

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health

Petition No. 2002-0208-011-004

vs.

Samara DiMeola, LPN, 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 dated April 23, 2002. Dept. Exh. 1. 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 *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b).

The Board issued a Notice of Hearing dated April 26, 2002, scheduling a hearing for September 18, 2002. Dept. Exh. 1.

Department Exhibit 1 indicates that the Notice of Hearing and Statement of Charges were mailed by certified and first class mail to respondent's address of record. An individual with the last name of Urban signed for the certified mail. Respondent's maiden name is Urban. Dept. Exh. 2-A2, 2-B58.

The hearing took place on September 18, 2002, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was not present during the hearing and was not represented by counsel. Respondent was also the subject of a hearing before the Board in Petition No. 2002-0710-011-030 which was also scheduled for September 18, 2002. Respondent was aware of the hearing in Petition No. 2002-0710-011-030 (Board Exh. 1) but failed to attend. Transcript, September 18, 2002, p. 5. The Board ordered the revocation of respondent's licensed practical nurse license in Petition No. 2002-0710-011-030.

Respondent did not file an Answer to the Statement of Charges.

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 the holder of licensed practical nurse license number 028116. Dept. Exh. 2-A2, 2-B59.
2. On November 21, 2001, respondent's licensed practical nurse license, number 028116, was summarily suspended by the Board. The Summary Suspension Order was delivered by certified mail to respondent's address of record on December 1, 2001. Dept. Exh. 2-D.
3. Despite the summary suspension of respondent's license, respondent continued to work as a licensed practical nurse for Interim Healthcare, Farmington, Connecticut from at least December 1, 2001 through January 11, 2002, and provide licensed practical nursing services for the Farmington Valley Visiting Nurses Association. Dept. Exh. 2.

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 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 his 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 Statement of Charges dated April 23, 2002 alleges that from at least December 1, 2001 through at least January 11, 2002, respondent worked as a licensed practical nurse despite her license having been summarily suspended on November 21, 2001.

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

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 . . . (6) fraud or material deception in the course of professional services or activities

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 grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§ 20-99(b)(6) and 19a-17.

Order

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

Respondent's licensed practical nurse license, number 028116, is revoked effective the date this Memorandum of Decision is signed by the Board.

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 Newington, Connecticut this 19th day of February 2003

BOARD OF EXAMINERS FOR NURSING

By  _____