

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

Department of Public Health

Petition No. 2006-0925-011-033

vs.

Vincent Eugenio, LPN, Lic. No. 028881  
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 9, 2006. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Vincent Eugenio (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).

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 15, 2006, 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 15, 2006, scheduling a hearing for December 6, 2006. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against him. The Summary Suspension Order, Notice of Hearing and Statement of Charges were delivered by certified mail to respondent on November 11, 2006. Dept. Exh. 1.

Respondent made two requests for continuance which were granted. A hearing was held on June 20, 2007, in Room 1-A, of the Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Respondent was present during the hearing and was represented by counsel. Dept. Exhs. 2 and 3; Transcript, June 20, 2007, p.2.

Respondent answered the Statement of Charges. Resp. Exh. C; Transcript, June 20, 2007, pp. 55-58.

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 028881 on January 2, 2002. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh.4-tab D.
2. During 2006, Respondent was employed as a licensed practical nurse by Maxim Healthcare Services, East Hartford, Connecticut. Resp. Exh. C; Transcript, p. 56.
3. On or about August 2, 2006, while assigned to work as a licensed practical nurse at Newington Health Care Center, Newington, Connecticut, respondent was observed to be disheveled with red and glazed eyes. Respondent was also observed vomiting outside the facility. Dept. Exh. 10.
4. On or about September 1, 2006, while assigned to work as a licensed practical nurse at Park Place Health Center, Hartford, Connecticut, respondent was observed to be "acting strange." Respondent fell at least three times and almost administered the wrong medication to a patient. Dept. Exh. 7.
5. While employed by Maxim Healthcare Services respondent frequently requested that he be paid on a daily basis and also requested advanced payment on long weekends. Respondent became upset and angry if his requests were denied. Dept. Exh. 9.
6. On September 8, 2006, respondent was requested by his employer to submit to a toxicology screen. The results of the test were positive for cocaine. Dept. Exh. 4; Resp. Exh. C.
7. Respondent was terminated from Maxim Healthcare Services on September 15, 2006. Dept. Exhs. 4, 5.

8. Respondent underwent an independent psychiatric evaluation on June 13, 2007. Respondent reported to the evaluator a past history of cocaine use and admitted to cocaine use on one occasion in September 2006. The evaluator concluded there was no evidence of active substance abuse but recommended that respondent engage in individual treatment with a psychotherapist experienced in treating substance abuse in health care providers and further recommended random observed toxicology screens. Resp. Exh. A.

### ***Conclusions of Law and Discussion***

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

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

**PARAGRAPH 3** of the Statement of Charges alleges that during approximately September 2006 complaints were received by Maxim Health Care Services, East Hartford, Connecticut, from two facilities at which respondent was working, that respondent was “throwing up” and “acting strangely.”

Respondent denies sufficient knowledge to answer this allegation. Resp. Exh. C.

The Board concludes that the Department met its burden of proving this allegation by a preponderance of evidence.

**PARAGRAPH 4** of the Statement of Charges alleges that on or about September 8, 2006, while employed as a licensed practical nurse by Maxim Health Care Services, East Hartford, Connecticut, respondent submitted to a toxicology screen and tested positive for cocaine.

Respondent admits this allegation. Resp. Exh. C.

Based on the evidence presented and respondent’s admission the Board concludes that the Department met its burden of proving this allegation by a preponderance of evidence.

**PARAGRAPH 5** of the Statement of Charges alleges in or about September 2006, respondent abused or utilized to excess cocaine.

Respondent admits this allegation to the extent that respondent used cocaine on one occasion prior to the toxicology screen of September 8, 2006, but denies the remainder of the allegation. Resp. Exh. C. During testimony however, respondent testified, "any abuse of cocaine is excess." Transcript, p. 58.

The Board concludes that the Department met its burden of proving this allegation by a preponderance of evidence. The use of cocaine, even on a single occasion, constitutes abuse.

Respondent testified he used cocaine that was offered to him at a party while on trip to Virginia, as a means to help stay awake while driving back to his residence in Massachusetts. The Board concludes that respondent's explanation that this was a one-time use, is not credible.

**PARAGRAPH 6** of the Statement of Charges alleges that respondent's abuse of cocaine does, and/or may, affect his practice as a licensed practical nurse.

Respondent denies allegation. Resp. Exh. C.

The Board finds that respondent has a history of cocaine abuse. The Board concludes that if respondent does not engage in proper relapse prevention and treatment his abuse of cocaine may affect his practice as a licensed practical nurse.

**PARAGRAPH 7** of the Statement of Charges alleges that respondent's conduct constitutes a violation of the General Statutes of Connecticut.

Respondent denies this allegation.

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 carrying out usual nursing functions . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals . . .

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)(2), (5) and 19a-17; except that the Board's disciplinary action is not based upon paragraph 3 of the Statement of Charges even though the Department met its burden with respect to this paragraph.

Respondent has presented sufficient evidence that he has engaged in meaningful substance abuse treatment and that he continues to participate in ongoing treatment, therapy and/or support meetings. The Board finds that respondent can practice nursing with reasonable skill and safety under the terms of this Order.

#### ***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. The Summary Suspension of respondent's licensed practical nurse license number 028881, ordered on November 15, 2006, is terminated on the effective date of this Memorandum of Decision.
2. For Paragraphs 4, 5 and 6 of the Statement of Charges, respondent's licensed practical nurse license number 028881, is placed on probation for a period of four (4) years.
3. 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. During the period of probation, the Board shall pre-approve respondent's employment and/or change of employment within the nursing profession.  
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.
  - 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. Respondent shall not administer, count or have access to controlled substances, or have responsibility for such activities in the course of nursing duties during the first year of working as a nurse during the probationary period.
- D. If employed as a nurse, respondent shall cause employer reports to be submitted to the Board, by his 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 first and fourth years of probation, and quarterly during the second and third years 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 P below.
- F. Should respondent's employment as a nurse be involuntarily terminated or suspended, respondent and his employer shall notify the Board within seventy-two (72) hours of such termination or suspension.
- G. If respondent pursues further training in any subject area that is regulated by the Department, respondent shall provide a copy of this Memorandum of Decision to the educational institution or, if not an institution, to respondent's instructor. Such institution or instructor shall notify the Department in writing as to receipt of a copy of this Memorandum of Decision within fifteen (15) days of receipt. Said notification shall be submitted directly to the Department at the address cited in Paragraph P below.
- H. At his 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.
- I. Respondent shall provide a copy of this Memorandum of Decision to his therapist. The Board shall be notified in writing by his therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.

- J. Respondent shall cause evaluation reports to be submitted to the Board by his therapist during the entire probationary period. Therapist reports shall be submitted monthly during the first and fourth years of probation, and quarterly during the second and third years of probation.
- K. The therapist reports cited in Paragraph J 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 P below.
- L. (1) At his 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 his therapist, 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, his therapist, the Board, the Department and his prescribing practitioner of any drug(s) he is taking. For any prescription of a controlled substance(s) for more than two consecutive weeks, 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:
1. A list of controlled substances prescribed by this provider for the respondent;
  2. A list of controlled substance(s) prescribed by other providers;
  3. An evaluation of the respondent's need for the controlled substance;
  4. An assessment of the respondent's continued need for the controlled substance(s).
- (3) There must be at least one (1) such random alcohol/drug screen weekly during the first and fourth years of the probationary period; and, at least two (2) such random alcohol/drug screens monthly during the second and third years of the 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 P below, by respondent's therapist, personal physician or the testing laboratory.

- M. Respondent shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for him, 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.
- N. 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.
- O. The Board must be informed in writing prior to any change of address.

P. 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

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 General Statutes of Connecticut, including but not limited to, the revocation of his 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 four (4) year probation of licensed practical nurse license 028881 shall commence, on December 1, 2007.

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

Dated at Hartford, Connecticut this 21st day of November, 2007.

BOARD OF EXAMINERS FOR NURSING

By Nancy Basuto

**CERTIFICATION**

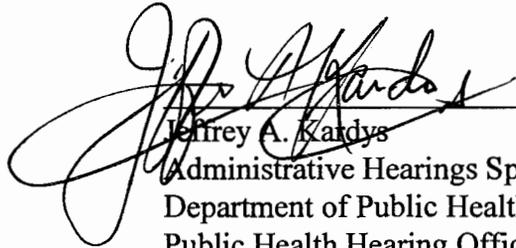
I hereby certify that, pursuant to Connecticut General Statutes §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 21<sup>st</sup> day of November 2007, by certified mail, return receipt requested, to:

Mary Alice Moore Leonhardt, Esq.  
67 Russ Street, 3<sup>rd</sup> Floor  
Hartford, CT 06106

Certified Mail RRR #9171082133393205602234

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  
Administrative Hearings Specialist/Board Liaison  
Department of Public Health  
Public Health Hearing Office