

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH**

Nancy Walker, LPN
License No. 025560

Petition No. 2006-1017-011-035

MEMORANDUM OF DECISION

Procedural Background

On April 21, 2008, 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 Nancy Walker ("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 May 7, 2008, 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"). Dept. Exh. 1.

On May 7, 2008, the Charges, the Order, and a Notice of Hearing were sent to respondent by certified and first class mail. Dept. Exh. 1.

Respondent filed a written Answer to the Charges. Resp. Exh. B.

The hearing was held on May 21, 2008, October 15, 2008 and April 15, 2009.

Respondent appeared pro se on all hearing dates; Attorney Matthew S. Antonetti represented the Department.

Following the close of the record on April 15, 2009, 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 Nancy Walker of Wallingford, Connecticut is, and has been at all times referenced in the Charges, the holder of Connecticut license number 025560 to practice as a licensed practical nurse.
- 2 In paragraph two of the Charges, the Department alleges that during the course of 2007 and 2008, respondent abused and/or utilized to excess alcohol and/or marijuana.
- 3 In paragraph three of the Charges, the Department alleges that respondent has been diagnosed with bipolar disorder and assessed, in part, with problems in impulse control.
- 4 In paragraph four of the Charges, the Department alleges that respondent's abuse of alcohol and/or drugs and/or her mental illness does, and/or may, affect her practice as a licensed practical nurse.
- 5 In paragraph five of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, § 20-99(b), including but not limited to:
 - a. § 20-99(b)(4); and/or
 - b. § 20-99(b)(5).

Findings of Fact

1. Respondent admits to the factual allegations set forth in paragraphs 1-3 of the Charges. Resp. Exh. B.
2. In her Answer respondent explained that her abuse of alcohol and/or drugs might affect her ability to practice as a licensed practical nurse, and for that reason she "took herself out of nursing." Resp. Exh. B.
3. Respondent testified on April 15, 2009 that her mental illness has affected her ability to perform as a nurse such that she would not be able function in a full time nursing capacity. Tr., p. 25.

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 Department sustained its burden of proof with regard to the allegations contained in all paragraphs of the Charges.

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: (4) emotional disorder or mental illness; (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals;

The Department sustained its burden of proof concerning all of the allegations in the Statement of Charges. Respondent has admitted that during 2007 and 2008 she abused and/or excessively used alcohol and marijuana. Respondent has acknowledged that her use and abuse of alcohol and marijuana as well as her mental illness may affect her ability to perform as a nurse in certain settings and circumstances. The Board further concludes, based on the evidence presented by both the Department and the Respondent, that the Respondent's ability to perform as a nurse is affected by her abuse of alcohol and marijuana and as well as her mental illness.. Resp. Exh. B; Tr., p. 25.

Based on its findings and respondent's admissions, the Board concludes that respondent's conduct as alleged in paragraphs 1-4 of the Charges, are proven. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to §§ 20-99(b)(4) and (5) and 19a-17 of the Statutes and that respondent is not able to practice nursing with reasonable skill and safety at this time.

Respondent has acknowledged that her use and abuse of alcohol and marijuana as well as her mental illness may affect her ability to perform as a nurse in certain settings and circumstances. The Board further concludes, based on the evidence presented by both the Department and the Respondent, that the Respondent's ability to perform as a nurse is affected by her abuse of alcohol and marijuana and as well as her mental illness.

Order

Based on the record in this case, the above findings of fact and conclusions of law, the Board hereby orders, with respect to license number 025560 held by Nancy Walker, as follows:

Respondent's license no. 025560 to practice as a licensed practical nurse in the State of Connecticut is revoked effective the date this Memorandum of Decision is signed by the Board.

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

Dated at Hartford, Connecticut this 7th day of October, 2009.

BOARD OF EXAMINERS FOR NURSING

By Patricia C. Buffard

CERTIFICATION

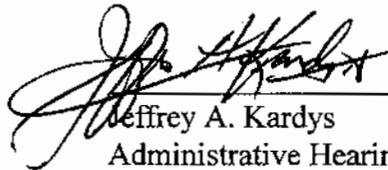
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 8th day of October 2009, by certified mail, return receipt requested, and first class mail to:

Nancy Walker
17 Essex Street
Hartford, CT 06114

Certified Mail RRR #91-7108-2133-3932-0692-2676

and by Inter-Departmental Mail to:

Matthew Antonetti, Principal Attorney
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