



STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
PUBLIC HEALTH HEARING OFFICE

July 22, 2010

Mark Power
 166 Plainville Avenue
 Unionville, CT 06085

Certified Mail RRR #91-7108-2133-3932-0551-7712
 and First Class Mail

Matthew Antonetti, Principal Attorney **Via Email**
 Department of Public Health
 410 Capitol Avenue, MS #12LEG
 PO Box 340308
 Hartford, CT 06134-0308

RE: Mark Power, LPN - Petition No. 2009-20091310

Dear Mr. Power 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, Chief of Administration
 Wendy Furniss, Branch Chief, Healthcare Systems
 Jennifer Filippone, Section Chief, Practitioner Licensing and Investigations
 Bonnie Pinkerton, RN, Nurse Consultant, Department of Public Health
 Lynn A. Rioux, Paralegal Specialist II, Office of the Attorney General

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

Mark Power, LPN
License No. 029843

Petition No. 2009-20091310

MEMORANDUM OF DECISION

Procedural Background

On November 9, 2009, 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. 1. The Charges allege violations of certain provisions of Chapter 378 of the General Statutes ("the Statutes") by Mark Power ("respondent") which would subject respondent's licensed practical nurse license to disciplinary action pursuant to §§ 19a-17 and 20-99(b) of the Statutes.

Based on the allegations in the Charges and the affidavits and reports accompanying 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 November 18, 2009, pursuant to §§ 4-182(c) and 19a-17(c) of the Statutes, that respondent's licensed practical nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Charges ("the Order"). Bd Exh. 1.

On November 20, 2009, the Charges, the Order, and a Notice of Hearing were served on respondent by certified and first class mail. Bd Exh. 1. On November 21, 2009, the Charges, the Order, and a Notice were also personally served on respondent by State Marshal. Bd Exh. 2.

The hearing was held on December 2, 2009. At the hearing, respondent appeared *pro se*; the Department was represented by Attorney Ellen Shanley. Respondent did not file an Answer and orally answered and admitted the Charges on the record. Tr. pp. 8-11. Following the close of the hearing, 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 paragraphs one and eight of the Charges, the Department alleges that respondent is, and has been at all times referenced in the Charges, the holder of Connecticut licensed practical nurse license number 029843.

Count One

2. In paragraph two of the Charges, the Department alleges that at all relevant times, respondent was employed as a licensed practical nurse at Noble Horizons, Salisbury, Connecticut.
3. In paragraph three of the Charges, the Department alleges that during August 2007, while working as a licensed practical nurse, respondent:
 - a. inaccurately charted administration of medications; and/or,
 - b. inaccurately documented having completed patient treatments that were not performed by him.
4. In paragraph four of the Charges, the Department alleges that during October 2007, while working as a licensed practical nurse, respondent inaccurately documented having completed a patient treatment that was not performed by him.
5. In paragraph five of the Charges, the Department alleges that on or about September 17, 2009, while working as a licensed practical nurse, respondent pre-poured medication and passed medication without consulting the medical administration record.
6. In paragraph six of the Charges, the Department alleges that during October 2009, while working as a licensed practical nurse, respondent inaccurately documented administration(s) of Prilosec.
7. In paragraph seven of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to the § 20-99(b) of the Statutes, including but not limited to:
 - a. §20-99(b)(2); and/or,
 - b. §20-99(b)(7).

Count Two

8. In paragraph nine of the Charges, the Department alleges that on or about May 16, 2007, the Board issued a Memorandum of Decision in Petition Number 2006-0815-011-028 (hereinafter "the Decision") that placed respondent's license on probation for a period of four years. Such disciplinary action was based upon proof of respondent's diversion and abuse of controlled substances, and falsification of controlled substance records.
9. In paragraph ten of the Charges, the Department alleges that the Decision specifically provides that reports from respondent's employer shall document respondent's ability to safely and competently practice nursing.
10. In paragraph eleven of the Charges, the Department alleges that during October 2009, the Department received notification that respondent's employer, Noble Horizons, Salisbury, Connecticut, had terminated respondent's employment as a licensed practical nurse for unsafe nursing practice and falsification of a nursing document.
11. In paragraph twelve 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 Decision, and subjects respondent's license to revocation or other disciplinary action authorized by the §§19a-17 and 20-99(b) of the Statutes.

Findings of Fact

1. Respondent is, and has been at all times referenced in the Charges, the holder of Connecticut LPN license number 029843. Tr. p. 8.
2. Respondent admits the factual allegations in paragraphs one through paragraph six and paragraphs nine through eleven. Tr. pp. 8-11.

Discussion and Conclusions of Law

The Department bears the burden of proof by a preponderance of the evidence. *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).

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; (7) willful falsification of entries in any hospital, patient or other record pertaining to drugs, the results of which are detrimental to the health of a patient.

Respondent admitted all of the factual allegations. The Board concludes that respondent's conduct as alleged and admitted by respondent constitutes grounds for disciplinary action pursuant to §§ 20-99(b)(2) and (7) 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 029843 held by Mark Power, as follows:

Respondent's license number 029843 to practice as a licensed practical nurse in the State of Connecticut is hereby **revoked**.

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

Dated at Hartford, Connecticut this 21st day of July, 2010.

BOARD OF EXAMINERS FOR NURSING

By Patricia C. Bufford

CERTIFICATION

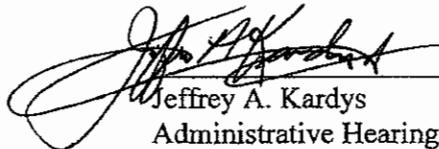
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 22nd day of July 2010, by certified mail, return receipt requested, and first class mail to:

Mark Power
166 Plainville Avenue
Unionville, CT 06085

Certified Mail RRR #91-7108-2133-3932-0551-7712

and via email to:

Matthew Antonetti, Principal Attorney
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
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