

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

Michael Doyle

Petition No. 2007-0815-011-029

RE: Licensed Practical Nurse Lic No. 024694

MEMORANDUM OF DECISION

Procedural Background

Michael Doyle (hereinafter "petitioner") was issued licensed practical nurse license number 024694 on June 1, 1993.

Pursuant to Memorandum of Decision dated February 17, 1999, the Board of Examiners for Nursing (hereinafter "the Board") ordered the revocation of petitioner's licensed practical nurse license.

On February 22, 2007, petitioner's requested that the Board reinstate his licensed practical nurse license. Board Exh. A.

Pursuant to petitioner's request, the Board scheduling a hearing which was held on December 5, 2007.

Petitioner was present at the hearing but was not represented by counsel. Tr, December 5, 2007. The Department of Public Health (hereinafter "Department ") was represented by Attorney Stanley K. Peck.

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 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. Pursuant to Memorandum of Decision dated February 17, 1999, the Board ordered the revocation of petitioner's licensed practical nurse license. The Decision was based on the Board's findings of that in or about August 1997 and May 1998, petitioner illegally and fraudulently obtained and/or possessed controlled substances, and that he abused or excessively used controlled substances. Board Exh. A.

2. Since in or about January 2003, petitioner has participated in the Department of Veteran's Affairs ("VA") Mental Health Intensive Case Management (MHICM) program at the VA Connecticut Healthcare System, West Haven, Connecticut. While in the MHICM program, petitioner graduated from a residential substance abuse program and is currently engaged in outpatient treatment, including of individual therapy. Board Exh. A.
3. Petitioner's therapist supports his request for license reinstatement. Board Exh. A.
4. Since May 2007, petitioner has participated in voluntary urine drug and alcohol testing. No results have been confirmed positive for the presence of alcohol and/or drugs. Board Exh. A; Resp. Exh. 2.
5. Petitioner is employed at the Applied Behavioral Rehabilitation Institute, Bridgeport, Connecticut as a case manager providing vocational services and assistance to homeless veterans and non-veterans. Petitioner's employer states that petitioner has consistently met the objectives of his position. Board Exh. A.
6. Petitioner plans to enroll in a refresher training to update his nursing skills. Board Exh. A.

Discussion and Conclusions of Law

As stated in the Notice of Hearing, petitioner has the burden of satisfying the Board that he is able to practice as a licensed practical nurse with reasonable skill and safety by presenting relevant evidence at the hearing, including the following:

1. Evidence from a licensed therapist documenting his drug free status and participation in therapy and counseling;
2. Personal references addressing his drug free status, emotional health, and work habits;
3. Documentary evidence from his current and past employers;
4. Documentary evidence of random, legally defensible screens for drugs and alcohol conducted by a therapist or physician;

The Board finds that the petitioner has presented relevant and credible evidence to sustain his burden of satisfying the Board of his ability to return to the practice of nursing under the terms of the Order described below.

Order

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. Licensed practical nurse license No. 024694, of petitioner, Michael Doyle, is hereby reinstated to probationary status subject to the following conditions:
 - A. Petitioner shall successfully complete a Board approved licensed practical nurse refresher program.
 - B. Certification of successful completion of the refresher program cited in Paragraph 1A shall be submitted to the Board, directly from the educational institution where said program was taken, within thirty (30) days of the program's completion.
 - C. Petitioner shall complete an application licensure reinstatement and submit it to the licensing authority of the Department of Public Health (hereinafter “the Department”). Petitioner shall take the licensing examination for licensed practical nurses. Petitioner shall incur all expenses associated with applying for and taking the licensing examination.
 - E. Petitioner shall attain a passing score on the licensing examination for licensed practical nurse.
 - F. Until such time that petitioner successfully completes the refresher program and has attained a passing score on the licensing examination, petitioner is prohibited from practicing as a nurse and petitioner’s licensed practical nurse license is restricted and shall be used for the sole purpose of participating in the refresher program.
2. Petitioner’s licensed practical nurse license No. 024694, shall be immediately placed on probation for a period of two (2) years, under the following terms and conditions, commencing on the date petitioner is notified by the Department that he passed the licensed practical nurse examination and has completed all requirements for license reinstatement.

If any of the conditions of probation are not met, petitioner's licensed practical nurse 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 petitioner's employment and/or change of employment within the nursing profession.
Petitioner 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.
- B. Petitioner shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. The Board shall be notified in writing by any employer(s), within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
- C. Petitioner shall not administer, count or have access to controlled substances, or have responsibility for such activities in the course of nursing duties during the first six (6) months of working as a nurse during the probationary period. Petitioner may administer controlled substances as part of the licensed practical nurse refresher program provided he receives direct supervision from a nursing instructor.
- D. If employed as a nurse, petitioner shall cause employer reports to be submitted to the Board, by his immediate. Employer reports shall be submitted commencing with the report due on the first business day of month following employment as a nurse. Employer reports shall be submitted monthly during the first and last six months of probation, and quarterly during the months 7 through 18 of the probationary period.
- E. The employer reports cited in Paragraph 2D above shall include documentation of petitioner's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph 2P below.

- F. Should petitioner'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.
- G. If petitioner pursues further training in any subject area that is regulated by the Department, petitioner shall provide a copy of this Memorandum of Decision to the educational institution or, if not the institution, to petitioner's instructor. Such institution or instructor shall notify the Department in writing of 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 3P below.
- H. At his expense, petitioner shall engage in therapy and counseling for chemical dependency with a Connecticut licensed or certified therapist, approved by the Board and the Department, during the entire period of probation.
- I. Petitioner shall provide a copy of this Memorandum of Decision to his therapist. The Board shall be notified in writing by his therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.
- J. Petitioner shall cause evaluation reports to be submitted to the Board by his therapist. Therapist reports shall be submitted monthly during the first and last six months of probation, and quarterly during the months 7 through 18 of the probationary period.
- K. The therapist reports cited in Paragraph 2J above shall include documentation of dates of treatment, and an evaluation of petitioner's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. Therapist reports shall be submitted directly to the Board at the address cited in Paragraph 2P below.
- L. (1) At his expense, petitioner shall be responsible for submitting to observed random chain of custody urine screens for alcohol and drugs, at a testing facility approved by the Board, after consultation with the Department, as ordered by his therapist, and/or personal physician, and/or employer. Alcohol/drug screening may

also be ordered by the Board to ensure compliance with this Order. Random alcohol/drug screens shall be legally defensible in that specimen donor and chain of custody can be identified throughout the screening process.

(2) Petitioner shall be responsible for notifying the laboratory, his therapist, the Board, the Department and his prescribing practitioner of any drug(s) she is taking. For any prescription of a controlled substance(s) for more than two consecutive weeks, the petitioner shall cause the provider prescribing the controlled substance(s) to submit quarterly reports to the Board and the Department until such time as the controlled substance(s) are no longer prescribed. The reports shall include the following:

1. A list of controlled substances prescribed by this provider for the petitioner;
2. A list of controlled substance(s) prescribed by other providers;
3. An evaluation of the petitioner's need for the controlled substance;
4. An assessment of the petitioner's continued need for the controlled substance(s).

(3) There must be at least one (1) such random alcohol/drug screen weekly during the first and last six months of probation, and one (1) such random alcohol/drug screen monthly during the months 7 through 18 of the probationary period.

(4) Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

(5) Random alcohol/drug screens must include testing for the following substances:

Amphetamines	Methadone
Barbiturates	Methaqualone
Benzodiazepines	Opiates (Metabolites)
Cannabinoids (THC Metabolites)	Phencyclidine (PCP)
Cocaine	Propoxyphene
Meperidine (Demerol)	Ethanol (alcohol)

(6) Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department, at the address cited in Paragraph P below, by petitioner's therapist, personal physician or the testing laboratory.

- M. Petitioner shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for him, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications. Petitioner shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.
- N. Petitioner is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine. For that reason, any food substance containing poppy seeds should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine, the ingestion of poppy seeds shall not constitute a defense to such positive screen.
- O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- P. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, RN, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P. O. Box 340308
Hartford CT 06134-0308

- 3. That any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, shall constitute a violation of probation, which will be cause for an immediate hearing on charges of violating this Order. Any finding that petitioner has violated this Order will subject petitioner 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 of Examiners for Nursing shall not be a waiver or preclude the Board's right to take subsequent action. The Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or

other disciplinary action shall be sent to petitioner'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 of Examiners for Nursing).

4. That this Memorandum of Decision becomes effective on the date signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs petitioner, Michael Doyle, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 17th day of September 2008.

BOARD OF EXAMINERS FOR NURSING

By Patricia C. Buffal

CERTIFICATION

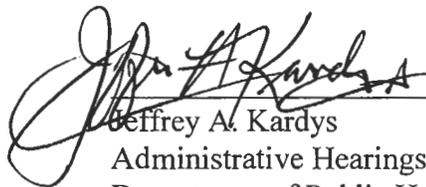
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 18th day of September 2008, by certified mail, return receipt requested and first class mail, to:

Michael J. Doyle
423 Colman Avenue, Building 4, Apt. 423
West Haven, CT 06516

Certified Mail RRR #91 7108 2133 3932 0551 0133

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