

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH**

Sarah Thoms, LPN
Lic. No. 023640

Petition No. 2007-1217-011-043

MEMORANDUM OF DECISION

Procedural Background

On February 6, 2008, the Department of Public Health ("the Department") filed a Motion for Summary Suspension ("the Motion") and 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 Sarah Thoms, LPN ("respondent") which would subject respondent's licensed practical nurse ("LPN") license to disciplinary action pursuant to §§ 19a-17 and 20-99(b) of the Statutes.

Based on the allegations in the Charges and the affidavits and reports accompanying the Motion, the Board found that respondent's continued nursing practice presented a clear and immediate danger to public health and safety and ordered, on February 6, 2008, pursuant to §§ 4-182(c) and 19a-17(c) of the Statutes, that respondent's LPN license be summarily suspended pending a final determination by the Board of the allegations contained in the Charges ("the Order"). Dept. Exh. 1.

On February 6, 2008, the Charges, the Order and a Notice of Hearing were served on respondent by hand-delivery. Dept. Exh. 1.

The hearing was held on July 16, 2008. At the hearing, respondent was not present or represented. Tr. P. 3. Attorney Roberta Swafford represented the Department.

Respondent did not file an Answer to the Charges. During the hearing on July 16, 2008, the Board granted the Department's motion to deem the allegations admitted. Dept. Exh. 2; Tr., pp. 10-11.

Following the close of the record on July 16, 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 Sarah Thoms of Tolland, CT is, and has been at all times referenced in the Charges, the holder of Connecticut LPN license number 023640.
2. In paragraph two of the Charges, the Department alleges that at all relevant times, respondent was employed as a nurse at Portland Care and Rehabilitation Center, Portland, Connecticut.
3. In paragraph three of the Charges, the Department alleges that from at least February 2007 through November 13, 2007, while working as a nurse at Portland Care and Rehabilitation Center, respondent:
 - a. diverted hydrocodone, a Schedule III narcotic controlled substance, and/or oxycodone, a Schedule II narcotic controlled substance;
 - b. failed to completely, properly and/or accurately document medical or hospital records; and/or,
 - c. falsified one or more Controlled Substance Receipt Records.
4. In paragraph four of the Charges, the Department alleges that from approximately February 2007 through November 13, 2007, respondent abused or utilized to excess hydrocodone and/or oxycodone.
5. In paragraph five of the Charges, the Department alleges that respondent's abuse of hydrocodone and/or oxycodone does, and/or may, affect her practice as a nurse.
6. In paragraph six 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:
 - a. §20-99(b)(2);
 - b. §20-99(b)(5); and/or
 - c. §20-99(b)(7).

Findings of Fact

1. The Department provided respondent with reasonable and adequate written notice of the allegations contained in the Charges. Dept. Exh. 1; Dept. Exh. 2, Attach. C.; Tr., pp. 10-11.
2. Respondent did not file an Answer to the Charges. Tr., pp. 10-11.
3. The allegations contained in the Charges are deemed admitted. Dept. Exh. 1, Tab 1, pp. 3-4 ; Tr., pp. 10-11.

Discussion and Conclusions of Law

In consideration of the above Findings of Fact, the following conclusions are rendered: Respondent held a LPN license in the State of Connecticut at all times referenced in the Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* §§ 4-177(a) and (b), and 4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as §§ 19a-9-1 through 19a-9-29 of the Regulations of Connecticut State Agencies.

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).

Respondent did not file an Answer to the Charges and did not appear at the hearing. Pursuant to § 19a-8-20 of the Regulations of Connecticut State Agencies, the Board deems the allegations in paragraphs one through six of the Charges to be admitted.

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; . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; . . . (7) willful falsification of entries in any hospital, patient or other record pertaining to drugs, the results of which are detrimental to the health of a patient; . . .

The Board concludes that respondent's conduct as alleged in the Charges and deemed admitted constitutes grounds for disciplinary action pursuant to §§ 20-99(b)(2), (5) and (7), and 19a-17 of the Statutes.

Order

Based on the record in this case, the above findings of fact and conclusions of law, the Board hereby orders, with respect to the LPN license number 023640 held by Sarah Thoms as follows:

Respondent's license number 023640 to practice as a licensed practical nurse in the State of Connecticut is hereby revoked effective the date this Memorandum of Decision is signed by the Board.

Dated at Hartford, Connecticut this 21st day of January 2009.

BOARD OF EXAMINERS FOR NURSING

By Patricia C. Bufford

CERTIFICATION

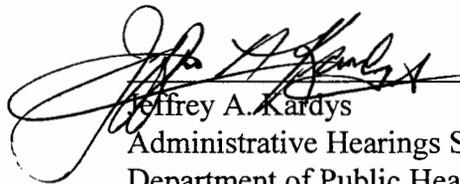
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 21st day of January 2009, by certified mail, return receipt requested and first class mail, to:

Sarah Thoms
1399 Tolland Stage Road
Tolland, CT 06084

Certified Mail RRR #91-7108-2133-3932-0551-0256

and by Inter-Departmental Mail to:

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



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