

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

Belinda Garnett Wutke, L.P.N.  
License. No. 031011

Petition No. 2008-0730-011-039

**MEMORANDUM OF DECISION**

***Procedural Background***

The Department of Public Health (hereinafter “the Department”) presented a Statement of Charges (hereinafter “the Charges”) and a Motion for Summary Suspension (hereinafter “the Motion”), both dated November 24, 2008, to the Board of Examiners for Nursing (“the Board”). Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes (“the Statutes”) by Belinda Garnett aka Belinda Garnett Wutke (“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 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. On December 3, 2008, pursuant to §§4-182(c) and 19a-17(c) of the Statutes, the Board ordered 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”). Dept. Exh. 1.

The Board issued a Notice of Hearing, dated December 3, 2008, scheduling a hearing for December 17, 2008. Dept. Exh. 1. On December 6, 2008, the Charges, the Order, and a Notice of Hearing were served at respondent’s usual place of abode by State Marshal. Dept. Exh. 1.

On December 17, 2008, the Board issued a Rescheduling of Hearing, which rescheduled the hearing for January 21, 2009. Dept. Exh. 1.

The hearing took place on January 21, 2009 at the Department of Public Health Complex, Room 470-C, 410 Capitol Avenue, Hartford, Connecticut.

Respondent was present during the hearing, and was not represented by counsel. Tr., p. 9. Attorney Linda Fazzina represented the Department. Tr., p. 2.

Respondent provided an oral Answer during the hearing, and she admitted to all of the allegations in the Statement of Charges. Tr., pp. 5-7.

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 has been at all times referenced in this Statement of Charges, the holder of Connecticut licensed practical nurse license number 031011. Said license expired on October 31, 2008, due to nonrenewal. Pursuant to §19a-88(f) of the Statutes, said license will become void on or about January 29, 2009.
2. In paragraph two of the Charges, the Department alleges that at all relevant times, respondent was employed as a nurse at Beacon Brook Health Center in Naugatuck, Connecticut (hereinafter "Beacon").
3. In paragraph three of the Charges, the Department alleges that while working as a licensed practical nurse at Beacon, from in or about March 2008 to on or about May 19, 2008, respondent:
  - a. diverted narcotic medications, including, but not limited to Oxycodone, from one or more patients for her personal use;
  - b. failed to completely, properly and/or accurately document medical or hospital records; and/or
  - c. falsified one or more Controlled Substance Receipt Records.
4. In paragraph four of the Charges, the Department alleges that from in or about March 2008 to on or about May 19, 2008, respondent abused or utilized to excess narcotic medications, including, but not limited to Oxycodone.
5. In paragraph five of the Charges, the Department alleges that respondent's abuse of narcotic medications, including, but not limited to Oxycodone, does and/or may affect her practice as a licensed practical nurse.

6. In paragraph six 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 §20-99(b)(2), §20-99(b)(5), and/or §20-99(b)(6).

### ***Findings of Fact***

Based on the testimony and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent admits to all of the allegations in Paragraphs 1 through 5 of the Charges. Tr. pp. 5-7.
2. Respondent is not actively undergoing treatment for her substance abuse, nor has she sought out any self-help programs. Tr. pp. 8-9.
3. Respondent has not renewed her license, which expired October 31, 2008. Tr., p. 9.

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

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

Belinda Garnett Wutke 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 §§4-177(a) and (b), and 4-182(c) of the Statutes. The hearing was held in accordance with Chapters 54 and 386a of the Statutes 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. *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 admits the allegations in Paragraphs 1-5 of the Charges. Tr., pp. 5-7.

The General Statutes of Connecticut §20-99 provides, in pertinent part, that:

(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; (6) fraud or material deception in the courts of professional services or activities ...

Based on its findings and respondent's admissions, the Board concludes that the Department sustained its burden of proof concerning the allegations in paragraphs 1-5 of the Statement of Charges, particularly that respondent diverted narcotic medications, including but not limited to Oxycodone, from one or more patients to abuse or utilize to excess said medications for her own personal use. The Board further concludes that respondent's conduct constitutes grounds for disciplinary action pursuant to §§20-99(b)(2), (5) and (6) of the Statutes. Therefore, the Board concludes that respondent's licensed practical nurse license, upon its renewal, is subject to disciplinary action pursuant to §19a-17 of the Statutes.

Because respondent is not actively undergoing treatment, the Board has a concern that respondent does not have an understanding of her substance abuse problem and of her potential for relapse, therefore, her return to practice will require that she engage in treatment for substance abuse with relapse prevention and that she be randomly screened for alcohol and drugs. The Board concludes that, following the renewal of her licensed practical nurse license, respondent can only 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 031011 held by Belinda Garnett Wutke, as follows:

1. Upon renewal of her license, respondent's license shall be immediately suspended with concurrent probation for a period of six (6) months, followed by an additional probationary period of four (4) years.
2. If any of the 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 four-year period of probation the Board shall pre-approve respondent's employment and/or change of employment within the nursing profession.
  - B. 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.
  - C. 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.
  - D. 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.

- E. If employed as a nurse, respondent shall cause reports to be submitted to the Board, by her immediate supervisor. 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 the four-year probationary period, and quarterly during the second and third years of the four-year probationary period.
- F. The employer reports cited in Paragraph E 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 Q below.
- G. 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.
- H. 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 Q below.
- I. At her 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.
- J. Respondent shall provide a copy of this Memorandum of Decision to her therapist. The Board shall be notified in writing by her therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.

- K. Respondent shall cause evaluation reports to be submitted to the Board by her therapist on a monthly basis during six-month suspension with concurrent probation and the first and fourth years of the four-year probationary period. Therapist reports shall also be submitted quarterly during the second through third years of the four-year probationary period.
- L. The therapist reports cited in Paragraph K 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 Q below.
- M. Observed random urine screens:
  - (1) At her expense, respondent shall be responsible for submitting to observed random chain of custody urine screens for alcohol and drugs for the entire suspension and probationary period, at a testing facility approved by the Board, after consultation with the Department, as ordered by her therapist, and/or 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, her therapist, the Board, the Department and her prescribing practitioner of any drug(s) she is taking. For any 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 Board and the Department until such time as the controlled substance(s) are no longer prescribed. The reports shall include the following:

- a. A list of controlled substances prescribed by this provider for the respondent;
  - b. A list of controlled substance(s) prescribed by other providers;
  - c. An evaluation of the respondent's need for the controlled substance;
  - d. An assessment of the respondent's continued need for the controlled substance(s).
- (3) There must be at least one such random alcohol/drug screen weekly during the period of suspension with concurrent probation and the first and fourth years of the four-year probationary period. There must be at least two such random alcohol/drug screens monthly during the second and third years of the four-year 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 Q below, by respondent's therapist, personal physician or the testing laboratory.

- N. Respondent shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for her, 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.
- O. 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.
- P. The Board must be informed in writing prior to any change of address.
- Q. All communications, payments if required, correspondence, and reports are to be addressed to:

Bonnie Pinkerton, RN, Nurse Consultant  
Department of Public Health  
Division of Health Systems Regulation  
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 her 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 on the date this decision is signed by the Board Chairperson.

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

Dated at Manchester, Connecticut this 20th day of May, 2009.

BOARD OF EXAMINERS FOR NURSING

By Patricia C Bedford



# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

November 27, 2009

Belinda Garnett Wutke, LPN  
64 Carriage Drive  
Naugatuck, CT 06770

Re: Memorandum of Decision  
Petition No. 2008-0730-011-039

Dear Ms. Wutke:

Please accept this letter as notice that your license suspension ended on November 27, 2009. Your license probation continues until November 27, 2013.

Very truly yours,

A handwritten signature in cursive script that reads "Bonnie Pinkerton".

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

cc: J. Filippone  
J. Wojick



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