

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
HEALTHCARE SYSTEMS BRANCH**

In re: Elizabeth E. Davis, L.P.N.

Petition No. 2008-0501-011-028

REINSTATEMENT CONSENT ORDER

WHEREAS, Elizabeth E. Davis of South Windsor, Connecticut (hereinafter "respondent") was issued license number 024311 on September 3, 1991 to practice as licensed practical nurse by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 378 of the General Statutes of Connecticut, as amended; and,

WHEREAS, respondent's license expired on March 31, 2007 and respondent has now applied to have said license reinstated by the Department pursuant to Chapter 368a of the General Statutes of Connecticut, as amended; and,

WHEREAS, the respondent admits and acknowledges that:

1. During approximately July 2007, while employed at the Sisters of St. Joseph Convent Infirmary in West Hartford, Connecticut, respondent diverted Oxycodone for her own use while substituting other drugs for a patient.
2. From approximately March 31, 2007 until August 2, 2007, respondent worked as a nurse at the Sisters of St. Joseph Convent Infirmary in West Hartford, Connecticut without a valid Connecticut license.
3. During approximately 2006, 2007 and/or 2008, respondent suffered from depression, anxiety, bipolar disorder, episodic medication non-compliance, sleep disturbances, and /or suicidal thoughts. On or about July 30 2007, respondent attempted to commit suicide.
4. From approximately 1995 until at least February 2007, respondent continuously abused marijuana.

5. The conduct described above constitutes grounds for denial of respondent's application for reinstatement pursuant to §19a-14(a)(6) of the General Statutes of Connecticut.

WHEREAS, respondent, in consideration of this Reinstatement Consent Order, has chosen not to contest the above admitted violations at a hearing in front of the Board of Examiners for Nursing (hereinafter "the Board"). Respondent further agrees that this Reinstatement Consent Order shall have the same effect as if ordered after a full hearing pursuant to §§19a-9, 19a-10, and 20-99(a) of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-17 and 20-99 of the General Statutes of Connecticut, as amended, respondent hereby stipulates and agrees as follows:

1. She waives her right to a hearing on the merits of this matter.
2. Respondent's license to practice as a licensed practical nurse shall be reinstated when she satisfies the requirements for reinstatement of her license, as set forth in §§ 19a-14-1 through 19a-14-5, inclusive, of the Regulations of Connecticut State Agencies, and this Reinstatement Consent Order is executed by all parties.
3. Immediately upon issuance, respondent's license shall be placed on probation for four years under the following terms and conditions:
 - A. At her own expense, she shall engage in therapy and counseling with a Connecticut licensed or certified therapist (hereinafter "therapist") approved by the Department for the entire probationary period. During the first year of the probationary period, respondent shall engage in therapy sessions at least once every two weeks. After the first year of the probationary period, respondent may apply to the Department for a

reduction in frequency of therapy sessions.

- (1) She shall provide a copy of this Reinstatement Consent Order to her therapist.
- (2) Her therapist shall furnish written confirmation to the Board and the Department of his or her engagement in that capacity and receipt of a copy of this Reinstatement Consent Order within fifteen (15) days of the effective date of this Reinstatement Consent Order.
- (3) If respondent's therapist determines that respondent should be transferred to another therapist, or that after the first year of probation a reduction in frequency of therapy is warranted, or that therapy is no longer necessary, he or she shall advise the Department. Said termination of therapy, reduction in frequency of therapy, and/or respondent's transfer to another therapist shall not occur until approved by the Department. However, if therapy is terminated with approval of the Department, respondent's therapist shall continue to monitor her alcohol and drug free status by monitoring and reviewing the observed random urine screens for drugs and alcohol as described in paragraph 3B below, and by providing the reports described in paragraph 3C below.
- (4) The therapist shall immediately notify the Department in writing if respondent discontinues therapy and/or terminates his/her services, or if there is any change in respondent's mental health status impacting her ability to safely practice nursing.

B. Respondent shall not obtain or use controlled substances, legend drugs or alcohol in any form unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications. Respondent shall inform said licensed health care professional of respondent's substance abuse history.

- (1) At her own expense, she shall submit to observed random urine screens for drugs and alcohol, in accordance with Department Requirements for Drug and Alcohol Screens, attached hereto marked as (“Attachment ‘A’: Department Requirements for Drug and Alcohol Screens”) at a testing facility approved by the Department, as ordered by her therapist and/or personal physician. Laboratory reports of random alcohol and drug screens and/or any other drug or alcohol related laboratory reports, including but not limited to results of DNA testing, shall be submitted directly to the Department by respondent's therapist or personal physician or by the testing laboratory. All such observed random drug and alcohol screens shall be legally defensible in that the specimen donor and chain of custody can be identified throughout the screening process. All laboratory reports shall indicate that the chain of custody procedure has been followed.
- (2) Respondent shall be responsible for notifying the laboratory, her therapist, and the Department and her prescribing practitioner of any drug(s) she is taking. For the prescription of a controlled substance(s) for more than two consecutive weeks, the respondent shall cause the provider prescribing the controlled substance(s) to submit quarterly reports to the Department, until such time as the controlled substance(s) are not prescribed by the provider, documenting the following:
 1. A list of controlled substances prescribed by this provider for the respondent;
 2. A list of controlled substance(s) prescribed by other providers;
 3. An evaluation of the respondent's need for the controlled substance;

4. An assessment of the respondent's continued need for the controlled substance(s).
- (3) There must be at least one such observed random alcohol/drug screen and accompanying laboratory report every week for the first and fourth years of probation; and at least two such screens and reports every month for the second and third years of probation.
 - (4) All screens shall be negative for the presence of drugs and alcohol.
 - (5) All positive screen results shall be confirmed by gas chromatograph/mass spectrometer (GC/MS) testing.
 - (6) Respondent is hereby advised that the ingestion of poppy seeds and mouthwash has, from time to time, been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, respondent agrees to refrain from ingesting poppy seeds in any food substances or mouthwash during the term of this Reinstatement Consent Order. In the event respondent has a positive screen for morphine, opiates and/or alcohol, respondent agrees that the ingestion of poppy seeds and/or mouthwash shall not constitute a defense to such a screen.
- C. Respondent shall be responsible for the provision of monthly written reports from her therapist directly to the Department for the entire probationary period. Such reports shall include documentation of dates of treatment, an evaluation of respondent's progress in treatment and of her drug and alcohol free status as established by the observed random urine screens for drugs and alcohol, an evaluation of her ability to safely and competently practice nursing, and copies of all laboratory reports.

- D. Notwithstanding the foregoing, respondent's therapist shall immediately report to the Department any confirmed positive alcohol/drug screen and any conduct or condition on respondent's part which does or may violate any federal or state statute or regulation applicable to her profession, or any change in respondent's mental health status impacting her ability to safely practice nursing.
- E. Respondent shall provide a copy of this Reinstatement Consent Order to all current and future employers for the duration of her probation.
- F. 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 her probation.
- G. Respondent shall not administer, count, or have access to narcotics or other controlled substances, or have responsibility for such activities in the course of her nursing duties for the first year after returning to work as a nurse.
- H. Respondent shall provide a copy of this Reinstatement Consent Order to any and all employers if employed as a nurse during the probationary period. The Department shall be notified in writing by any employer(s) within fifteen (15) days of the commencement of employment as to the receipt of a copy of this Reinstatement Consent Order. Respondent shall be responsible for the provision of written reports directly to the Department from her nursing supervisor (i.e., Director of Nursing) monthly for the first and fourth years of her probation and quarterly for the second and third years of probation. Employer reports shall include documentation of respondent's ability to safely and competently practice nursing, and shall be issued to the Department at the address cited in paragraph 3M below.

- I. Respondent shall notify the Department in writing of any change of employment within fifteen (15) days of such change.
- J. Respondent shall notify the Department of any change in her home or business address within fifteen (15) days of such change.
- K. If respondent pursues further training or is engaged, in an educational program in any subject area that is regulated by the Department, at the time of the implementation of the Reinstatement Consent Order respondent shall provide a copy of this Reinstatement Consent Order to the educational institution or, if not an institution, to respondent's instructor. Such institution or instructor shall notify the Department of receipt of the Reinstatement Consent Order within fifteen (15) days of receipt.
- L. All reports required by the terms of this Reinstatement Consent Order shall be due according to a schedule to be established by the Department of Public Health.
- M. All correspondence and reports shall be addressed to:

Bonnie Pinkerton
Department of Public Health
Practitioner Licensing and Investigations
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

- 4. Any violation of the terms of this Reinstatement Consent Order without prior written approval by the Department shall constitute grounds for the Department to seek revocation of respondent's nursing license following notice and an opportunity to be heard.
- 5. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department's right to take action at a later time. The Department shall not be required to grant future extensions of time or grace periods.

6. Respondent shall comply with all federal and state statutes and regulations applicable to her profession.
7. Respondent shall notify the Department of any change(s) in her employment within fifteen (15) days of such change.
8. Respondent shall notify the Department of any change in her home and/or business address within fifteen (15) days of such change.
9. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Practitioner Licensing and Investigations Section of the Healthcare Systems Branch of the Department.
10. Respondent understands this Reinstatement Consent Order may be considered as evidence of the above-admitted violations in any proceeding before the Connecticut Board of Examiners for Nursing in which (1) her compliance with this Reinstatement Consent Order is at issue, or (2) her compliance with §20-99 of the General Statutes of Connecticut, as amended, is at issue. Further, respondent understands that any discipline imposed by this Reinstatement Consent Order, except where discipline solely consists of a civil penalty, shall be reported to the National Practitioner Data Bank.
11. In the event respondent violates a term of this Reinstatement Consent Order, respondent agrees immediately to refrain from practicing as a licensed practical nurse, upon request by the Department, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation, and to submit to and complete a medical, psychiatric or psychological evaluation, if requested to do so by the Department; and, that the results of the evaluation shall be submitted directly to the Department. Respondent further agrees that failure to cooperate with the Department in its

investigation during said 45-day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that failure to cooperate with the Department's investigation shall be considered by the Board and shall be given due weight by the Board in determining whether respondent's conduct constitutes a clear and immediate danger as required pursuant to Connecticut General Statutes, sections 4-182(c) and 19a-17(c). The Department and respondent understand that the Board has complete and final discretion as to whether a summary suspension is ordered.

12. In the event respondent violates any term of this Reinstatement Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of respondent's license before the Board.
13. This Reinstatement Consent Order and the terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Reinstatement Consent Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the Connecticut General Statutes provided that this stipulation shall not deprive respondent of any other rights that she may have under the laws of the State of Connecticut or of the United States.
14. This Reinstatement Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
15. Respondent has the right to consult with an attorney prior to signing this document.
16. This Reinstatement Consent Order is a matter of public record.
17. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the Bureau Chief of the Division

of Criminal Justice's Statewide Prosecution Bureau. The purpose of this Consent Order is to resolve the pending administrative license disciplinary petition only, and is not intended to affect any civil or criminal liability or defense.

18. This Reinstatement Consent Order embodies the entire agreement of the parties with respect to this case. All previous communications or agreements regarding the subject matter of this consent order, whether oral or written, between the parties are superseded unless expressly incorporated herein or made a part hereof.

I, Elizabeth E. Davis, have read the above Reinstatement Consent Order, and I agree to the terms set forth therein. I further declare the execution of this Reinstatement Consent Order to be my free act and deed.

Elizabeth E. Davis
Elizabeth E. Davis

Subscribed and sworn to before me this 28th day of September 2009.

Linda L. Jozzina
Notary Public or person authorized
by law to administer an oath or
affirmation

The above Reinstatement Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 28th day of September 2009, it hereby ordered and accepted.

Jennifer L. Filippone
Jennifer L. Filippone, Section Chief
Practitioner Licensing and Investigations Section
Healthcare Systems Branch