

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

PUBLIC HEALTH HEARING SECTION

August 17, 2011

Tammy Ryerson
24 Aspetuck Village
New Milford, CT 06776

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and First Class Mail

Matthew Antonetti, Principal Attorney
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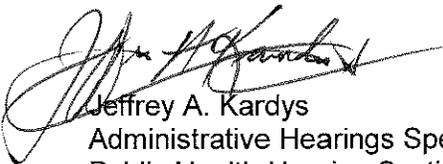
Via Email

RE: Tammy Ryerson, LPN– Petition Nos. 2010-5232

Dear Ms. Ryerson 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: Michael J. Purcaro, Chief of Administration
Wendy Furniss, Branch Chief, Healthcare Systems
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STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

ORIGINAL

Tammy Ryerson, LPN
License No. 026735

Petition No. 2010-5232

MEMORANDUM OF DECISION

Procedural Background

On August 18, 2010, 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"). Bd. Exh. 1, 3. The Charges allege violations of certain provisions of Chapter 378 of the General Statutes ("the Statutes") by Tammy Ryerson ("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 August 18, 2010, 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"). Bd. Exh. 1.

On August 18, 2010, the Charges, the Order, and a Notice of Hearing were sent to respondent by certified and first class mail. Bd. Exhs.1-3.

After the Board granted four continuances that respondent had requested (Bd. Exhs. 5-8), the hearing was held on May 4, 2011, and respondent orally answered the Charges on the record. Tr. pp. 7-9.

At the hearing, respondent appeared *pro se*; the Department was represented by Attorney Leslie Scoville. Tr. p. 1.

Following the close of the record on May 4, 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 Hartford is, and has been at all times referenced in the Charges, the holder of Connecticut licensed practical nursing license number 026735.

2. In paragraph two of the Charges, the Department alleges that at all relevant times, respondent was employed as a licensed practical nurse at Southbury Training School, Southbury, Connecticut (“the facility”).
3. In paragraph three of the Charges, the Department alleges that from about February 2010 through June 2010, respondent abused or utilized to excess marijuana and/or crack cocaine.
4. In paragraph four of the Charges, the Department alleges that respondent’s abuse of marijuana and/or crack cocaine 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 § 20-99(b) of the Statutes, including but not limited to:
 - a. § 20-99(b)(2); and/or,
 - b. § 20-99(b)(5).

Findings of Fact

1. Respondent of Hartford is, and has been at all times referenced in the Charges, the holder of Connecticut licensed practical nursing license number 026735. Tr. p. 8.
2. At all relevant times, respondent was employed as a licensed practical nurse at the facility. Bd. Exh. 4, pp. 1-3; Tr. p. 8.
3. From about February 2010 through June 2010, respondent abused or utilized to excess marijuana and crack cocaine. Dept. Exh. 1, pp. 4-5; 26-27 (under seal); Tr. pp. 9, 22, 26-27, 34.
4. Respondent’s abuse of marijuana and crack cocaine does, and/or may, affect her practice as a licensed practical nurse. Resp. Exh. D, p. 10 (under seal); Resp. Exh. E, p. 23 (under seal); Tr. pp. 26-27.

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 all of allegations contained 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; . . .

With respect to the Charges, respondent admits all of the allegations. Specifically, respondent admits that from about February 2010 through June 2010, she abused or utilized marijuana and crack cocaine to excess. Therefore, the Board concludes that respondent's conduct as alleged in the Charges is proven by a preponderance of the evidence presented.

The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to §§20-99(b)(2) and (5) and 19a-17 of the Statutes. Nonetheless, the Board finds that respondent accepts full responsibility for her conduct and expresses sincere remorse for her serious lapse in judgment. Respondent documented that she immediately sought and successfully completed an intensive inpatient program and a four week outpatient treatment program; transitioned into a 12 week relapse prevention program for women; and, participated in individual counseling sessions with a therapist. She also testified that she voluntarily attends weekly NA/AA meetings, she is very active in her church, and all of her observed random drug screens have been negative. Bd. Exh. 4, pp. 1, 4-7 (under seal); Resp. Exhs. B, C, and D (all under seal); Tr. pp. 23, 26-29, 31, 33-34. Therefore, the Board finds that respondent can practice nursing with reasonable skill and safety under the terms of this Order.

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 026735 held by Tammy Ryerson, as follows:

1. The suspension of respondent's license shall remain in place until this Memorandum of Decision is signed and becomes effective.

2. Following said suspension, respondent's license shall be placed on probation for a period of two years under the following terms and conditions. If any of the conditions of probation are not met, respondent's licensed practical nurse license may be subject to disciplinary action pursuant to §19a-17 of the Statutes.

- A. During the period of probation, the Board shall pre-approve respondent's employment and/or change of employment within the nursing profession.
- B. Respondent shall not be employed as a nurse for a personnel provider service, assisted living services agency, homemaker-home health aide agency, or home health care agency, and shall not be self-employed as a nurse for the period of probation.
- C. Respondent shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. The Board shall be notified in writing by any employer(s), within 30 days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
- D. If employed as a nurse, respondent shall cause employer reports to be submitted to the Board, by her immediate supervisor during the entire probationary period. Employer reports shall be submitted commencing with the report due on the first business day of month following employment as a nurse. Employer reports shall be submitted monthly during the entire period of probation.
- E. The employer reports cited in Paragraph D above shall include documentation of respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph R below.
- F. Should respondent's employment as a nurse be involuntarily terminated or suspended, respondent and her employer shall notify the Board within 72 hours of such termination or suspension.
- G. In the event respondent is not employed as a nurse for periods of 30 consecutive days or longer, she shall notify the Department in writing. Such periods of time shall not be counted in reducing the probationary period covered by this Order and such terms shall be held in abeyance. During such time period, respondent shall not be responsible for complying with the terms of probation of this Order. In the event respondent resumes the practice of nursing, she shall provide the Department with 15 days prior written notice.

- H. If, during the period of probation, respondent practices nursing outside Connecticut, she shall provide written notice to the Department concerning such employment. During such time period, respondent shall not be responsible for complying with the terms of probation of this Order and such time period shall not be counted in reducing the probationary period covered by this Order. However, respondent may comply with the terms of probation while practicing outside Connecticut, if pre-approved by the Department. In the event respondent intends to return to the practice of nursing in Connecticut, she shall provide the Department with 30 days prior written notice and agrees to comply with all terms and conditions contained in this Order.
- I. If respondent pursues further training in any subject area that is regulated by the Department, she shall provide a copy of this Memorandum of Decision to the educational institution or, if not an institution, to her instructor. Such institution or instructor shall notify the Department in writing as to receipt of a copy of this Memorandum of Decision within 15 days of receipt. Said notification shall be submitted directly to the Department at the address cited in Paragraph R below.
- J. At her expense, respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist, approved by the Board and the Department, during the entire period of probation.
- K. Respondent shall provide a copy of this Memorandum of Decision to her therapist. The Board shall be notified in writing by her therapist, within 30 days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.
- L. Respondent shall cause evaluation reports to be submitted to the Board by her therapist. Therapist reports shall be submitted monthly to the Board during the entire period of probation.
- M. The therapist reports cited in Paragraph L above shall include documentation of dates of treatment, and an evaluation of respondent's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. Therapist reports shall be submitted directly to the Board at the address cited in Paragraph R below.

- N. Observed random urine screens
- (1) At her expense, respondent shall be responsible for submitting to observed random chain of custody urine screens for alcohol and drugs for the entire probationary period, at a testing facility approved by the Board, after consultation with the Department, as ordered by her therapist, and/or personal physician, and/or employer. Alcohol/drug screening may also be ordered by the Board to ensure compliance with this Order. Random alcohol/drug screens shall be legally defensible in that specimen donor and chain of custody can be identified throughout the screening process.
 - (2) Respondent shall be responsible for notifying the laboratory, her therapist, the Board, the Department and her prescribing practitioner of any drug(s) she is taking. For any prescription of a controlled substance(s) for more than two consecutive weeks, the respondent shall cause the provider prescribing the controlled substance(s) to submit quarterly reports to the Board and the Department until such time as the controlled substance(s) are no longer prescribed. The reports shall include the following:
 - a. A list of controlled substances prescribed by this provider for the respondent;
 - b. A list of controlled substance(s) prescribed by other providers;
 - c. An evaluation of the respondent's need for the controlled substance;
 - d. An assessment of the respondent's continued need for the controlled substance(s).
 - (3) There must be at least one such weekly random alcohol/drug screen during the entire probationary period.
 - (4) Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

(5) Random alcohol/drug screens must include testing for the following substances:

Amphetamines	Methadone
Barbiturates	Methaqualone
Benzodiazepines	Opiates (Metabolites)
Cannabinoids (THC Metabolites)	Phencyclidine (PCP)
Cocaine	Propoxyphene
Meperidine (Demerol)	Ethanol (alcohol)

(6) Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department, at the address cited in Paragraph R below, by respondent's therapist, personal physician or the testing laboratory.

- O. Respondent shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for her, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications. Respondent shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.
- P. Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine and that the ingestion of mouthwash may produce a positive result indicating the presence of alcohol. For that reason, any food substance containing poppy seeds, and mouthwash should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine and/or alcohol, the ingestion of poppy seeds and/or mouthwash shall not constitute a defense to such positive screen.
- Q. The Board must be informed in writing prior to any change of address.
- R. All communications, payments if required, correspondence, and reports are to be addressed to:

Bonnie Pinkerton, RN, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
Board of Examiners for Nursing
410 Capitol Avenue, MS #12HSR
P. O. Box 340308
Hartford CT 06134-0308

3. Any deviation from the terms of probation, without prior written approval by the Board, shall constitute a violation of probation, which will be cause for an immediate hearing on charges of violating this Order. Any finding that respondent has violated this Order will subject respondent to sanctions under §19a-17(a) and (c) of the Statutes, including but not limited to, the revocation of her license. Any extension of time or grace period for reporting granted by the Board shall not be a waiver or preclude the Board's right to take subsequent action. The Board shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to respondent's address of record (most current address reported to the Office of Practitioner Licensing and Certification of the Department of Public Health or the Board).
4. This Memorandum of Decision becomes effective, and the two year probation of licensed practical nurse license no. 026735 shall commence, as of the date of signature.

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

Dated at Hartford, Connecticut this 17th day of August, 2011.

BOARD OF EXAMINERS FOR NURSING

By Patricia C. Bouffard
Patricia C. Bouffard, D.N.Sc., Chair

CERTIFICATION

I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 17th day of August 2011, by certified mail, return receipt requested and first class mail to:

Tammy Ryerson
24 Aspetuck Village
New Milford, CT 06776

Certified Mail 91-7108-2133-3932-0556-3207

and via email 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
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