

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

PUBLIC HEALTH HEARING SECTION

October 19, 2011

Sue Pelletier
27 Wall Street
Middletown, CT 06457

Certified Mail 91-7108-2133-3932-0556-3221

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

RE: Sue Pelletier, LPN– Petition No. 2009-20091466

Dear Ms. Pelletier 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 Section

c: Wendy Furniss, Branch Chief, Healthcare Systems
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**STATE OF CONNECTICUT
CONNECTICUT BOARD OF EXAMINERS FOR NURSING**

Sue Pelletier, LPN
License No. 026602

Petition No. 2009-20091466

MEMORANDUM OF DECISION

Procedural Background

On May 19, 2011, the Department of Public Health (“the Department”) filed a Statement of Charges (“the Charges”) with the Board of Examiners for Nursing (“the Board”). Bd. Exh. 1. The Charges allege violations of certain provisions of Chapter 378 of the General Statutes (“the Statutes”) by Sue Pelletier (“respondent”) which would subject respondent’s licensed practical nurse (“LPN”) license to disciplinary action pursuant to §§ 19a-17 and 20-99(b) of the Statutes.

On May 25, 2011, the Charges and a Notice of Hearing were sent to respondent by certified and first class mail. Bd. Exh. 2.

On June 14, 2011, the Department filed a Motion to Deem Allegations Admitted. Bd. Exh. 4.

After a continuance, the first day of hearing was held on August 17, 2011. Bd. Exh. 3.

There were two days of hearing. On the first day of hearing, respondent appeared *pro se*. Attorney Ellen Shanley represented the Department on both hearing days. The Board denied the Department’s Motion to Deem Allegations Admitted and respondent orally answered the Charges on the record of the hearing. Tr. 8/17/11, pp. 6-17. The first day of hearing was continued until September 21, 2011 in order to permit the Department and respondent to produce certain documents that the Board requested. Tr. 8/17/11, pp. 61-66.

On September 20, 2011, respondent requested a second continuance (Bd. Exh. 5), to which the Department objected. Bd. Exh. 6.

On September 21, 2011, respondent’s request was denied (Tr. 9/21/11, pp. 3-4), and the second day of hearing was held. Respondent was not present and was not represented by an attorney. During the second day of hearing, the Department produced the documents the Board had previously requested and entered them into the record. Dept. Exhs. 5-7 (under seal); Tr. 9/21/11, pp. 5-8.

Following the close of the record on September 21, 2011, 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 of Middletown, is, and has been at all times referenced in the Charges, the holder of LPN license number 026602.
2. In paragraph two of the Charges, the Department alleges that on various occasions during the course of 2007-2009, while working as a LPN at Cromwell Healthcare and Rehabilitation Center, Cromwell, Connecticut, respondent:
 - a. failed to perform treatments as ordered;
 - b. failed to completely, properly and/or accurately document an order;
 - c. failed to completely, properly and/or accurately document a patient's treatment;
 - d. failed to administer medications as ordered; and/or,
 - e. failed to completely, properly and/or accurately document patient records.
3. In paragraph three of the Charges, the Department alleges that during 2009, respondent abused or utilized alcohol to excess.
4. In paragraph four of the Charges, the Department alleges respondent's abuse of alcohol does, and/or may, affect her practice as a LPN.
5. In paragraph five of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to the Statutes of Connecticut, §20-99(b), including, but not limited to:
 - a. §20-99(b)(2); and/or,
 - b. §20-99(b)(5).

Findings of Fact

1. Respondent of Middletown, is, and has been at all times referenced in the Charges, the holder of LPN license number 026602. Tr. 8/17/11, p.12.
2. On various occasions during the course of 2007-2009, while working as a LPN at Cromwell Healthcare and Rehabilitation Center, Cromwell, Connecticut, respondent:
 - a. failed to perform treatments as ordered; Tr. 8/17/11, p. 13
 - b. failed to completely, properly and/or accurately document an order;
 - c. failed to completely, properly and/or accurately document a patient's treatment; Tr. 8/17/11, p. 16
 - d. failed to administer medications as ordered; and/or, Tr. 8/17/11, p. 16
 - e. failed to completely, properly and/or accurately document patient records.Dept. Exh. 6, pp. 11, 39, 50, 76, 79, 80-83, 85 (under seal).

3. During 2009, respondent abused or utilized alcohol to excess. Dept. Exh. 2, pp. 4-8, 12-14, 16, 19, 21 (under seal). Dept. Exh. 3, pp. 5-6 (under seal)
4. Respondent's abuse of alcohol does, and/or may, affect her practice as a LPN. Dept. Exh. 1; Dept. Exh. 5, pp. 6, 9-10 (under seal).

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 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: . . (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions; . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; . . .

The Board concludes that respondent's conduct as alleged in paragraphs one through four of the Charges is proven by a preponderance of the evidence presented.

Respondent admits the allegations contained in paragraph 2a that she failed to perform treatments as ordered; and, in paragraphs 2c and 2d that she failed to completely, properly and/or accurately document a patient's treatment, and failed to administer medications as ordered. Tr. 8/17/2011, pp. 12-14, 16-17.

The Department sustained its burden of proof as to the remaining allegations that were not admitted. Specifically, on April 4, 2007, and on July 30, October 7, and December 11, 2008, respondent failed to document treatment orders and/or patient records. Dept. Exh. 6, pp. 39, 76, 79, and 81 (under seal).

Additionally, the Board concludes that the evidence establishes that respondent abused or utilized alcohol to excess in 2009. Specifically, the records establish that in June 2009,

respondent was intoxicated and depressed and sought in-patient treatment for alcohol abuse and dependence in a hospital emergency room. During this hospital stay, respondent admitted that she had been drinking alcohol daily for the past four months following her termination of employment in February 2009. Dept. Exh. 2, pp. 4-8, 12-14, 16, 19, 21 (under seal), Dept. Exh. 3, pp 5-6 (under seal). Also, respondent was non-compliant with a state-endorsed health intervention assistance program and only attended AA meetings sporadically. Dept. Exhs. 4, 5, p. 1 (under seal). The Board concludes that despite respondent's denials to the contrary, the Department established by a preponderance of the evidence that respondent's abuse of alcohol does, and/or may affect her practice as a LPN.

The Board further concludes that respondent's conduct constitutes grounds for disciplinary action pursuant to §§ 20-99(b)(2), and (5), 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 026602 to practice as a licensed practical nurse in the State of Connecticut is hereby **REVOKED**.

The Board of Examiners for Nursing hereby informs respondent, Sue Pelletier, 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 19th day of October, 2011.

BOARD OF EXAMINERS FOR NURSING

By Patricia C Bouffard
Patricia Bouffard, R.N.
Chairperson

CERTIFICATION

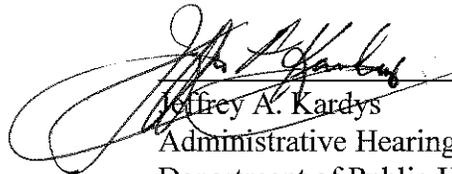
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 19th day of October 2011, by certified mail, return receipt requested and first class mail to:

Sue Pelletier
27 Wall Street
Middletown, CT 06457

Certified Mail 91-7108-2133-3932-0556-3221

and via email to:

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