

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
HEALTHCARE SYSTEMS BRANCH

In re: Herbert Terry, L.P.N.

Petition No. 2006-0404-011-010

REINSTATEMENT CONSENT ORDER

WHEREAS, Herbert Terry, L.P.N. (hereinafter "respondent") of Waterbury, Connecticut has been issued license number 029490 to practice nursing by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 387 of the General Statutes of Connecticut, as amended; and

WHEREAS, on September 24, 2002 the Department issued respondent license number 029490 to practice nursing which license was rescinded on April 23, 2003 due to violations of the terms of probation pursuant to a Prelicensure Consent Order. Respondent has now applied to have said license reinstated by the Department pursuant to Chapter 368a of the General Statutes of Connecticut, as amended; and,

WHEREAS, respondent hereby admits as follows:

1. On September 24, 2002 the Department issued respondent license number 029490 to practice nursing under the General Statutes of Connecticut, Chapter 378 which license was rescinded on April 23, 2003 due to violations of the terms of probation pursuant to a Prelicensure Consent Order.
2. That the conduct described above constitutes grounds for denial of respondent's application for reinstatement pursuant to §19a-14(a)(6) of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-17 and 20-99 of the General Statutes of Connecticut, as amended, respondent hereby stipulates and agrees as follows:

1. Respondent waives his right to a hearing on the merits of this matter.
2. Respondent shall comply with all federal and state statutes and regulations applicable to his profession.
3. Respondent's license to practice nursing shall be reinstated when he satisfies the requirements for reinstatement of his license, as set forth in §§ 19a-14-1 through 19a-14-5, inclusive, of the Regulations of Connecticut State Agencies, and this Reinstatement Consent Order is executed by all parties.
4. Immediately upon issuance, respondent's license number 029490 to practice as a licensed practical nurse in the State of Connecticut is hereby placed on probation for four years, subject to the following terms and conditions:

A. Prior to commencing practice as a registered nurse, respondent shall, at his own expense, successfully complete a nurse refresher program, pre-approved by the Department. The educational institution where such program is taken shall submit to the Department certification of respondent's successful completion of such refresher program within thirty (30) days of completion of the program. After successfully completing said refresher program, respondent shall take and successfully complete the National Counsel Licensing Exam (NCLEX-LPN) offered by the National Council of State Boards of Nursing.

B. At his own expense, he shall engage in therapy and counseling with a Connecticut licensed or certified therapist (hereinafter "therapist") approved by the Department for the entire probationary period.

- (1) He shall provide a copy of this Consent Order to his therapist.
- (2) His therapist shall furnish written confirmation to the Department of his or her engagement in that capacity and receipt of a copy of this Consent Order within fifteen (15) days of the effective date of this Consent Order.
- (3) If respondent's therapist determines that therapy is no longer necessary, that a reduction in frequency of therapy is warranted, or that respondent should be transferred to another therapist, he or she shall advise the Department. Said termination of therapy, reduction in frequency of therapy, and/or respondent's transfer to another therapist shall not occur until approved by the Department. However, if therapy is terminated with approval of the Department, respondent's therapist shall continue to monitor his alcohol and drug free status by monitoring and reviewing the observed random urine screens for drugs and alcohol as described in paragraph 4B below, and by providing the reports described in paragraph 4C below.
- (4) The therapist shall immediately notify the Department in writing if respondent discontinues therapy and/or terminates his/her services.

B. Respondent shall not obtain or use controlled substances, legend drugs or alcohol in any form unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications.

- (1) At his own expense, he shall submit to observed random urine screens for drugs and alcohol, in accordance with Department Requirements for Drug and Alcohol Screens, attached hereto marked as ("Attachment 'A': Department

Requirements for Drug and Alcohol Screens”) at a testing facility approved by the Board, after consultation with the Department, as ordered by his therapist and/or personal physician. Laboratory reports of random alcohol and drug screens and/or any other drug or alcohol related laboratory reports, including but not limited to results of DNA testing, shall be submitted directly to the Board and the Department by respondent's therapist or personal physician or by the testing laboratory. All such observed random drug and alcohol screens shall be legally defensible in that the specimen donor and chain of custody can be identified throughout the screening process. All laboratory reports shall indicate that the chain of custody procedure has been followed.

- (2) Respondent shall be responsible for notifying the laboratory, his therapist, the Department and his prescribing practitioner of any drug(s) he is taking. For the prescription of a controlled substance(s) for more than two consecutive weeks, the respondent shall cause the provider prescribing the controlled substance(s) to submit quarterly reports to the Department, until such time as the controlled substance(s) are not prescribed by the provider, documenting 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 such observed random alcohol/drug screen and accompanying laboratory report weekly for the first and fourth years of probation and at least two such screens and reports monthly for the second and third years of probation
 - (4) All screens shall be negative for the presence of drugs and alcohol.
 - (5) All positive screen results shall be confirmed by gas chromatograph/mass spectrometer (GC/MS) testing.
 - (6) 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 or 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.
- C. Respondent shall be responsible for the provision of written reports from his therapist directly to the Department for the entire probationary period; monthly for the first and fourth years of probation; and, quarterly reports for the second and third years of probation. Such reports shall include documentation of dates of treatment, an evaluation of respondent's progress in treatment and of his drug and alcohol free status as established by the observed random urine screens for drugs and alcohol, an evaluation of his ability to safely and competently practice nursing, and copies of all laboratory reports.

- D. Notwithstanding the foregoing, respondent's therapist shall immediately report to the Department any confirmed positive alcohol/drug screen and any conduct or condition on respondent's part which does or may violate any federal or state statute or regulation applicable to his profession.
- E. Respondent shall provide a copy of this Consent Order to all current and future employers for the duration of his probation.
- F. 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 his probation.
- G. Respondent shall not administer, count, or have access to narcotics or other controlled substances, or have responsibility for such activities in the course of his nursing duties for the first year after returning to work as a nurse.
- H. Respondent shall be responsible for the provision of written reports directly to the Department from his nursing supervisor (i.e., Director of Nursing) monthly for the first and fourth years of his probation; and quarterly for the second and third years of probation. Respondent shall provide a copy of this Consent Order to any and all employers if employed as a nurse during the probationary period. The Department shall be notified in writing by any employer(s) within fifteen (15) days of the commencement of employment as to the receipt of a copy of this Consent Order. Employer reports shall include documentation of respondent's ability to safely and competently practice nursing, and shall be issued to the Department at the address cited in paragraph 4M below.

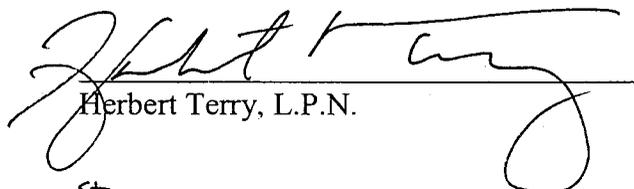
- I. Respondent shall notify the Department in writing of any change of employment within fifteen (15) days of such change.
- J. Respondent shall notify the Department of any change in his home or business address within fifteen (15) days of such change.
- K. If respondent pursues further training or is engaged at the time of the implementation of the Consent Order, in an educational program in any subject area that is regulated by the Department, respondent shall provide a copy of this Consent Order to the educational institution or, if not an institution, to respondent's instructor. Such institution or instructor shall notify the Department of receipt of the Consent Order within fifteen (15) days of receipt.
- L. All reports required by the terms of this Consent Order shall be due according to a schedule to be established by the Department of Public Health.
- M. All correspondence and reports shall be addressed to:

Bonnie Pinkerton
Department of Public Health
Practitioner Licensing and Investigations
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

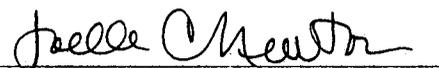
- 5. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau.
- 6. Respondent shall comply with all federal and state statutes and regulations applicable to his license.
- 7. Respondent shall notify the Department of any change(s) in his employment within fifteen (15) days of such change.

8. Respondent shall notify the Department of any change in his home and/or business address within fifteen (15) days of such change.
9. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Office of Practitioner Licensing and Certification of the Healthcare Systems Branch of the Department.
10. Respondent understands this Reinstatement 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 Reinstatement Consent Order is at issue, or (2) his compliance with §20-99 of the General Statutes of Connecticut, as amended, is at issue.
11. This Reinstatement Consent Order and the terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Reinstatement Consent Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the Connecticut General Statutes provided that this stipulation shall not deprive respondent of any other rights that She may have under the laws of the State of Connecticut or of the United States.
12. This Reinstatement 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 Reinstatement Consent Order is effective when accepted and approved by a duly appointed agent of the Department.
14. Respondent has the right to consult with an attorney prior to signing this document.
15. This Reinstatement Consent Order is a matter of public record.

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


Herbert Terry, L.P.N.

Subscribed and sworn to before me this 1st day of June 2006.


Notary ~~Public~~ or person authorized
by law to administer an oath or
affirmation

The above Reinstatement Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 1st day of June 2006, it hereby ordered and accepted.


Jennifer L. Filippone, Section Chief
Practitioner Licensing and Investigations
Healthcare Systems Branch



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

June 15, 2010

Herbert Terry, LPN
27 Newman Ave., #7A
Waterbury, CT 06705

Re: Reinstatement Consent Order
Petition No. 2006-0404-011-010
License No. 029490

Dear Mr. Terry:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective June 1, 2010.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your license related to the above-referenced Reinstatement Consent Order.

Please be certain to retain a copy of this letter as documented proof that you have completed your license probation.

Thank you for your cooperation during this process, and good luck to you in the future.

Very truly yours,

Bonnie Pinkerton, RN, Nurse Consultant
Practitioner Licensing and Investigations Section

cc: J. Filippone
J. Wojick



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