STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

PUBLIC HEALTH HEARING OFFICE

March 4, 2010

Stacy Jankowski
79 Gridly Street
Bristol, CT 06010

Certified Mail RRR #91-7108-2133-3932-0555-2294

Matthew Antonetti, Principal Attorney
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
PO Box 340380
Hartford, CT 06134-0308

Via Email

RE: Stacy Jankowski, RN - Petition No. 2008-0402-011-018

Dear Ms. Jankowski 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 Office

c: Michael J. Purcaro, Management Team Leader, Administrative Branch
Wendy Furniss, Branch Chief, Healthcare Systems
Jennifer Filippone, Section Chief, Practitioner Licensing and Investigations
Bonnie Pinkerton, RN, Nurse Consultant, Department of Public Health
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STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH

Stacey Jankowski, L.P.N.
License #028461

Petition No. 2008-0402-011-018

MEMORANDUM OF DECISION

Procedural Background

On June 10, 2009, the Department of Public Health ("the Department") filed a Statement of Charges ("the Charges") with the Board of Examiners for Nursing ("the Board"). Bd. Exh. 1. The Charges allege violations of certain provisions of Chapter 378 of the General Statues ("the Statutes") by Stacey Jankowski ("respondent") which would subject respondent's licensed practical nurse license to disciplinary action pursuant to §§ 19a-17 and 20-99(b) of the Statutes.

On July 15, 2009, the Charges and Notice of Hearing were sent by certified and first class mail to respondent at three addresses. The certified mailings were unclaimed; two first class mailings were not returned; one was returned marked "insufficient address." On August 13, 2009, the Charges and Notice were sent to respondent at her address of record. That certified mailing was unclaimed; the first class mailing was not returned. Bd. Exh. 2.

Respondent did not file an Answer to the Charges. The hearing was held on October 21 2009. At the hearing, respondent was neither present nor represented by an attorney; the Department was represented by Attorney Leslie Scoville. At the hearing, the Department moved to deem the allegations admitted; the motion was granted. Tr. pp. 7-8. Following the close of the record, 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 Bristol, CT is, and has been at all times referenced in the Charges, the holder of CT licensed practical nurse license # 028461, and that her license lapsed on August 31, 2007, due to nonrenewal. The Department further alleges that respondent's license became void on or about November 29, 2007 pursuant to §19a-88(f) of the Statutes.

2. In paragraph two of the Charges, the Department alleges that on February 6, 2008, the Board issued a Memorandum of Decision in Petition # 2007-0417-011-015 ("the Decision") that placed respondent's license on probation for four years, and that such disciplinary action was based upon proof of respondent's abuse or utilization to excess of cocaine.

3. In paragraph three of the Charges, the Department alleges that the Decision provided that respondent engage in therapy and counseling for the entire period of her probation, that therapist reports be submitted monthly during the first year of probation, and that respondent submit to weekly random urine screens for the first year of the probationary period.

4. In paragraph four of the Charges, the Department alleges that it has received no therapist reports.

5. In paragraph five of the Charges, the Department alleges that on or about March 26, 2008, respondent's first urine screen was positive for benzodiazepines, cocaine and/or opiates.

6. In paragraph six of the Charges, the Department alleges that respondent's alleged conduct constitutes violations of the probationary terms set forth in the Decision, and subject respondent's license to revocation or other disciplinary action authorized by §§ 19a-17 and 20-99(b) of the Statutes.

Findings of Fact

1. The Department provided respondent with reasonable and adequate notice of the Charges and hearing. Tr. p. 2-7; Bd. Exh. 2; Dept. Exh. 1.

2. Respondent, of Bristol, CT is, and has been at all times referenced in the Charges, the holder of CT licensed practical nurse license # 028461. Respondent's license lapsed on August 31, 2007, due to nonrenewal, and became void on or about November 29, 2007 pursuant to §19a-88(f) of the Statutes. Tr. pp 7-8., Dept. Ex. 1, Bd. Ex. 1.

3. On February 6, 2008, the Board issued the Decision that placed respondent's license on probation for four years based upon proof of respondent's abuse or utilization to excess of cocaine. Tr. pp 7-8., Dept. Ex. 1, Bd. Ex. 1.

4. The Decision required that respondent engage in therapy and counseling for the entire period of her probation, that therapist reports be submitted monthly during the first year of probation, and that respondent submit to weekly random urine screens for the first year of the probationary period. Tr. pp 7-8., Dept. Ex. 1, Bd. Ex. 1.

5. No therapist reports have been received by the Department. Tr. pp 7, Dept. Ex. 1, Bd. Ex. 1.

6. On or about March 26, 2008, respondent's first urine screen was positive for benzodiazepines, cocaine and/or opiates. Tr. pp 7-8. , Dept. Ex. 1, Bd. Ex. 1.

7. Respondent's alleged conduct constitutes violations of the probationary terms set forth in the Decision. Tr. pp 7-8. , Dept. Ex. 1, Bd. Ex. 1.

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). Since the allegations were deemed admitted, the Department sustained its burden of establishing the allegations contained in paragraphs 1 – 3 of 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 . . . .

The Board concludes that respondent's conduct as alleged in the Charges constitutes grounds for disciplinary action pursuant to §§ 20-99(b) and 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, with respect to license number 028461 held by Stacey Jankowski, as follows:

Respondent's license number 028461 to practice as a licensed practical nurse in the State of Connecticut is hereby revoked.

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

Dated at Hartford, Connecticut this 3rd day of March, 2010.

BOARD OF EXAMINERS FOR NURSING

By Patricia C Bafford

CERTIFICATION

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

Stacy Jankowski
79 Gridly Street
Bristol, CT 06010

Certified Mail RRR #91-7108-2133-3932-0555-2294

and by E-Mail to:

Matthew Antonetti, Principal Attorney
Legal Office
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