

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

Department of Public Health

Petition No. 2000-0608-011-019

vs.

Christine Custer, LPN, Lic. No. 026656
Respondent

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 a Statement of Charges and Motion for Summary Suspension dated June 19, 2000. Dept. Exh. 2. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Christine Custer (hereinafter "respondent") which would subject the respondent's Licensed Practical Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

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 June 21, 2000, 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 June 21, 2000, scheduling a hearing for July 19, 2000. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. Department Exhibit 1 indicates that the Summary Suspension Order, Notice of Hearing and Statement of Charges were served on the respondent by a deputy sheriff on July 7, 2000.

The hearing took place on July 19, 2000, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Respondent was neither present nor represented at the hearing. Transcript, July 19, 2000, p. 3.

During the hearing, the Department made an oral motion to deem allegations admitted due to respondent not having filed an Answer to the Statement of Charges. The Board granted the Department's Motion. Transcript, July 19, 2000, p. 6.

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 026656 on February 21, 1997. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh.2-A.
2. Pursuant to a Memorandum of Decision dated March 15, 2000, respondent's Licensed Practical Nurse license was suspended for a period of nine months with concurrent probation for an additional three years. Said Order was based on respondent's diversion of controlled substances, and falsification of controlled substance records, while employed as a Licensed Practical Nurse at Greentree Manor, Waterford, Connecticut during 1999. Dept. Exh. 2-B(b).
3. Conditions set forth in the Memorandum of Decision included the requirement that respondent submit to random urine screens, the results of which shall be negative for the presence of drugs and alcohol. Dept. Exh. 2-B(b).
4. On or about May 15, 2000, respondent relapsed on alcohol and cocaine. Dept. Exh. 2-B.
5. A urine screen to which respondent submitted on May 19, 2000, tested positive for the presence of barbiturates and cocaine. Dept. Exh. 2-B, 2-B(c).

Conclusions of Law and Discussion

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

Christine Custer held a valid Licensed Practical Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Summary Suspension Order, Notice of Hearing and Statement of Charges provided sufficient 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.

The Statement of Charges alleges that on or about May 19, 2000, respondent violated the terms of probation as set forth in the March 15, 2000 Decision by supplying a urine sample that was positive for butalbital and cocaine.

The Respondent did not submit an Answer to the Statement of Charges. Pursuant to §19-9-20 of the Regulations of Connecticut State Agencies, the Board deems the allegations in the Statement of Charges to be admitted.

Based on its findings, the Board concludes that respondent's conduct as alleged in the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes a violation of the probation as set forth in the Memorandum of Decision dated March 15, 2000. 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:

Respondent's Licensed Practical Nurse license, No. 026656, 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, Christine Custer, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 15th day of November, 2000.

BOARD OF EXAMINERS FOR NURSING

By 