



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

PUBLIC HEALTH HEARING OFFICE

July 22, 2010

Kelly Jean Rudy
111 Notch Road
Bolton, CT 06043

Certified Mail RRR #91-7108-2133-3932-0551-7699
and First Class Mail

Matthew Antonetti, Principal Attorney
Department of Public Health
410 Capitol Avenue, MS #12LEG
PO Box 340308
Hartford, CT 06134-0308

Via Email

RE: Kelly Jean Rudy, LPN - Petition No. 2009-20091223

Dear Ms. Rudy and Attorney Antonetti:

Enclosed please find a copy of the Memorandum of Decision issued by the **Board of Examiners for Nursing** in the above-referenced matter.

Sincerely,

Jeffrey A. Kardys
Administrative Hearings specialist/Board Liaison
Public Health Hearing Office

- c: Michael J. Purcaro, Chief of Administration
- Wendy Furniss, Branch Chief, Healthcare Systems
- Jennifer Filippone, Section Chief, Practitioner Licensing and Investigations
- Bonnie Pinkerton, RN, Nurse Consultant, Department of Public Health
- Lynn A. Rioux, Paralegal Specialist II, Office of the Attorney General

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**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH**

Kelly Jean Rudy, L.P.N.
License No. 025236

Petition No. 2009-20091223

MEMORANDUM OF DECISION

Procedural Background

On November 24, 2009, 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 Kelly Jean Rudy ("respondent") which would subject respondent's licensed practical nurse 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 December 16, 2009, pursuant to §§ 4-182(c) and 19a-17(c) of the Statutes, that respondent's licensed practical nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Charges ("the Order"). Board Exh. 1; Dept. Exh. 1. On January 2, 2010, the Charges, the Order, and a Notice of Hearing were served on respondent by State Marshal. Board Exh. 2.

The hearing was held on January 20, 2010. Respondent was neither present nor represented at the hearing. Attorney Joelle Newton represented the Department. Respondent did not file an Answer to the Charges. During the hearing, the Board granted the Department's Motion to Deem the Allegations Admitted. Tr. p. 5. Following the close of the record on January 20, 2010, 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 respondent has been the holder of Connecticut licensed practical nurse license number 025236.
2. In paragraph two of the Charges, the Department alleges that on December 20, 2006, the Board ordered a Reinstatement Consent Order in Petition No. 2006-0725-011-025

(hereinafter "the Reinstatement Consent Order") that placed respondent's licensed practical nurse license on probation for four years.

3. In paragraph three of the Charges, the Department alleges that the Reinstatement Consent Order provided, in part, that respondent shall:
 - a. submit to observed, random urine screens for drugs and alcohol,
 - b. submit laboratory reports of the aforesaid random urine screens,
 - c. participate in regularly scheduled therapy, and/or
 - d. practice nursing with reasonable skill and safety.
4. In paragraph four of the Charges, the Department alleges that on or about October 12, 15, 16, and/or 20, 2009, respondent failed to submit to observed urine screens for drugs and alcohol pursuant to the terms of the Reinstatement Consent Order.
5. In paragraph five of the Charges, the Department alleges that on or about October 12, 15, 16, and/or 20, 2009, respondent failed to submit laboratory reports of the aforesaid random urine screens to the Department pursuant to the terms of the Reinstatement Consent Order.
6. In paragraph six of the Charges, the Department alleges that from approximately August 23, 2009, to the present, respondent failed to participate in regularly scheduled therapy.
7. In paragraph seven of the Charges, the Department alleges that in a report dated October 20, 2009, respondent's therapist stated that respondent did not appear capable of practicing nursing with reasonable skill and safety.
8. In paragraph eight of the Charges, the Department alleges that the above facts constitute violations of the terms of probation as set forth in the Reinstatement Consent Order, and subjects respondent's license to revocation or other disciplinary action authorized by the General Statutes of Connecticut, §§19a-17 and 20-99(b).

Findings of Fact

1. The Department provided respondent with reasonable and adequate written notice of the allegations contained in the Statement of Charges. Board Exh. 1; Tr. pp. 2-3.
2. Respondent did not file an Answer. Tr. p. 5.
3. The factual allegations contained in paragraphs one through seven are deemed admitted and true. Tr. p. 5.

Discussion and Conclusions of Law

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). The allegations are deemed admitted; therefore, the Department sustained its burden of proof.

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; . . .

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 § 4-182(c) of the Statutes. Respondent did not submit an Answer to the Statement of Charges. Pursuant to §19a-9-20 of the Regulations of Connecticut State Agencies the Board deemed the allegations in the Charges to be admitted.

The Board concludes that respondent's conduct as alleged in paragraphs 1, through and including, 7 of the Charges and deemed to be admitted and true, constitutes grounds for disciplinary action pursuant to §§ 20-99(b)(1) 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 that respondent's license number 025236 to practice as a licensed professional nurse in the State of Connecticut is hereby **REVOKED**.

The Board of Examiners for Nursing hereby informs respondent, Kelly Jean Rudy, and the Department of Public Health of the State of Connecticut of this decision, which becomes effective on the date signed by the Board of Examiners for Nursing.

Dated at Hartford, Connecticut this 21st day of July 2010.

BOARD OF EXAMINERS FOR NURSING

By Patricia Bouffard
Patricia Bouffard, R.N.

CERTIFICATION

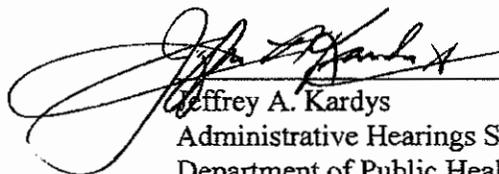
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 22nd day of July 2010, by certified mail, return receipt requested, and first class mail to:

Kelly Jean Rudy
111 Notch Road
Bolton, CT 06043

Certified Mail RRR #91-7108-2133-3932-0551-7699

and via email to:

Matthew Antonetti, Principal Attorney
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
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Jeffrey A. Kardys
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