

Pamela Tornillo
799 Savin Avenue
West Haven, CT 06516

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

State of Connecticut
Department of Public Health

vs.

Pamela Tornillo, LPN
Licensed Practical Nurse License No. 025981
respondent.

CASE PETITION NO. 980504-011-010

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 an Interim Consent Order executed by Pamela Tornillo (hereinafter "respondent") and the Department. The Interim Consent Order provided for the licensed practical nurse license of respondent to be suspended for a period of ninety days (90) pending a resolution of allegations by the Department that respondent engaged in conduct which fails to conform to the accepted standards of the nursing profession. The Interim Consent Order was accepted by the Board on September 16, 1998.

On March 3, 1999, the Department presented to the Board a Statement of Charges and Motion for Summary Suspension dated February 26, 1999. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by respondent.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of respondent presented a clear and immediate danger to public health and safety. On March 3, 1999, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that the licensed practical nurse license of respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges Dept. Exh. 1.

The Board issued a Notice of Hearing dated March 3, 1999, scheduling a hearing for March 17, 1999. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. The record indicates that the Notice of Hearing and Statement of Charges were delivered to respondent. Tr., March 17, 1999, pp. 30-31.

The hearing took place on March 17, 1999, in the Wethersfield Town Hall, Council Chambers, 505 Silas Deane Highway, Wethersfield, Connecticut.

Respondent was present during the hearing but was not represented by counsel. Tr., March 17, 1999, p. 7.

Respondent orally answered the Statement of Charges. Tr., March 17, 1999, pp. 8-11.

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 025981, on August 11, 1995. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1-A1; Tr., March 17, 1999, pp. 8.
2. On or about May 3, 1997, respondent attempted to obtain the controlled substance Fiorinal with codeine by impersonating a physician and by calling in a prescription for Fiorinal with codeine to the Arrow Pharmacy, Orange, Connecticut. Respondent attempted to pick-up said prescription at the pharmacy. Dept. Exh. 1-D; Tr., March 17, 1999, pp. 33.
3. On or about May 30, 1997, respondent attempted to pick-up a prescription for the controlled substance Vicodine which had been fraudulently called in to the Brooks Pharmacy, Milford, Connecticut. Dept. Exh. 1-E; Tr., March 17, 1999, pp. 47-48..
4. In June of 1997, respondent was convicted of obtaining drugs by fraud. Tr., March 17, 1999, pp. 9.
5. On or about April 20, 1998, while working as a licensed practical nurse at the home of S.C., Orange, Connecticut, respondent diverted the controlled substance Ativan. Dept. Exh. 1-B, C, G.
6. From approximately December of 1997 to April of 1998, respondent participated in a rehabilitation program at The Connecticut Mental Health Center, Substance Abuse Treatment Unit (SATU). From June 1, 1998 to October of 1998, respondent engaged in group therapy for chemical dependency at

The Center, Bridgeport, Connecticut. Beginning on or about October 5, 1998, respondent resumed treatment at SATU. Respondent has also been participating in Alcoholics Anonymous and Narcotics Anonymous. Dept. Exh. 1-I; Rt. Exh. 1; Tr., March 17, 1999, pp. 35-42.

7. While engaging in treatment at The Center, respondent abused the controlled substance of marijuana. Random urine screens to which respondent submitted on July 14 and 20, 1998, tested positive for the presence of THC (Marijuana). Dept. Exh. 1-I; Tr., March 17, 1999, p. 20.
8. Respondent first abused or excessively used controlled substances when she was eleven years old. Respondent's date of birth is October 15, 1964. Dept. Exh. 1-A, I. Tr., March 17, 1999, p. 43.

Conclusions of Law and Discussion

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

Pamela Tornillo 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 sufficiently provided legal notice as mandated by the General Statutes of Connecticut §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut 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 the General Statutes of Connecticut §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

PARAGRAPH 2 of the Statement of Charges alleges that during May of 1997, respondent attempted to obtain controlled substances by impersonating a physician; calling in a prescription for Fiorinal with Codeine to a pharmacy in Orange, Connecticut under her name; and, attempting to pick up said prescription.

Respondent admits this charge. Tr., March 17, 1999, pp. 8-9.

PARAGRAPH 3 of the Statement of Charges alleges that during May of 1997, respondent attempted to obtain controlled substances by impersonating a physician; calling in a prescription for Vicodine to a pharmacy in Milford, Connecticut; and, attempting to pick up said prescription.

Respondent admits to attempting to pick up the prescription for Vicodine but denies impersonating a physician and calling in the prescription. Tr., March 17, 1999, pp. 9.

PARAGRAPH 4 of the Statement of Charges alleges that in June of 1997 respondent was convicted of Obtaining Drugs by Fraud in Connecticut.

Respondent admits this charge. Tr., March 17, 1999, p. 9.

PARAGRAPH 5 of the Statement of Charges alleges that on or about April 20, 1998, while working as a licensed practical nurse at the home of the Clarks, in Orange, Connecticut, respondent:

- a. diverted Ativan from the household and/or;
- b. diverted jewelry from the household.

Respondent denies these charges. Tr., March 17, 1999, p. 9.

PARAGRAPH 6 of the Statement of Charges alleges that as the result of the criminal investigation into the matter referenced in paragraph 5, respondent was arrested and charged with Larceny in the Sixth Degree and convicted in December 1998 of Larceny in the Sixth Degree, Connecticut General Statute Section 53a-125b.

Respondent admits this charge. Tr., March 17, 1999, p. 9.

PARAGRAPHS 7 and 8 of the Statement of Charges allege that since approximately 1975, respondent has abused or excessively used controlled substances, and that this abuse of controlled substances does, and/or may, affect her practice as a licensed practical nurse

Respondent denies these charges. Tr., March 17, 1999, p. 11.

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 and 4 of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that respondent's conduct as alleged in Paragraph 3, only as it pertains to attempting to pick up a prescription for Vicodine, is also proven by a preponderance of the evidence presented. Such conduct fails to conform to the accepted standards of the nursing profession and constitutes a violation of General Statutes of Connecticut §20-99(b)(5). Therefore, respondent's licensed practical nurse license is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

With regard to Paragraph 3 as it pertains to impersonating a physician and calling in a prescription for Vicodine to a pharmacy in Milford, Connecticut, the Board concludes that the Department did not present sufficient evidence to prove these charges. Therefore, these charges are dismissed.

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 5a and 6 of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct fails to conform to the accepted standards of the nursing profession and constitutes violations of General Statutes of Connecticut §20-99(b)(2) and (5). Therefore, respondent's licensed practical nurse license is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

With regard to Paragraph 5b, the Board concludes that the Department did not present sufficient evidence to prove this charge. Therefore, Paragraph 5b of the Statement of Charges is dismissed.

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 7 and 8 of the Statement of Charges is proven by a preponderance of the evidence presented. The Board found that respondent has a history of abusing and/or excessively using controlled substances since the age of eleven and that respondent abused Marijuana at a time she was engaging in substance abuse treatment. The Board finds that respondent's abuse of controlled substances may affect her practice as a licensed practical nurse.

The Board concludes that respondent's conduct as alleged in Paragraphs 7 and 8 fails to conform to the accepted standards of the nursing profession and constitutes a violation of General Statutes of Connecticut §20-99(b)(5). Therefore, respondent's licensed practical nurse license is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

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:

That for Paragraphs 2, 3 as it pertains to attempting to pick up a prescription for Vicodine, 4, 5a, 6; 7 and 8 of the Statement of Charges, respondent's licensed practical nurse license, No. 025981, 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, Pamela Tornillo, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 21st day of July, 1999.

BOARD OF EXAMINERS FOR NURSING

By 