

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

Department of Public Health

Petition No. 2003-1128-011-043

vs.

Eleanor Matyasovszky, LPN, Lic. No. 024099
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "Board") was presented by the Department of Public Health (hereinafter "Department") with a Statement of Charges and Motion for Summary Suspension dated December 12, 2003. Dept. Exh. A. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Eleanor Matyasovszky (hereinafter "respondent") which would subject respondent's licensed practical nurse license to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b).

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that respondent's continued nursing practice presented a clear and immediate danger to public health and safety. On December 17, 2003, the Board ordered, pursuant to its authority under § 4-182(c) and § 19a-17(c) of the General Statutes of Connecticut, that respondent's licensed practical nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. A.

The Board issued a Notice of Hearing dated December 17, 2003, scheduling a hearing for January 21, 2004. Dept. Exh. A.

Respondent was provided notice of the hearing and charges against her. The Notice of Hearing and Statement of Charges were delivered by certified mail to respondent. Dept. Exh. A.

The hearing took place on February 18, 2004, at Hartford Hospital Newington Campus, Curtis Building, 181 Patricia M. Genova Drive, Newington, Connecticut. Dept. Exh. A.

Respondent was present during the hearing and was not represented by counsel. Transcript, February 18, 2004, p. 1.

Respondent answered the Statement of Charges orally at the hearing on February 18, 2004. Transcript, pp. 9-12.

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.

Findings of Fact

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

1. Respondent was issued licensed practical nurse license number 024099 on June 3, 1991. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. A-2; Transcript, p. 9.
2. On September 16, 1998, the Board issued a Memorandum of Decision revoking respondent's licensed practical nurse license. The order was based on the Board's finding that respondent, during 1997, had abused cocaine, illegally possessed drug paraphernalia, crack cocaine, cocaine, and/or marijuana, and illegally sold and/or attempted to sell crack cocaine, cocaine and/or marijuana. Dept. Exh. A-1b.
3. In September 2002, respondent requested that the Board reinstate her licensed practical nurse license. A hearing was held before the Board on April 16, 2003. Dept. Exh. A-1b; Transcript, p. 10.
4. On July 17, 2003, the Board issued a Memorandum of Decision in Petition Number 2002-1227-011-056 (hereinafter "MOD"). The Board in the MOD ordered that respondent's licensed practical nurse license be reinstated to a probationary status effective August 1, 2003 for a period of four (4) years with the requirements that respondent:
 - a. engage in therapy with a therapist pre-approved by the Department
 - b. submit to observed, random urine screens weekly for the first two years of her probationary period.Dept. Exh. A-1b; Transcript, p. 10.
5. From approximately August 1, 2003 until September 15, 2003, respondent failed to:
 - a. identify a therapist for the Department's approval; and,
 - b. participate in therapy as required by the MOD.Dept. Exh. A-1c, 1d; Transcript, p. 11.
6. From approximately September 22, 2003 to October 31, 2003, respondent failed to keep one out of five scheduled therapy appointments and was ten minutes late to an appointment due to registration problems at her therapist's office. Dept. Exh. A-1c, 1d; Resp. Exh. A.

7. From approximately August 1, 2003 to November 14, 2003, respondent failed to submit to weekly urine screens. Dept. Exh. A-1a, 1e; Transcript, pp. 11, 12,
8. On or about November 14, 2003, respondent submitted to her first urine screen, which tested positive for cocaine. Dept. Exh. A-1e; Transcript, p. 12.
9. On or about November 21, 2003, respondent submitted to a urine screen which tested positive for cocaine. Dept. Exh. A-1a, 1f; Transcript, p. 12.
10. On or about December 8, 2003, respondent's therapist notified the Department that she had arranged for respondent to transfer to an intensive outpatient program but that respondent had failed to keep an appointment to arrange for such transfer and/or to call to cancel the appointment. Dept. Exh. A, C-3, Transcript, p. 12.
11. Respondent actively abused controlled substances from November 2003 to January 2004. Transcript, pp. 38, 44-45, 47.

Conclusions of Law and Discussion

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

Eleanor Matyasovszky 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 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 Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by *Conn. Gen. Stat.* § 4-182(c).

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

PARAGRAPH 5 of the Statement of Charges alleges that between approximately August 1, 2003 and September 15, 2003, respondent failed to:

- a. identify a therapist for the Department's approval; and,
- b. participate in therapy as required by the MOD.

PARAGRAPH 6 of the Statement of Charges alleges that from approximately September 22, 2003, to October 31, 2003, respondent participated in therapy with a therapist approved by the Department, who reported that respondent:

- a. had failed to keep four out of five scheduled appointments; and,
- b. was ten minutes late to a fifth appointment

PARAGRAPH 7 of the Statement of Charges alleges that from approximately August 1, 2003 to November 14, 2003, respondent failed to submit to weekly urine screens.

PARAGRAPH 8 of the Statement of Charges alleges that on or about November 14, 2003, respondent submitted to her first urine screen, which tested positive for cocaine.

PARAGRAPH 9 of the Statement of Charges alleges that on or about November 21, 2003, respondent submitted to a urine screen which tested positive for cocaine.

PARAGRAPH 10 of the Statement of Charges alleges that on or about December 8, 2003, respondent's therapist, notified the Department that she had arranged for respondent to transfer to an intensive outpatient program but that respondent had failed to keep an appointment to arrange for such transfer and/or to call to cancel the appointment.

Respondent admits Paragraphs 5, 7, 8, 9 and 10 but denies Paragraph 6. Transcript, pp. 9-12.

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 5, 7, 8, 9 and 10 of the Statement of Charges is proven by a preponderance of the evidence presented. As to Paragraph 6 of the Statement of Charges, a preponderance of the evidence establishes that the respondent failed to keep one of her scheduled therapy appointments during the period of September 22, 2003 to October 31, 2003. The Board does not find a violation of Paragraph 6(b) of the Statement of Charges by the respondent since a preponderance of the evidence demonstrates that the respondent's tardiness to her appointment was due to registration problems at her therapist's office.

In addition, the Board finds that respondent was actively abused controlled substances during the probation of her licensed practical nurse license, and that respondent does not have an adequate relapse prevention program in place.

Based on the foregoing, the Board further concludes that respondent's conduct violates the terms of probation as set forth in the Memorandum of Decision dated July 16, 2003. Therefore, respondent's licensed practical nurse license is subject to disciplinary action pursuant to *Conn. Gen. Stat.* § 19a-17.

Order

Pursuant to its authority under *Conn. Gen. Stat.* §§ 19a-17 and 20-99, the Board of Examiners for Nursing hereby orders the following:

That for Paragraphs 5, 6(a), 7, 8, 9, and 10 of the Statement of Charges, respondent's licensed practical nurse license number 024099 is revoked effective the date this Memorandum of Decision is signed by the Board.

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

Dated at Hartford, Connecticut this 21st day of July, 2004.

BOARD OF EXAMINERS FOR NURSING

By 