



# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

PUBLIC HEALTH HEARING OFFICE

October 24, 2012

Elizabeth Scoran  
1129 Wolcott Street, Apt. 4-9  
Waterbury CT 06705

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

Via E-mail

**RE: Elizabeth Scoran, LPN**

**Petition No. 2011-347**

Dear Ms. Scoran and Attorney Antonetti:

Enclosed please find a copy of the Amended Memorandum of Decision issued by the **Board of Examiners for Nursing** in the above-referenced matter.

Sincerely,

Janice E. Wojick, Administrative Assistant, Board Liaison  
Public Health Hearing Office

c: Lynn A. Rioux, Paralegal Specialist II, Office of the Attorney General  
Wendy H. Furniss, Branch Chief, Healthcare Quality and Safety, DPH  
Jennifer Filippone, Section Chief, Practitioner Licensing and Investigations, DPH  
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**STATE OF CONNECTICUT  
BOARD OF EXAMINERS FOR NURSING**

Elizabeth S. Scoran, L.P.N.  
License No. 031204

Petition No. 2011-347

**AMENDED MEMORANDUM OF DECISION**

*Procedural Background*

On July 6, 2011, the Department of Public Health ("Department") filed a Motion for Summary Suspension ("Motion") and a Statement of Charges ("Charges") with the Board of Examiners for Nursing ("Board"). Bd. Exhs. 1-2. The Charges allege violations of certain provisions of Chapter 378 of the General Statutes ("Statutes") by Elizabeth Scoran ("Respondent") which would subject Respondent's licensed practical nurse license ("L.P.N.") 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 July 20, 2011, pursuant to §§ 4-182(c) and 19a-17(c) of the Statutes, that Respondent's L.P.N. license be summarily suspended pending a final determination by the Board of the allegations contained in the Charges ("Order"). Bd. Exh. 1.

On July 20, 2011, the Charges, the Order, and a Notice of Hearing were sent to respondent by certified and first class mail, and served by state marshal on July 24, 2011. Bd. Exhs. 1-3.

On August 2 and November 21, 2011, Respondent requested continuances of the previously-scheduled hearing dates while seeking admission in a rehabilitation program. Bd. Exhs. 4 and 5.

On March 16, 2012, the Department received correspondence from Attorney Joanne P. Sheehan in which she withdrew her appearance and letter of representation of Respondent in this matter. Bd. Exh. 6.

The hearing was held on May 16, 2012. Initially, Respondent was not present at the hearing and Respondent had not filed an Answer to the Charges. After confirming that Respondent had received the Notice of Hearing on May 10, 2012 (Bd. Exh. 5; Tr. pp. 4-5) and

that there was no Answer in the record, the Department orally moved to deem the allegations admitted. Tr. pp. 5-6. The Motion was granted. Tr. p. 6.

Subsequently, Respondent appeared at the hearing and explained the reason for her delay. Tr. p. 6. The Board vacated the Motion to Deem Allegations Admitted (Tr. p. 7), and permitted Respondent to answer the Charges on the record of the hearing. Tr. pp. 10-12. Respondent appeared *pro se* and Attorney Diane Wilan represented the Department.

Following the close of the record on May 16, 2012, 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. The Board relied on the training and experience of its members in making its findings of fact and conclusions of law. *Pet v. Department of Health Services*, 228 Conn. 651 (1994).

#### *Allegations*

1. In paragraph one of the Charges, the Department alleges that Respondent of Waterbury, Connecticut is, and has been at all times referenced in the Charges, the holder of Connecticut L.P.N. license number 031204.
  2. In paragraph two of the Charges, the Department alleges that Respondent has a prolonged history of substance abuse.
  3. In paragraph three of the Charges, the Department alleges that on or about December 14, 2010, Respondent exhibited erratic behavior while working as a nurse at Elim Park Baptist Home in Cheshire ("facility").
  4. In paragraph four of the Charges, the Department alleges that during December 2010, Respondent used and/or utilized to excess cocaine.
  5. In paragraph five of the Charges, the Department alleges that Respondent's abuse and/or excessive use of narcotics does, and/or may, affect her practice as a L.P.N.
  6. In paragraph six of the Charges, the Department alleges that on various occasions from approximately July 2010 through December 2010, Respondent failed to adequately document the administration and/or waste of controlled substances while working as a nurse at the facility.
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7. In paragraph seven of the Charges, the Department alleges that the above described facts constitute grounds for disciplinary action pursuant to § 20-99 of the Statutes, including, but not limited to:
  - a. § 20-99(b)(2); and/or
  - b. § 20-99(b)(5).

***Findings of Fact***

1. Respondent of Waterbury, Connecticut is, and has been at all times referenced in the Charges, the holder of Connecticut L.P.N. license number 031204. Tr. pp. 10-11.
2. Respondent has a prolonged history of substance abuse. Dept. Exh. 1, pp. A-10 thru A-14, D-6, D-7, D-9, D-11 thru D-13 (under seal); E-1 (under seal); Dept. Exh. 2, pp. 4, 6, 8, 9, 11, 12, 14, 16-17 (under seal); Dept. Exh. 3, pp. 5, 20-23 (under seal); Tr. pp. 11, 29; pp. 32-34, 38 (under seal).
3. On or about December 13, 2010,<sup>1</sup> Respondent exhibited erratic behavior while working as a L.P.N. at the facility. Dept. Exh. 1, pp. C-17 thru C-18 (under seal), C-28 thru C-32 (under seal), C-167 (under seal); Dept. Exh. 3, p. 20 (under seal); Tr. pp. 27-28.
4. During December 2010, Respondent used and/or utilized to excess cocaine. Tr. pp. 11, 28; Dept. Exh. 1, pp. C-162, C-164, 166-167 (under seal); Dept. Exh. 3, pp. 20-21 (under seal).
5. Respondent's abuse and/or excessive use of narcotics does, and/or may, affect her practice as a L.P.N. Dept. Exh. 1, pp. A-2 thru A-11, A-13 thru A-14, C-17 thru C-24 (under seal), C-28 thru C-32 (under seal), C-167 thru C-169 (under seal); Dept. Exh. 2, pp. 17, 22-23 (under seal).
6. On various occasions from approximately July 2010 through December 2010, Respondent failed to adequately document the administration and/or waste of controlled substances while working as a L.P.N. at the facility. Dept. Exh. 1, pp. A-2 thru A-11, A-22 thru A-32, A-39 thru A-379; C-4 thru C-16 (under seal); Tr. pp. 11-12.

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<sup>1</sup>The evidence in the record documents that Respondent's erratic behavior was actually observed in the afternoon of December 13, 2010. It was documented in an "Observed Behavior, Reasonable Suspicion" report at 3:00 p.m. Subsequently, it was reported to the facility's management at approximately 2:04 in the morning of December 14, 2010, after which the facility initiated an investigation of Respondent's behavior and required Respondent to submit to a drug screening. Dept. Exh. 1, pp. C-17 thru C-18(under seal), C-28 thru C-32 (under seal); Tr. pp. 25-28.

***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). The Department sustained its burden of proof with regard to all of the allegations contained in the Charges.

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;. . . .

With respect to the Charges, Respondent admits all of the allegations except those which are contained in paragraphs three and five.

With respect to the allegations contained in paragraph three of the Charges, the Department established by a preponderance of the evidence that Respondent exhibited erratic behavior while working from 8:00 a.m. until 4:00 p.m. in the facility on December 13, 2010. The record evidences that on December 13, 2010, Respondent had droopy eyes, was observed stumbling, and speaking loudly. Dept. Exh. 1, pp. C-17 thru C-18 (under seal). A colleague also reported to one of the nursing supervisors that Respondent threatened to slash the colleague's car tires after the colleague made a sarcastic remark about Respondent's handwriting. Dept. Exh. 1, pp. C-28 thru C-29 (under seal).

In her testimony, Respondent denied that she was acting erratically and claimed that she "clipped the wall with her thigh" because she was in a hurry to get out of the building for lunch (Tr. pp. 26-27) and said out loud to herself "look at me, trying to get out of here so quick. I'm walking into walls." Tr. p. 27. Respondent also denied making any threatening remarks to her former colleague and claimed that she would never make such remarks to any one. Tr. p. 27. However, when the incident was first reported and investigated, Respondent did not deny making the remarks to her colleague; rather, she claimed she was only joking. Dept. Exh. 1, pp.

C-28 thru C-30 (under seal). Nonetheless, Carol Walker, Human Resources Director of the facility, took her remarks seriously and handled the colleague's complaint about Respondent's conduct as a potential hostile work environment situation. Dept. Exh. 1, pp. C-28 thru C-30 (under seal). Thus, Respondent's denials are not credible.

Also, on December 13, 2010, Respondent's failure to document a serious change in a resident's condition and failure to complete paperwork accurately for a new resident's admission was characterized (Dept. Exh. 1, p. 29 (under seal)) as a "noticeable change in [Respondent's] behaviors." Dept. Exh. 1, pp. C-21 thru C-22, C-29 (under seal). Therefore, the Board finds that the documentary evidence coupled with Respondent's previous admissions satisfies the Department's burden of proof with respect to the allegations contained in paragraph three of the Charges.

With regard to the allegations contained in paragraph five of the Charges, the Department established by a preponderance of the evidence that Respondent's abuse and/or excessive use of narcotics does and/or may, affect her practice as a L.P.N. Respondent admits that she has had a prolonged history of substance abuse, which includes an opioid addiction that began before she obtained her L.P.N. license. Tr. pp. 16, 28-29. Throughout her employment with the facility, Respondent attended individual substance dependence-related counseling sessions and participated in a suboxone maintenance treatment program. Dept. Exh. 1, tab D, tab E, and tab G (under seal), Tr. pp. 32-35 (under seal). Respondent denies ever using drugs while on the job. Tr. p. 28. After a night of partying with friends, Respondent reported for work on December 13, 2010, impaired (Tr. p. 28); and, on that day, she behaved erratically, walked into a wall, made inappropriate comments to a colleague, and negligently and incompetently carried out her job duties. Dept. Exh. 1, pp. C-17 thru C-18, C-21 thru C-22, and C-28 thru C-29 (under seal), Tr. pp. 26-28. When Respondent was questioned about her conduct and positive drug screen for cocaine, Respondent attributed her use of cocaine in December 2010 to "poor judgment." Tr. p. 28. Thus, the Department established by a preponderance of the evidence that Respondent's abuse of narcotics affected her practice as a L.P.N. in that she used cocaine while still taking suboxone (Dept. Exh. 1, p. D-12 (under seal)), reported to work impaired, failed to report and document a serious change in a resident's condition, and, in general, put a very vulnerable population of patients at risk.

The Board concludes that Respondent's conduct as alleged in the Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to §§ 20-99(b)(2) and (5) and 19a-17 of the Statutes. However, Respondent has documented a continuous record since 2011 of participation in an outpatient therapy group, consistent attendance at AA/NA meetings, participation in a methadone maintenance treatment program, and substance abuse prevention program for teens. The Board is also persuaded that Respondent has finally realized that she suffers from an opioid addiction which requires her to develop a positive support network of family and friends, avoid negative influences which cause her to make poor decisions, and develop coping skills for her addiction (Dept. Exh. 2, pp. 12, 14, 16, (under seal)). Therefore, 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 LPN license number 031204 held by Elizabeth Scoran, as follows:

1. Respondent shall submit to the Department within three months from the date the Memorandum of Decision ("Decision") is signed, the last three months of reports documenting dates and results of drug and alcohol screens; therapist reports concerning Respondent's treatment and an evaluation of her progress, including alcohol and drug free status; and, reports from Respondent's support groups including NA and Crossroads. Until such time as Respondent complies with the above conditions, Respondent's license shall not be placed on probation and the suspension of Respondent's license shall remain in place.
  2. Upon notification by the Department that Respondent has satisfied the terms set forth in the preceding paragraph, the suspension shall be vacated and Respondent's license shall be placed on probation for a period of four years under the following terms and conditions. If any of the conditions of probation are not met, Respondent's L.P.N. license may be subject to disciplinary action pursuant to § 19a-17 of the Statutes.
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- A. During the 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 L.P.N. 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 L.P.N. for the period of probation.
  - C. Respondent shall provide a copy of this Decision to any and all employers if employed as a L.P.N. during the probationary period. The Department shall be notified in writing by any employer(s), within 30 days of the commencement of employment, as to receipt of a copy of this 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 L.P.N. during the probationary period.
  - E. If employed as a L.P.N., Respondent shall cause employer reports to be submitted to the Department, by her immediate supervisor during the entire probationary period. Employer reports shall be submitted commencing with the report due on the first business day of month following employment as a L.P.N. Employer reports shall be submitted monthly during the first and fourth years of probation, and quarterly during the second and third years of probation.
  - F. The employer reports cited in Paragraph E above shall include documentation of Respondent's ability to practice nursing safely and competently. Employer reports shall be submitted to the Department at the address cited in Paragraph R below.
  - G. Should Respondent's employment as a L.P.N. be involuntarily terminated or suspended, Respondent and her employer shall notify the Board and the Department within 72 hours of such termination or suspension.
  - H. In the event Respondent is not employed as a L.P.N. for periods of 30 consecutive days or longer, she shall notify the Department in writing. Such periods of time shall not be counted in reducing the probationary period covered by this Order and such terms shall be held in abeyance. During such time
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period, Respondent shall not be responsible for complying with the terms of probation of this Order. In the event Respondent resumes the practice of nursing, she shall provide the Department with 15 days prior written notice.

- I. If Respondent pursues further training in any subject area that is regulated by the Department, Respondent shall provide a copy of this 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 Decision within 15 days of receipt. Said notification shall be submitted to the Department at the address cited in Paragraph R below.
  - J. 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.
  - K. Respondent shall provide a copy of this Decision to her therapist. The Department shall be notified in writing by her therapist, within 30 days of the effective date of this Decision, as to receipt of a copy of this Decision.
  - L. Respondent shall cause evaluation reports to be submitted to the Department by her therapist during the entire probationary period. Therapist reports shall be submitted monthly during the first and fourth years of probation, and quarterly during the second and third years of probation.
  - M. The therapist reports cited in Paragraph L above shall include documentation of dates of treatment, and an evaluation of Respondent's progress, including alcohol and drug free status, and ability to practice nursing safely and competently. Therapist reports shall be submitted to the Department at the address cited in Paragraph R below.
  - N. 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 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
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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, 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 no longer prescribed. The reports shall include the following:
    - a. A list of controlled substances prescribed by this provider for 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 observed random alcohol/drug screen per week during the first and fourth years of the probationary period; and, at least two of such observed random alcohol/drug screens per month during the second and third years of the probationary period.
  - (4) Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive *drug* screen results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. All positive *alcohol* screen results shall be confirmed by the urine Ethyl Glucuronide (EtG) 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.
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- (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 to the Department, at the address cited in Paragraph R below, by Respondent's therapist, personal physician or the testing laboratory.
- O. 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.
- P. 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.
- Q. The Department must be informed in writing prior to any change of address.
- R. 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  
Board of Examiners For Nursing  
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 Statutes, 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. The four year probation of L.P.N. license number 031204 shall commence after Respondent has submitted to the Department the reports specified in paragraph one above and notification has been provided by the Department that Respondent has satisfied the terms and conditions of such paragraph.
5. This Decision becomes effective upon the date of signature.

The Board of Examiners for Nursing hereby informs Respondent, Elizabeth Scoran, and the Department of Public Health of the State of Connecticut of this Decision.

Dated at Hartford, Connecticut this 17th day of October 2012.

BOARD OF EXAMINERS FOR NURSING

By  D.N.S.  
Patricia Bouffard, D.N.Sc., Chairperson

**CERTIFICATION**

I hereby certify that, pursuant to Connecticut General Statutes Section 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 24<sup>th</sup> day of October 2012, certified mail return receipt requested mail and first class mail to:

Elizabeth Scoran  
1129 Wolcott Street, Apt. 4-9  
Waterbury CT 06705

*and E-Mail to:*

Matthew Antonetti, Principal Attorney  
Office of Licensure Regulation and Compliance  
Department of Public Health – MS#12LEG  
410 Capitol Avenue  
P. O. Box 340308  
Hartford CT 061343-0308

  
Janice E. Wojick, Hearings Liaison