

**STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH**

George Stowe, LPN  
License No. 023573

Petition No. 2005-0615-011-020

**MEMORANDUM OF DECISION**

*Procedural Background*

On October 16, 2007, the Department of Public Health ("the Department") filed a Statement of Charges ("the Charges") with the Board of Examiners for Nursing ("the Board"). Dept. Exh. 1. The Charges allege violations of certain provisions of Chapter 378 of the General Statutes ("the Statutes") by George Stowe, LPN ("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 2, 2007, the Charges and a Notice of Hearing were sent to respondent by certified and first class mail. Dept. Exh. 2.

On March 18, 2008, respondent filed a written Answer to the allegations. Resp. Exh. A. The hearing was held on March 19, 2008.

At the hearing, Attorney Thomas W. Bucci represented respondent; Attorney Diane Wilan represented the Department.

Following the close of the record on March 19, 2008, 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 respondent is, and has been at all times referenced in the Charges, the holder of Connecticut licensed practical nurse ("LPN") license number 023573.
2. In paragraph two of the Charges, the Department alleges that at all relevant times, respondent was working as a LPN for Dr. Chiman Patel in an office located at 285 Congress Street in Bridgeport, Connecticut and/or respondent was working as a LPN at Fresh Start Substance Abuse Services, LLC, located at 285 Congress Street in Bridgeport, Connecticut.

3. In paragraph three of the Charges, the Department alleges that during 2004 and/or 2005, while working as a LPN at 285 Congress Street in Bridgeport, Connecticut, respondent practiced nursing without being under the direction and/or supervision of a registered nurse ("RN").
4. In paragraph four of the Charges, the Department alleges that during 2004 and/or 2005, while working as a LPN at 285 Congress Street in Bridgeport, Connecticut, respondent engaged in illegal conduct, incompetence and/or negligence when he, without being under the direction and/or supervision of an RN:
  - a. performed physical assessments of substance abuse patients and/or performed other nursing duties with regard to substance abuse patients;
  - b. initiated and administered Suboxone treatments for one or more substance abuse patients, including patients who respondent knew had never seen the prescribing physician in person prior to such treatment;
  - c. assessed and/or monitored patients to determine whether they were having adverse reactions to Suboxone treatments while Dr. Patel was not in the office; and/or
  - d. packaged medications for patients with Dr. Patel and combined 2 mg and 8 mg pills in the same bottle using handwritten labels.
5. In paragraph five of the Charges, the Department alleges that the above 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 is, and has been at all times referenced in the Charges, the holder of Connecticut LPN license number 023573. Resp. Exh. A.
2. At all relevant times, respondent was working as a LPN for Dr. Chiman Patel in an office located at 285 Congress Street in Bridgeport, Connecticut. Dept. Exhs. 3-10; Resp. Exh. A; Tr. pp. 27, 47, 54.
3. There is insufficient evidence to establish that, at all relevant times, respondent was working as a LPN at Fresh Start Substance Abuse Services, LLC located at 285 Congress Street in Bridgeport, Connecticut. Tr. pp. 16-18, 30-31, 38, 43-44.
4. During 2004 and/or 2005, while working as a LPN at 285 Congress Street, Bridgeport, respondent practiced nursing without being under the direction and/or supervision of a RN. Dept. Exhs. 3-10; Tr. pp. 17, 20, 28-29, 39-41, 56, 59-60.

5. During 2004 and/or 2005, while working as a LPN at 285 Congress Street in Bridgeport, Connecticut, respondent:
  - a. performed physical assessments of substance abuse patients and/or performed other nursing duties with regard to substance abuse patients;
  - b. initiated and administered Suboxone treatments for one or more substance abuse patients, including patients who respondent knew had never seen the prescribing physician in person prior to such treatments; and
  - c. assessed and/or monitored patients to determine whether patients were having adverse reactions to Suboxone treatments while Dr. Patel was not in the office.Dept. Exhs. 3-10; Tr. pp. 17, 20, 28-29, 39-41, 56, 59-60.
  
6. There is insufficient evidence to establish that respondent packaged medications for patients with Dr. Patel and combined 2mg and 8mg pills in the same bottle using handwritten labels. Tr. pp. 23, 41-43, 48.

#### ***Discussion and Conclusions of Law***

The Department bears the burden of proof by a preponderance of the evidence in this matter. *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 all of the allegations contained in the Charges, except the allegations in the second part of paragraph 2 and the allegations contained in paragraph 4d 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; . . .

With respect to the allegation in the first part of paragraph 2 of the Charges, the Department sustained its burden of proof that, at all relevant times, respondent worked as a LPN for Dr. Chiman Patel in an office located at 285 Congress Street in Bridgeport, Connecticut. Respondent admitted, and the Department established by a preponderance of the evidence, that

respondent worked exclusively in Dr. Patel's practice and reported directly to Dr. Patel. Thus, the Department met its burden of proof with respect to this allegation.

With respect to the allegation in the second part of paragraph 2 of the Charges that respondent worked as a LPN at Fresh Start Substance Abuse Services, LLC, located at 285 Congress Street in Bridgeport, Connecticut, the Department failed to sustain its burden of proof. The preponderance of the evidence establishes that respondent worked exclusively in Dr. Patel's private practice, and not for Fresh Start Abuse Services, LLC. Therefore, the Department did not meet its burden of proof with respect to this allegation.

The Department sustained its burden of proof concerning the allegations in paragraph 3 of the Charges that during 2004 and/or 2005, while working as a LPN at 285 Congress Street in Bridgeport, Connecticut, respondent practiced nursing without being under the direction and/or supervision of a RN. The Statutes require that a LPN work under the direction and/or supervision of a RN or an Advanced Practice Registered Nurse ("APRN"), not a licensed physician. *See*, §20-87a(c) of the Statutes.

The Department established by a preponderance of the evidence that respondent regularly worked in Dr. Patel's office's alone and that a RN was available to respondent only by telephone. According to the testimony of Lavita Sookram, RN, Nurse Consultant for the Department, respondent, when asked, could not provide the Department with the name of any RN who supervised him directly. When Dr. Patel was asked the same question during the course of the Department's investigation, he identified four RNs by name, but only one of the four was licensed in Connecticut, and she was never in the office the same time as respondent. Therefore, that particular RN did not provide respondent with any direct supervision. Thus, the Department sustained its burden of proof with respect to this allegation.

The Department sustained its burden of proof concerning the allegations in paragraph 4a of the Charges that respondent performed physical assessments of substance abuse patients and/or performed other nursing duties with regard to substance abuse patients. The Department established by a preponderance of the evidence that in the course of his nursing duties, respondent took the patient's medical histories (including their histories of substance abuse) and their vital signs, monitored their withdrawal symptoms and complaints of discomfort, and communicated his findings to Dr. Patel by telephone. Respondent was also responsible for determining whether patients required emergency care. These duties are within the scope of

practice of a RN. *See*, §20-87a(a) of the Statutes. Thus, the Department met its burden of proof with respect to these allegations.

The Department sustained its burden of proof concerning the allegations in paragraph 4b of the Charges that respondent initiated and administered Suboxone treatments for one or more substance abuse patients, including patients who respondent knew had never seen Dr. Patel in person prior to the induction of such treatment. During the hearing, respondent admitted that, under Dr. Patel's direction, he initiated and administered Suboxone treatments to one or more substance abuse patients, including some new patients whom Dr. Patel had not seen prior to such treatments. Respondent also testified that at the time he engaged in such practice, he was not aware that this was not permitted and that in doing so, he exceeded the scope of practice for his license. Thus, the Department met its burden of proof with respect to these allegations.

The Department sustained its burden of proof concerning the allegations in paragraph 4c of the Charges that respondent assessed and/or monitored patients to determine whether patients were having adverse reactions to Suboxone treatments while Dr. Patel was not in the office. Respondent admitted that after he initiated and administered Suboxone medication to Dr. Patel's patients, he assessed the patients' conditions and over the period of approximately two hours, respondent monitored the patients' reactions to the treatments, including possible adverse symptoms of nausea and vomiting. Thus, the Department met its burden of proof with respect to these allegations.

The Department failed to sustain its burden of proof concerning the allegations in paragraph 4d of the Charges that respondent packaged medications for patients with Dr. Patel and combined 2 mg and 8 mg pills in the same bottle using handwritten labels. In his testimony, and in prior written statements, respondent consistently denied that he was ever involved in packaging the Suboxone medication. Dr. Patel's written statements also corroborated respondent's statements. Furthermore, the Department failed to offer any evidence to rebut respondent's testimonial and documentary evidence. Thus, the Department failed to sustain its burden of proof with respect to these allegations.

The Board concludes that respondent's conduct as alleged in all of the paragraphs of the Charges is proven by a preponderance of the evidence presented, except the second part of paragraph 2 and paragraph 4d of the Charges. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to §§ 20-99(b)(2) and 19a-17 of the Statutes. The Board finds that respondent can practice as a LPN with reasonable skill and safety under the terms of this Order.

### **Order**

Based on the record in this case, the above findings of fact and conclusions of law, the Board hereby orders, with respect to LPN license number 023573 held by George Stowe, LPN, as follows:

1. Respondent's license shall be placed on probation for a period of one year under the following terms and conditions. If any of the conditions of probation are not met, respondent's LPN 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 respondent's employment and/or change of employment within the nursing profession.
  - B. Respondent shall not be employed as a nurse for a personnel provider service, assisted living services agency, homemaker-home health aide agency, or home health care agency, and shall not be self-employed as a nurse for the period of probation, except respondent may continue to provide private duty nursing care at Maxim Health Care for the severely disabled child for whom respondent has been providing nursing care since this child was 18 months old.
  - C. During the period of probation, respondent shall not be employed as a nurse in any practice involving substance abuse work.
  - D. During the period of probation, respondent may only work in a practice that has a registered nurse or an advanced practice registered nurse on site who provides respondent with direct supervision.

- E. Respondent shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. Any employer(s), 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.
- F. If employed as a nurse, respondent shall cause employer reports to be submitted to the Board, by his immediate supervisor during the entire probationary period. Employer reports shall be submitted commencing with the report due on the first business day of month following employment as a nurse. Employer reports, with an emphasis on scope of practice monitoring, shall be submitted quarterly during the probationary period, and shall identify the registered nurse or advanced practice registered nurse who is responsible for the monitoring.
- G. The employer reports cited in Paragraph F above shall include documentation of respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph L below.
- H. Should respondent's employment as a nurse be involuntarily terminated or suspended, respondent and his employer shall notify the Board within seventy-two (72) hours of such termination or suspension.
- I. During the probationary period, respondent shall successfully complete a course in legislation, legality and scope of practice, pre-approved by the Board. Within thirty days of completion of the course, respondent shall provide proof to the satisfaction of the Board and Department of his successful completion of the course.
- J. If respondent pursues further training in any other subject area that is regulated by the Department, respondent shall provide a copy of this Memorandum of Decision to the educational institution or, if not an institution, to respondent's instructor. Such institution or instructor shall notify the Department in writing as to receipt of a copy of this Memorandum of Decision within fifteen (15) days of receipt. Said notification shall be submitted directly to the Department at the address cited in Paragraph L below.

- K. The Board must be informed in writing prior to any change of address.
- L. All communications, correspondence, and reports are to be addressed to:

Bonnie Pinkerton, RN, Nurse Consultant  
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

- 2. Any deviation from the terms of probation, without prior written approval by the Board, shall constitute a violation of probation, which will be cause for an immediate hearing on charges of violating this Order. Any finding that respondent has violated this Order will subject respondent to sanctions under §19a-17(a) and (c) of the General Statutes of Connecticut, including but not limited to, the revocation of his license. Any extension of time or grace period for reporting granted by the Board 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 respondent's address of record (most current address reported to the Office of Practitioner Licensing and Certification of the Department of Public Health or the Board).
- 3. This Memorandum of Decision becomes effective, and the one-year probation of licensed practical nurse license no. 023573 shall commence, on the date this Memorandum of Decision is signed by the Board.

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

Dated at Hartford, Connecticut this 5th day of November, 2008.

BOARD OF EXAMINERS FOR NURSING

By Patricia C. Bufford

**CERTIFICATION**

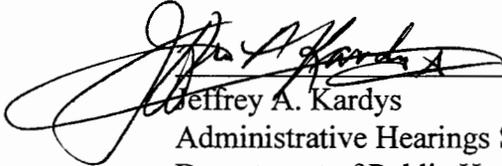
I hereby certify that, pursuant to Connecticut General Statutes, §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 17th day of November 2008, by certified mail, return receipt requested, to:

Thomas Bucci, Esq.  
Willinger, Willinger & Bucci, PC  
855 Main Street  
Bridgeport, CT 06604

Certified Mail RRR #91-7108-2133-0551-0461

and by Inter-Departmental Mail to:

Stanley K. Peck, Section Chief  
Legal Office  
Department of Public Health  
410 Capitol Avenue, MS #12LEG  
Hartford, CT 06134-0308



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Jeffrey A. Kardys  
Administrative Hearings Specialist/Board Liaison  
Department of Public Health  
Public Health Hearing Office



# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

November 18, 2009

George Stowe, LPN  
1075 Monroe Turnpike  
Monroe, CT 06468

Re: Memorandum of Decision  
Petition No. 2005-0615-011-020  
License No. 023573

Dear Mr. Stowe:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective November 5, 2009.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your license related to the above-referenced Memorandum of Decision.

Please be certain to retain a copy of this letter as documented proof that you have completed your license probation.

Thank you for your cooperation during this process, and good luck to you in the future.

Very truly yours,

Bonnie Pinkerton, RN, Nurse Consultant  
Practitioner Licensing and Investigations Section

cc: J. Filippone  
J. Wojick



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