

**STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH**

Amy Ziegler, LPN  
License No. 028221

Petition No. 2007-0419-011-016

**MEMORANDUM OF DECISION**

***Procedural Background***

On November 14, 2007, 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"). Dept. Exh. 3. The Charges allege violations of certain provisions of Chapter 378 of the General Statutes ("the Statutes") by Amy Ziegler ("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 November 21, 2007, 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"). Dept. Exh. 3.

On November 21, 2007, the Charges, the Order, and a Notice of Hearing were sent to respondent by certified and first class mail. Dept. Exhs. 3, 4. On February 13, 2008, respondent filed an Answer to the Charges. Resp. Exh. A.

After a number of continuances, the first day of hearing was held on April 1, 2009. At the hearing, respondent appeared *pro se*. Attorney Roberta Swafford represented the Department. Both the Department and respondent requested another continuance to permit the parties to negotiate the terms of a possible Consent Order. Tr. 4/1/09, pp. 3-4.

On September 16, 2009, a second day of hearing was held. Respondent was not present and was not represented by an attorney. Attorney Diane Wilan represented the Department. After making the determination that respondent had received sufficient notice of the September 16, 2009 hearing, the Board permitted the Department to proceed. Tr. 9/16/09, pp. 6-7.

Following the close of the record on September 16, 2009, 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. Paragraph one of the Charges alleges that respondent of Manchester is, and has been at all times referenced in the Charges, the holder of licensed practical nurse ("LPN") license number 028221.
2. Paragraph two of the Charges alleges that on February 7, 2007, while working as a LPN at Jefferson House, Newington, Connecticut, respondent:
  - a. diverted Vicodin, Ativan, and Xanax;
  - b. failed to completely, properly and/or accurately document medical or hospital records; and/or
  - c. falsified one or more Controlled Substance Receipt Records.
3. Paragraph three of the Charges alleges that on or about April 15, 2007, while working as a LPN through Nurses PRN Healthcare Staffing at Trinity Hill Care Center, in Hartford, Connecticut, respondent:
  - a. diverted Oxycodone;
  - b. failed to completely, properly and/or accurately document medical or hospital records;
  - c. falsified one or more Controlled Substance Receipt Records;
  - d. was impaired by alcohol, medication and/or lack of sleep while on duty;
  - e. made medication errors;
  - f. was sent home by the facility due to her mental status changes and inability to work; and/or
  - g. refused to comply with Nurses PRN's request for a drug screen.
4. Paragraph four of the Charges alleges that from approximately February 2007 to April 15, 2007, respondent abused or utilized to excess Vicodin, Ativan, Xanax, hydromorphone, Oxycodone, Percocet, Dilaudid, heroin, and/or cocaine.
5. Paragraph five of the Charges alleges that from approximately April 2006 to April 2007, respondent abused or utilized to excess alcohol.
6. Paragraph six of the Charges alleges that respondent's abuse of alcohol, Vicodin, Ativan, Xanax, hydromorphone, Oxycodone, Percocet, Dilaudid, heroin and/or cocaine does, and/or may, affect her practice as a LPN.

7. Paragraph seven of the Charges 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);
  - b. § 20-99(b)(5); and/or
  - c. § 20-99(b)(6).

#### ***Findings of Fact***

1. The respondent is, and has been at all times referenced in the Charges, the holder of Connecticut LPN license number 028221. Resp. Exh. A.
2. On February 7, 2007, while working as a LPN at Jefferson House, Newington, Connecticut, the respondent diverted Vicodin, Ativan, and Xanax, failed to document completely, properly and/or accurately medical or hospital records, and falsified one or more Controlled Substance Receipt Records. Dept. Exh. 6; Resp. Exh. A.
3. On or about April 15, 2007, while working as a LPN through Nurses PRN Healthcare Staffing at Trinity Hill Care Center, in Hartford, Connecticut, the respondent diverted Oxycodone; failed to completely, properly and/or accurately document medical or hospital records; falsified one or more Controlled Substance Receipt Records; was impaired by alcohol, medication and/or lack of sleep while on duty; made medication errors; was sent home by the facility due to her mental status changes and inability to work; and, refused to comply with Nurses PRN's request for a drug screen. Dept. Exh. 6; Resp. Exh. A.
4. From approximately February 2007 to April 15, 2007, the respondent abused or utilized to excess Vicodin, Ativan, Xanax, hydromorphone, Oxycodone, Percocet, Dilaudid, heroin, and/or cocaine. Dept. Exh. 6; Resp. Exh. A.
5. From approximately April 2006 to April 2007, the respondent abused or utilized alcohol to excess. Resp. Exh. A.
6. The respondent's abuse of alcohol, Vicodin, Ativan, Xanax, hydromorphone, Oxycodone, Percocet, Dilaudid, heroin and/or cocaine affects her practice as a LPN. Dept. Exh. 6.

#### ***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. v. Department of Social Services*, 288 Conn. 790 (2008); *Swiller v. Comm'r of Public Health*, CV-950705601, Superior Court, judicial district of Hartford/New Britain at Hartford, Docket No. 705601 (October 10, 1995, *Hodgson, J.*);

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

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

Respondent admits many of the allegations, including allegations contained in: paragraphs 2b and 3b that she failed to completely, properly and/or accurately document medical or hospital records; paragraphs 3d, 3e, and 3f, that she was impaired by alcohol, medication and/or lack of sleep while on duty, made medication errors, and was sent home by the facility due to her mental status changes and inability to work, respectively; paragraph 4 that she abused or utilized to excess hydromorphone, Oxycodone, Percocet, Dilaudid, heroin, and/or cocaine; paragraph 5, that she abused or utilized to excess alcohol; and, paragraph 6 that her abuse of alcohol, hydromorphone, Oxycodone, Percocet, Dilaudid, heroin and/or cocaine did in the past affect her practice as a licensed practical nurse.

The Department sustained its burden of proof as to the remaining allegations that were not admitted.

The Board concludes that respondent's conduct in paragraphs 2a, 3a, 3d, 4, 5 and 6 of the Charges violates § 20-99(b)(2) of the Statutes; respondent's conduct in paragraphs 2a, 2b, 2c, 3a, 3b, 3c, 3d, 3e, 3f, 3g, 4, and 5 of the Charges violates § 20-99(b)(5) of the Statutes; and, respondent's conduct in paragraphs 2c and 3c of the Charges violates § 20-99 (b)(6) of the Statutes. Said violations subject the respondent's license to disciplinary action under § 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 028221 to practice as a licensed practical nurse in the State of Connecticut is hereby **REVOKED**.

The Board of Examiners for Nursing hereby informs respondent, Amy Ziegler, 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 7th day of April, 2010.

BOARD OF EXAMINERS FOR NURSING

By Patricia C Bouffard  
Patricia Bouffard, R.N.

**CERTIFICATION**

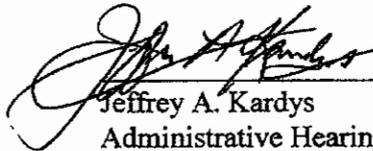
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 5th day of APRIL 2010, by certified mail, return receipt requested:

Amy Ziegler  
40 Orange Street  
Glens Falls, NY 12801

Certified Mail RRR #91-7108-2133-3932-0555-2386

and by E-Mail to:

Matthew Antonetti, Principal Attorney  
Legal Office  
Department of Public Health  
410 Capitol Avenue, MS #12LEG  
Hartford, CT 06134-0308



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Jeffrey A. Kardys  
Administrative Hearings Specialist/Board Liaison  
Department of Public Health  
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