

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF REGULATORY SERVICES**

In re: Herbert L. Terry

Petition No. 2002-0808-000-057

PRELICENSURE CONSENT ORDER

WHEREAS, Herbert L. Terry of Waterbury (hereinafter "respondent") has applied for licensure to practice as a practical nurse by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 378 of the General Statutes of Connecticut, as amended; and,

WHEREAS, respondent agrees that:

1. The Department has at no time issued respondent a license to practice the occupation of practical nursing under the General Statutes of Connecticut, Chapter 378.
2. In December 1993, respondent pled guilty to Possession of Cocaine with Intent to Sell and Possession of Marijuana with Intent to Sell. He was sentenced to eighteen years incarceration, execution suspended after ten years, followed by three years probation.
3. On September 1, 1999, respondent was released from prison and placed on parole. Supervision was subsequently transferred to the Office of Adult Probation and is scheduled to end in October 2003.
4. The conduct described above constitutes grounds for the denial of respondent's application for licensure pursuant to §19a-14 of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §19a-14 of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives the right to a hearing on the merits of his application for licensure.

2. After satisfying the requirements for licensure as a practical nurse as set forth in Chapter 378 of the General Statutes of Connecticut, respondent's license to practice will be issued.
3. Respondent's license to practice as a practical nurse in the State of Connecticut shall, immediately upon issuance, be placed on probation for two (2) years under the following terms and conditions:
 - a. Respondent shall provide his employer and/or designated supervisor at each place where he practices as a practical nurse throughout the probationary period with a copy of this Consent Order within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of employment at a new facility. Said employer/designated supervisor shall furnish written confirmation to the Department of receipt of this Prelicensure Consent Order within fifteen (15) days of receipt. If respondent is not practicing with reasonable skill and safety, the employer and/or designated supervisor shall immediately notify the Department.
 - b. During the period of probation, respondent shall report to the Department any subsequent arrest. Such report shall occur within fifteen (15) days of such event.
 - c. During the period of probation, respondent shall not be employed by a home health care agency or assisted living services agency, nor shall he engage in independent practice of any kind.
 - d. During the probationary period, respondent shall attend "anonymous" or support group meetings at least two (2) times per month and shall provide monthly reports to the Department concerning his record of attendance.
 - e. Respondent shall refrain from the ingestion of alcohol in any form and the ingestion, inhalation, injection or other use of any controlled substance and/or legend drug unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications. In the event a medical condition arises

requiring treatment utilizing controlled substances, legend drugs, or alcohol in any form, respondent shall notify the Department and, upon request, provide such written documentation of the treatment as is deemed necessary by the Department.

- (1) During the first year of the probationary period, respondent shall, at his own expense, submit to monthly random observed urine screens for alcohol, controlled substances, and legend drugs, in accordance with Department Requirements for Drug and Alcohol Screens, attached hereto marked as "Attachment A: Department Requirements for Drug and Alcohol Screens". During the second year of probation, he shall submit to such screens on a quarterly basis. Respondent shall submit to such screens on a more frequent basis if requested to do so by the Department. Said screens shall be administered by a facility approved by the Department and shall be submitted directly to the Department by the testing laboratory. All such random screens shall be legally defensible in that the specimen donor and chain of custody shall be identified throughout the screening process. All laboratory reports shall state that the chain of custody procedure has been followed.
- (2) Respondent understands and agrees that if he fails to submit a urine sample when requested by his monitor, such missed screen shall be deemed a positive screen.
- (3) Respondent shall notify each of his health care professionals of all medications prescribed for him by any and all other health care professionals.
- (4) Respondent is hereby advised that the ingestion of poppy seeds and mouthwash has from time to time, been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, respondent agrees to refrain from ingesting poppy seeds in any food substances, and mouthwash during the term of this Consent Order. In the event respondent has a positive screen for morphine, opiates and/or

alcohol, respondent agrees that the ingestion of poppy seeds and/or mouthwash shall not constitute a defense to such a screen.

4. Respondent shall comply with all state and federal statutes and regulations applicable to his license.
5. Respondent shall notify the Department of any change(s) in his employment within fifteen (15) days of such change.
6. Respondent shall notify the Department of any change(s) in his home and/or business address within fifteen (15) days of such change.
7. Any deviation from the term(s) of this Prelicensure Consent Order without prior written approval of the Department shall constitute a violation. A violation of any term(s) of this Prelicensure Consent Order shall result in the right of the Department in its discretion to immediately deem respondent's practical nurse license rescinded. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department's right to take action at a later time. The Department shall not be required to grant future extensions of time or grace periods. Notice of the rescision of the license shall be sent by the Department to respondent's address of record. Respondent waives any right to a hearing on the issue of violation of the terms of this Prelicensure Consent Order.
8. That correspondence and reports required by the terms of this Prelicensure Consent Order are to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, Connecticut 06134-0308

9. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department.
10. Respondent understands that this Prelicensure Consent Order may be considered as evidence of the above-admitted violations in any proceeding before the Connecticut Board of Examiners for Nursing in which (1) his compliance with this Prelicensure Consent Order is at issue, or (2) his compliance with §20-99 of the Connecticut General Statutes, as amended, is at issue.
11. This Prelicensure Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Prelicensure Consent Order is not subject to appeal or review under the provisions of Chapters 54 and 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any other rights that he may have under the laws of the State of Connecticut or of the United States.
12. This Prelicensure Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
13. This Prelicensure Consent Order is effective when accepted and approved by a duly appointed agent of the Department.
14. Respondent understands this Prelicensure Consent Order is a matter of public record.
15. Respondent understands he has the right to consult with an attorney prior to signing this Prelicensure Consent Order.

I, Herbert L. Terry, have read the above Prelicensure Consent Order, and I agree to the terms and allegations set forth therein. I further declare the execution of this Prelicensure Consent Order to be my free act and deed.

Herbert L. Terry
Herbert L. Terry

Subscribed and sworn to before me this 19 day of September 2002.

Mia Caputo
Notary Public or person authorized
by law to administer an oath or affirmation
My Commission Expires Oct. 31, 2005

The above Prelicensure Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 23rd day of September 2002, it is hereby ordered and accepted.

Wendy Furniss
Wendy Furniss, RNC, MS, Director
Division of Health Systems Regulation
Stacey K. Peck
Director, Legal Office

Petition No. 2002-0808-000-057
jc

Attachment A

DEPARTMENT REQUIREMENTS FOR DRUG AND ALCOHOL SCREENS

Respondent: _____ Petition No. _____

Screening Monitor Information:

Name: _____

Address: _____

Phone: _____ FAX: _____

1. Each screen must test for the following substances: alcohol (breathalyzer tests are not acceptable), amphetamines, barbiturates, benzodiazepines, cannabinoids (THC metabolites), cocaine, meperidine, opiates, methadone, phencyclidine (PCP), propoxyphene, Stadol, hydrocodone, hydromorphone, and oxycodone. Additional substances such as Fentanyl and Sufentanil may also be required. Partial screens will not be accepted.
2. Urine collections must be directly observed. The urine monitor must be in the room with the respondent and directly observe the collection of the specimen by the respondent.
3. The frequency of screens is as follows: _____
4. Collections must be random. There must be no pre-arrangement between the respondent's therapist, the respondent, the urine monitor, and/or the lab in scheduling drug and alcohol screens. There must be no pattern of times, dates, or identifiable sequence (i.e. every Monday or alternating Wednesdays). The specimen collection shall not be done on the same day as a therapy session. Screening will be done on weekends and holidays if possible and/or if required. Special arrangements will be made for periods of vacation (see #6, below).

5. Specimens will be collected as follows: the screening monitor (pre-approved by the Department) will call the respondent for collections. The respondent shall provide the monitor with her home and business phone numbers and carry a beeper if necessary. The monitor must speak directly with the respondent; the monitor may not leave a message on an answering machine. **The respondent must appear for specimen collections within 2 - 5 hours of the screening monitor's call. In the event the respondent does not show up for a collection, or arrives late, the urine monitor is to notify this Department immediately. A MISSED SCREEN IS CONSIDERED A POSITIVE SCREEN.**
6. Respondent will notify the screening monitor and the Department at least two weeks prior to scheduled vacations. Screens will be collected prior to and following periods of vacation.
7. Specimens are to be handled in such a manner as to maintain Chain of Custody. Chain of Custody documentation must accompany all laboratory reports and/or the laboratory reports shall indicate that the Chain of Custody procedure has been followed. Respondent must document all medications s/he is taking on each Chain of Custody form. **The respondent is responsible for Chain of Custody documentation being completed properly. In the event Chain of Custody is incomplete, the respondent may be called for a repeat screen.**
8. All positive results shall be confirmed by gas chromatograph/mass spectrometer (GC/MS) testing method.
9. Screens must be conducted at one of the following labs:

Clinical Laboratory Partners (formerly Hartford Medical Laboratories)
Attn: Deborah Davis
129 East Cedar Street
Newington, CT 06111
(860) 696-8317

or

Bendiner & Schlesinger, Inc.
Attn: Mr. Francis Hartigan
47 Third Avenue at 10th Street
New York, N.Y. 10003
(212) 353-5108

Respondent must obtain Department-approval for any lab s/he chooses to use other than Clinical Laboratory Partners or Bendiner & Schlesinger. The proposed lab **must** be capable of conducting forensic screens and testing for each of the substances set forth in paragraph 1 of these Guidelines.

10. **POSITIVE SCREENS MUST BE REPORTED TO THE DEPARTMENT IMMEDIATELY,** by calling Bonnie Pinkerton at (860) 509-7400, and by fax sent to (860) 509-7650. Written documentation/confirmation of any positive screen must be received by the Department within 3 days of the screening monitor's notification of such.

11. Correspondence and lab reports should be sent to the attention of:

Bonnie Pinkerton
Department of Public Health
410 Capitol Avenue, #12 H.S.R.
P.O. Box 340308
Hartford, Connecticut 06134

ALCOHOL/DRUG SCREENS AND REPORTS NOT CONFORMING TO THESE GUIDELINES WILL NOT BE CONSIDERED ACCEPTABLE FOR PROBATIONARY/REHABILITATION PURPOSES.

All screening monitors and alternates must sign below acknowledging their receipt of these Guidelines and indicating their agreement to conduct screens accordingly.

Signature: _____

Signature: _____

Print name: _____

Print name: _____

Date: _____

Date: _____

Signature: _____

Signature: _____

Print name: _____

Print name: _____

Date: _____

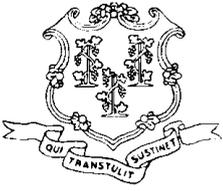
Date: _____

Please fax the signed signature page to (860) 509-8368.

Department Requirements for Drug and Alcohol Screens

Re: _____

Pet. No. _____



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

CERTIFIED MAIL RETURN RECEIPT REQUESTED

7099 3400 0018 2731 0808

September 24, 2002

Herbert L. Terry, III
35 Coggswell Street
Bridgeport, CT 06610

Dear Mr. Terry:

This is to advise you that you have completed all requirements for Connecticut practical nurse licensure. License number 029490 has been issued effective September 24, 2002.

Enclosed is a copy of the fully executed Prelicensure Consent Order in accordance with which your license is being granted. The Prelicensure Consent Order takes effect immediately.

You will receive your license in approximately eight (8) weeks, at your address of record. Instructions regarding future renewal will be enclosed. Failure to renew your license within ninety (90) days of the due date will result in your license becoming void. In that event, re-licensure would require a new application to the Department and a review of all credentials to determine whether you would satisfy current licensing requirements. In order to avoid such a process, be sure to renew your license in a timely manner each year in the month of your birth.

It is your responsibility to notify the Department of Public Health, in writing, of any future changes of name and/or address. Such notification to the Department is required by law and failure to provide same will jeopardize the status of your license.

If you have any questions, please do not hesitate to contact this office at 860-509-7590.

Sincerely,

Stephen B. Carragher
Health Program Supervisor
Division of Health Systems Regulation

cc: ✓ Jennifer Filippone, Public Health Services Manager
Stanley Peck, Director, Legal Office
Donna Brewer, Director, Public Health Hearing Office
Bonnie Pinkerton, Supervising Nurse Consultant

SBC/jc
Petition Number: 2002-0808-000-057



Phone:

Telephone Device for the Deaf (860) 509-7191

410 Capitol Avenue - MS # _____

P.O. Box 340308 Hartford, CT 06134

Affirmative Action / Equal Employment Opportunity Employer



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

April 22, 2003

Herbert Terry
35 Cogswell Street
Bridgeport, CT 06610

Dear Mr. Terry:

This is in regard to your Connecticut practical nurse license which was granted September 24, 2002, in accordance with the terms of a Prelicensure Consent Order, Petition Number 2002-0808-000-057.

Pursuant to paragraph 7 of the Prelicensure Consent Order, any deviation from the term(s) of the Prelicensure Consent Order without prior written approval of the Department of Public Health shall constitute a violation. A violation of any term(s) of the order shall result in the right of the Department, in its discretion, to immediately deem your practical nurse license rescinded.

Please be advised that the Department has determined that you have violated the terms of the Prelicensure Consent Order in that you:

- failed to submit all of the required reports of attendance at anonymous or support group meetings;
- admitted to consuming alcohol on March 16, 2003;
- admitted to use of heroin on March 20, 2003;
- tested positive for morphine at a level of 1,727 ng/ml on March 20, 2003;
- either declined to submit to random screens or failed to report on the day requested on two occasions.

As a result of the above violations, the Department has determined to rescind your practical nursing license effective the date of this letter. Please note that pursuant to paragraph 7, you waived any right to a hearing on the issue of violation of the terms of the Order.

Please return your three-part license documents to the Department's Office of Practitioner Licensing and Certification no later than May 7, 2003, to the attention of Jan Cordero, Licensing Examination Assistant.

Sincerely,



Stanley Peck, Director
Legal Office

C: Jennifer Filippone, Public Health Services Manager
Jeffrey Kardys, Administrative Hearings Specialist/Board Liaison
Bonnie Pinkerton, Registered Nurse Consultant

SP/jc



Phone:

Telephone Device for the Deaf (860) 509-7191

410 Capitol Avenue - MS # _____

P.O. Box 340308 Hartford, CT 06134

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