

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BOARD OF EXAMINERS FOR NURSING**

Matthew Dallachie, L.P.N.
License No. 029702

Petition No. 2010-353

MEMORANDUM OF DECISION

Procedural Background

On May 28, 2010, 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"). Bd. Exh. 2. The Charges allege violations of Chapter 378 of the General Statutes ("the Statutes") by Matthew Dallachie ("respondent") which would subject respondent's licensed practical nurse ("LPN") license to disciplinary action pursuant to §20-99(b) of the Statutes.

Based on the allegations in the Charges and the affidavits and reports attached to 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 June 16, 2010, pursuant to §§ 4-182(c) and 19a-17(c) of the Statutes, that respondent's LPN license be summarily suspended pending a final determination by the Board of the allegations contained in the Charges ("the Order"). Bd. Exh. 3.

On June 19, 2010, the Charges and a Notice of Hearing were served on respondent by State Marshal. Bd. Exh. 1. Respondent did not answer the Charges. Tr. p. 5. The hearing was held on July 21, 2010. Respondent was not present or represented at the hearing. Tr. p. 2. The Department was represented by Attorney Ellen Shanley. Tr. p. 2. Following the close of the record the Board conducted fact finding.

On July 6, 2010, the Department filed a Motion to Deem Allegations Admitted, which was entered at the hearing as Department's Exhibit 1. The Board voted unanimously to accept the Motion to Deem Allegations Admitted. Tr. pp 5-6

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 is, and has been at all times referenced in the Charges, the holder of Connecticut LPN number 029702.
2. In paragraph two of the Charges, the Department alleges that on October 18, 2006, the Board ordered a Consent Order in Petition Number 2005-0930-011-038 (hereinafter "the Consent Order") that placed respondent's LPN license on probation for a period of four years. Such disciplinary action was based upon respondent's diversion and use/abuse of controlled substances.
3. In paragraph three of the Charges, the Department alleges that said Consent Order specifically provided that respondent shall not obtain or use controlled substances, legend drugs or alcohol in any form any unless prescribed or recommended for a legitimate purpose by an authorized, licensed, health care professional.
4. In paragraph four of the Charges, the Department alleges that on or about March 23, 2010, respondent consumed alcohol.
5. In paragraph five of the Charges, the Department alleges that during March 2010, respondent's urine screen tested positive for alcohol.
6. In paragraph six of the Charges, the Department alleges that respondent's abuse of alcohol may, and/or does, affect his practice as a licensed practical nurse.
7. In paragraph seven of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to § 20-99(b) of the Statutes, including but not limited to § 20-99(b)(5).
8. In paragraph eight of the Charges, the Department alleges that respondent's conduct as described above constitutes violations of the terms of probation as set forth in the Consent Order, and subjects respondent's license to revocation or other disciplinary action authorized by §§ 19a-17 and 20-99(b) of the Statutes.

Findings of Fact

1. Respondent was provided with reasonable and adequate written notice of the allegations contained in the Charges. Bd. Exh. 1
2. Respondent did not file an Answer to the Charges. Tr. p. 5.
3. The factual allegations contained in paragraphs one through seven are deemed admitted and true. Tr. p. 6.
4. Respondent has not practiced nursing during the probationary period set forth in the October 18, 2006 Consent Order. Dept. Exh. 2, p.3

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).

Respondent did not file an Answer to the Charges and did not appear at the hearing. Pursuant to 19a-8-20 of the Regulations of Connecticut States Agencies, the Board granted the Department's Motion to Deem the Allegations Admitted.

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.

The Board concludes that respondent's conduct as alleged the Charges is proven by a preponderance of the evidence presented and said conduct constitutes grounds for disciplinary action pursuant to §§ 20-99(b) (2), and (5) and 19a-17 of the Statutes. The Board finds that respondent can practice nursing with reasonable skill and safety under the terms of this Order.

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 029702 held by Matthew Dallachie as follows:

1. The probation of respondent's LPN license number 029702 ordered pursuant to a Consent Order dated October 18, 2006, is extended until November 1, 2012.

2. The terms of probation set forth in the Consent Order dated October 18, 2006, shall continue in full force and effect except for the following:
 - a. Paragraph (3)(B)(3) of the Order is modified as follows: There must be at least one (1) such observed random alcohol/drug screen and accompanying laboratory report weekly for the remainder of the probationary period.
 - b. Paragraph (3)(C) of the Order is modified as follows: Respondent shall be responsible for the provision of monthly written reports from his therapist for the remainder of the probationary period.
 - c. Respondent shall not administer, count or have access to controlled substances, or have responsibility for such activities in the course of nursing duties for a period of one year from the effective date of this decision.
 - d. Prior to resuming the practice of nursing, respondent shall successfully complete a Board approved LPN refresher program. Certification of successful completion of the refresher program cited shall be submitted to the Board, directly from the educational institution where said program was taken, within thirty (30) days of the program's completion.
3. Any deviation from the terms of probation, without prior written approval by the Board, shall constitute a violation of probation, which will be the cause for an immediate hearing on charges of violating this Order. Any finding that respondent has violated this Decision will subject respondent to sanctions under §§ 19a-17(a) and (c) of the Statutes, 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).

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

Dated at Hartford, Connecticut this 15th day of December 2010.

BOARD OF EXAMINERS FOR NURSING

By Patricia Bouffard
Patricia Bouffard, R.N.
Chairperson

CERTIFICATION

I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 17th day of December 2010, by certified mail, return receipt requested, and first class mail to:

Matthew Dallachie
10 Candlewood Road
Milford, CT 06460

Certified Mail RRR #91-7108-2133-3932-0556-3054

and via email to:

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