardex had boxes around Mondays and Thursdays for the Lasix order and that the other days of the week had an X through them. Dept. Exh. 2.
4. On or about October 28, 2008, respondent completed the course "2008 Connecticut Nursing Law." The course included instruction relating to nursing ethics and proper documentation. Resp. Exh. B; Bd. Exh. 3; Tr., p.70.

Discussion and Conclusions of Law

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Goldstar Medical Services, Inc., et al. v. Department of Social Services*, 288 Conn. 790 (2008); *Swiller v. Comm'r of Public Health*, CV-950705601, Superior Court, J.D. Hartford/New Britain at Hartford, October 10, 1995; *Steadman v. SEC*, 450 U.S. 91, 101 S. Ct. 999, *reh'g den.*, 451 U.S. 933 (1981). The Department sustained its burden of proof with regard to the all of the allegations contained in paragraphs 1-4 of the Charges.

Section 20-99 of the Statutes provides, in pertinent part, that:

(a) The Board . . . shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17

(b) conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following:2) illegal conduct, incompetence or negligence in carrying out usual nursing functions; . . .

Although The Department sustained its burden of proof regarding the allegations, respondent, on her own initiative, completed course work relating to nursing ethics and proper documentation. Based on the respondent taking corrective action on her own the Board concludes that disciplinary action is not warranted in this case.

Order

Based on the record in this case, the above findings of fact and conclusions of law, the Board hereby orders, with respect to license number 021345 held by Kathleen Stearns, that the Charges be dismissed.

This Memorandum of Decision becomes effective on the date of signature.

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

Dated at Hartford, Connecticut this 21st day of July, 2010.

BOARD OF EXAMINERS FOR NURSING

By Patricia Bouffard
Patricia Bouffard, R.N.
Chairperson

CERTIFICATION

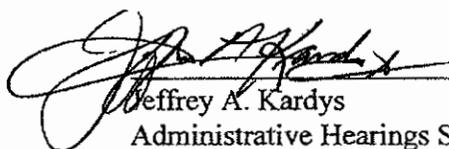
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 22nd day of July 2010, by certified mail, return receipt requested, and first class mail to:

Kathleen Stearns
459 Mansfield City Road
Storrs, CT 06268

Certified Mail RRR #91-7108-2133-3932-0551-7668

and via email to:

Matthew Antonetti, Principal Attorney
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
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Jeffrey A. Kardys
Administrative Hearings Specialist/Board Liaison
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