

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health

Petition No. 990902-011-024

vs.

Kim Geiger, LPN, Lic. No. 024188
Respondent

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 October 31, 2000. Department Exhibit F. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Kim Geiger (hereinafter "respondent") which would subject 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 respondent's continued nursing practice presented a clear and immediate danger to public health and safety. On November 15, 2000 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. The Board scheduled a hearing for December 6, 2000. Department Exhibit F.

The hearing scheduled for December 6, 2000, was continued to ensure that notice was received by respondent. Transcript, December 6, 2000, pp. 3-8. The Board issued a Notice of Rescheduled Hearing dated December 6, 2000, rescheduling the hearing to January 3, 2001. Department Exhibit C.

Respondent was provided notice of the hearing and charges against her. Department Exhibit A indicates that the Notice of Hearing and Statement of Charges were served on respondent by Connecticut State Marshall on December 13, 2000. Department Exhibit B; Transcript, January 3, 2001, pp. 5-7.

The hearing began on January 3, 2001, in Wethersfield Town Hall, Town Council Chambers, 505 Silas Deane Highway, Wethersfield, Connecticut.

Respondent was not present and was not represented by counsel when the hearing commenced on January 3, 2001. Transcript, January 3, 2001, p. 3.

During the hearing, the Board granted the Department's Motion to Deem Allegations Admitted. Department Exhibit A; Transcript, January 3, 2001, p. 7.

After the hearing closed, respondent appeared but was not represented by counsel. The Board reopened the hearing and rescinded the Motion to Deem Allegations Admitted. Respondent requested the hearing be continued so her counsel could be present. The Board granted respondent's request for a continuance and rescheduled the hearing for February 7, 2001. Transcript, January 3, 2001, pp. 18-30.

Respondent was not present and was not represented by counsel when the hearing resumed on February 7, 2001. Transcript, February 7, 2001, p. 3.

During the hearing, the Board granted the Motion to Deem Allegations Admitted. Transcript, February 7, 2001, pp. 5-8.

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 024188 on June 3, 1991. Respondent was the holder of said license at all times referenced in the Statement of Charges. Department Exhibit E.
2. On August 11, 1999, respondent attempted to fill a forged prescription for Percocet. The Wallingford Connecticut Police Department arrested respondent on a charge of illegally obtaining a controlled substance. In the course of arresting respondent, Wallingford police found a baggy of heroin in her purse. Respondent was also charged with illegal possession of a narcotic. Department Exhibit A; Department Exhibit D; Transcript, February 7, 2001, p.8.
3. On July 22, 1998, the Meriden Connecticut Police Department arrested respondent and charged her with illegal possession of a narcotic (cocaine). Department Exhibit D.
4. Criminal charges are pending in Superior Court. Department Exhibit D

5. In or about 1998 and 1999, respondent abused or utilized to excess heroin and cocaine. Department Exhibit A; Transcript, February 7, 2001, p. 8.
6. Respondent's abuse of heroin and/or cocaine does, and/or may, affect her practice as a licensed practical nurse

Conclusions of Law and Discussion

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

Kim Geiger 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 2 and 3 of the Statement of Charges alleges that respondent attempted to fill an illegally obtained prescription for a controlled substance and was charged with illegal possession of heroin and of cocaine, each of which is a narcotic.

PARAGRAPH 4 of the Statement of Charges alleges that the respondent had criminal cases pending in Superior Court.

PARAGRAPH 5 of the Statement of Charges alleges that in or about 1998 and 1999, respondent has abused or excessively used to excess heroin and cocaine.

Respondent did not submit an Answer to the Statement of Charges. Pursuant to §19-9-20 of the Regulations of Connecticut State Agencies the Board deems the allegations in the First Count of the Statement of Charges to be admitted.

The General Statutes of Connecticut §20-99 provides in relevant part:

(a) The Board of Examiners for Nursing 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 performing usual nursing functions . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 2, 3, and 4 of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes violations of *Conn. Gen. Stat.* §20-99(b) (2) and (5). Therefore, respondent's Registered 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:

Respondent's Licensed Practical Nurse license, number 024188 is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

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

Dated at Wethersfield, Connecticut this 18th day of April 2001.

BOARD OF EXAMINERS FOR NURSING

By 