

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

Department of Public Health

Petition No. 2001-1108-011-031

vs.

Samara DiMeola, L.P.N., Lic. No. 028116
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 November 20, 2001. Dept. Exh. 2. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Samara DiMeola (hereinafter "respondent") which would subject 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 respondent's continued nursing practice presented a clear and immediate danger to public health and safety. On November 21, 2001, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that respondent's licensed practical nurse license 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 November 21, 2001, scheduling a hearing for December 5, 2001. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. Department Exhibit 1 indicates that the Notice of Hearing, Summary Suspension Order and Statement of Charges were delivered by certified mail to respondent's address of record on December 1, 2001.

The hearing took place on December 5, 2001, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was present during the hearing but was not represented by counsel. Transcript, December 5, 2001, pp. 2-3.

During the hearing respondent orally answered the Statement of Charges. Transcript, December 5, 2001, pp. 7-10.

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 028116 on August 1, 2000. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1; Transcript, December 5, 2001, pp. 7-8.
2. At all relevant times, respondent was employed as a licensed practical nurse at Avon Health Center, Avon, Connecticut. Dept. Exh. 1; Transcript, December 5, 2001, p.8.
3. On or about October 23, 2001, while working as a licensed practical nurse at Avon Health Center, respondent diverted the controlled substance morphine; failed to completely, properly and/or accurately document medical or hospital records; and falsified one or more Controlled Substance Receipt Records. Dept. Exh. 2; Transcript, December 5, 2001, p.8.
4. Respondent diverted morphine three, 5 milligram vials of morphine from patients at Avon Health Care Center. Respondent diverted the morphine by replacing it with saline solution and using Super Glue to replace the vial caps. Respondent gave the diverted morphine to a family member. Dept. Exh. 2; Transcript, December 5, 2001, pp. 10-12, 14.

Conclusions of Law and Discussion

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

Samara DiMeola 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 *Conn. Gen. Stat.* §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a 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 *Conn. Gen. Stat.* §4-182(c).

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

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 . . .

PARAGRAPH 3 of the Statement of Charges alleges that on or about October 23, 2001, while working as a licensed practical nurse at Avon Health Center, respondent:

- a. diverted morphine;
- b. failed to completely, properly and/or accurately document medical or hospital records; and/or
- c. falsified one or more Controlled Substance Receipt Records.

Respondent admits these charges. Transcript, December 5, 2001, p. 8.

Based on the findings and respondents admission, the Board concludes that respondent's conduct as alleged in Paragraph 3 of the Statement of Charges is proven by a preponderance of the evidence. The Board further concluded that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§20-99(b)(2). Therefore, respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

Order

Pursuant to its authority under *Conn. Gen. Stat.* §19a-17 and §20-99, the Board of Examiners for Nursing hereby orders the following:

1. That the Summary Suspension of respondent's licensed practical nurse license, number 028116, ordered on November 21, 2001, is vacated on the effective date of this Memorandum of Decision.
2. That for Paragraph 3 of the Statement of Charges, respondent is assessed a civil penalty in the amount of five hundred dollars (\$500.00).
 - A. The \$500.00 civil penalty is payable within six months of the effective date of this decision.
 - B. Payment of the civil penalty shall be made by certified check payable to "Treasurer, State of Connecticut" and shall be sent to:

**DEPARTMENT OF PUBLIC HEALTH
BOARD OF EXAMINERS FOR NURSING
DIVISION OF HEALTH SYSTEMS REGULATION
410 Capitol Avenue, MS #12HSR
P. O. Box 340308
Hartford CT 06134-0308**

3. That for Paragraph 3 of the Statement of Charges, respondent's licensed practical nurse license, number 028116, is placed on probation for a period of one (1) year.
4. If any of the following conditions of probation are not met, respondent's licensed practical nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.
 - A. Within the first three months of the probationary period, respondent shall undergo a psychiatric evaluation conducted by a licensed psychiatrist approved by the Board and the Department. Respondent shall assume all expenses associated with the evaluation. A written report of the evaluation shall be submitted directly to the Board from the evaluator within fifteen days of completion.

B. 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 thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.

C. If employed as a nurse: respondent shall cause monthly employer reports to be submitted to the Board by her immediate supervisor during the entire probationary period.

D. The employer reports cited in Paragraph C 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 I below.

E. Should respondent's employment as a nurse be involuntarily terminated, respondent and/or her employer shall notify the Board, within seventy-two (72) hours, of such termination.

F. Respondent shall not administer, count or have access to controlled substances, or have responsibility for such activities in the course of nursing duties until approved to do so following the Board's review of the psychiatric evaluation cited in Paragraph A above.

G. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.

H. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.

I. All 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

4. Any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, 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 General Statutes of Connecticut, including but not limited to, the revocation of her license. Any extension of time or grace period for reporting granted by the Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take subsequent action. The Board of Examiners for Nursing 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 Licensure and Registration Section of the Division of Health Systems Regulation of the Department of Public Health or the Board of Examiners for Nursing).

5. This Memorandum of Decision becomes effective, and the one (1) year probation of respondent's licensed practical nurse license shall commence, on the date signed by the Board of Examiners for Nursing.

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

Dated at Hartford, Connecticut this 5th day of June 2002.

BOARD OF EXAMINERS FOR NURSING

By 

CERTIFICATION

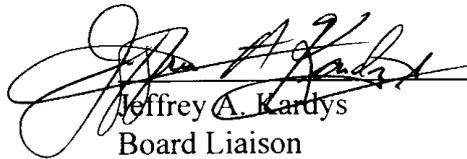
I hereby certify that, pursuant to Connecticut General Statutes §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 15th day of June 2002, by certified mail, return receipt requested, and first class mail to:

Samara DiMeola
1 Middle Street
Simsbury, CT 06070

Certified Mail RRR #70993400001827342991

and by Inter-Departmental Mail to:

Stanley K. Peck, Director
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
Hartford, CT 06134-0308



Jeffrey A. Kardys
Board Liaison
Department of Public Health
Public Health Hearing Office

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF REGULATORY SERVICES

In re: Samara DiMeola, L.P.N.

Petition No. 2001-1108-011-031

SUMMARY SUSPENSION ORDER

WHEREAS, the affidavits, duly verified, allege facts which show violations of §20-99(b) of the Connecticut General Statutes, as amended, and which imperatively require emergency action in that the public health, safety or welfare of the citizens of the State of Connecticut is in clear and immediate danger; and,

Pursuant to the authority of §4-182(c) and §19a-17(c), pending the hearing set for the 5th day of December, 2001, at 9:00 a.m.

It is hereby ORDERED, by vote of the Connecticut State Board of Examiners for Nursing (hereinafter "the Board") that license number 028116 of Samara DiMeola to practice licensed practical nursing in the State of Connecticut is summarily suspended pending a final determination by the Board regarding the allegations contained in the Statement of Charges.

Further it is hereby ordered by vote of the Board that Samara DiMeola immediately surrender her license number 028116 to the Board, 410 Capitol Avenue, MS #13PHO, P.O. Box 340308, Hartford, CT 06134-0308 upon notification of this Order.

Dated at Hartford, Connecticut this 19th 21 day of November, 2001.

Mary Ellen O'Hare
Connecticut State Board of Examiners for Nursing