



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

PUBLIC HEALTH HEARING OFFICE

May 6, 2010

Kokumo Lauray
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East Hartford, CT 06108

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Matthew Antonetti, Principal Attorney
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
PO Box 340380
Hartford, CT 06134-0308

Via Email

RE: Kokumo Lauray, LPN - Petition No. 2008-1205-011-062

Dear Ms. Lauray 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,

A handwritten signature in cursive script that reads "Jeffrey A. Kardys, J.D.".

Jeffrey A. Kardys
Administrative Hearings Specialist/Board Liaison
Public Health Hearing Office

c: Michael J. Purcaro, Management Team Leader, Administrative Branch
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**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH**

Kokumo Lauray, LPN
License No. 031718

Petition No. 2008-1205-011-062

MEMORANDUM OF DECISION

Procedural Background

On July 22, 2009, the Department of Public Health ("the Department") filed a Statement of Charges ("the Charges") with the Board of Examiners for Nursing ("the Board"). Board Exh.

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

On August 19, 2009, the Charges and a Notice of Hearing were sent to respondent by certified and first class mail. Board Exh. 1. The hearing was held on November 18, 2009; respondent orally answered the Charges on the record of the hearing. At the hearing, respondent appeared *pro se*; Attorney Diane Wilan represented the Department. Following the close of the record on November 18, 2009, 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 1, 10, and 13 of the Charges, the Department alleges that respondent is and was at all times referenced in paragraphs 2 through 4, 11, and 13 of the Charges, the holder of Connecticut licensed practical nurse license number 031718.

Count One

2. In paragraph two of the Charges, the Department alleges that on or about July 14, 2008, respondent was found guilty of Robbery in the 3rd Degree, a Class D felony, as a result of committing a robbery in Bloomfield on or about October 22, 2007.
3. In paragraph three of the Charges, the Department alleges that on or about July 14, 2008, respondent was found guilty of Larceny in the 3rd Degree, a Class D felony, as a result of stealing merchandise from the Nordstrom's and Macy's stores in Farmington on or about October 6, 2007.

4. In paragraph four of the Charges, the Department alleges that on or about February 5, 2009, respondent was found guilty of Interfering with an Officer/Resisting Arrest, a Class A misdemeanor, which occurred on or about November 14, 2008, when she was being detained and/or arrested for passing a fraudulent or stolen credit card in Milford.
5. In paragraph five of the Charges, the Department alleges that on or about December 16, 2004, respondent was found guilty of Larceny in the 3rd Degree, a Class D felony, for an offense that occurred on or about September 29, 2003, in East Haven.
6. In paragraph six of the Charges, the Department alleges that on or about April 29, 2004, respondent was found guilty of Conspiracy to Commit Larceny in the 3rd Degree, a Class D felony, for an offense that occurred on or about September 29, 2003, in Hamden.
7. In paragraph seven of the Charges, the Department alleges that on or about September 5, 2003, respondent was found guilty of Larceny in the 4th Degree, a Class A misdemeanor, for an offense that occurred on or about July 31, 2003, in New London.
8. In paragraph eight of the Charges, the Department alleges that on or about April 5, 2000, respondent was found guilty of Larceny in the 6th Degree, a Class C misdemeanor, for an offense that occurred on or about December 27, 1999, in West Hartford.
9. In paragraph nine of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to the Statutes, including, but not limited to §20-99(b).

Count Two

11. In paragraph 11 of the Charges, the Department alleges that on or about October 6, 2007, respondent threatened two Nordstrom loss prevention agents by stating that she had an HIV-infected needle, and she would stick them with it if they tried to stop her from leaving the store parking lot with stolen merchandise.
12. In paragraph 12 of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to the Statutes, including, but not limited to §20-99(b).

Count Three

14. In paragraph 14 of the Charges, the Department alleges that on or about May 2, 2009, respondent falsely stated on her renewal application for her licensed practical nurse license that she had not been convicted of a felony within the last year.
15. In paragraph 15 of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to the Statutes, including, but not limited to §20-99(b).

Findings of Fact

1. Respondent is, and has been at all times referenced in paragraphs 2 through 4, 11, and 13 of the Charges, the holder of Connecticut licensed practical nurse license number 031718. Tr. p. 5.
2. On or about July 14, 2008, respondent was found guilty of Robbery in the 3rd Degree, a Class D felony, as a result of committing a robbery in Bloomfield on or about October 22, 2007. Dept. Exhs. 1, 2-4, 6; Tr. pp. 5-6, 11-16, 30, 39-41.
3. On or about July 14, 2008, respondent was found guilty of Larceny in the 3rd Degree, a Class D felony, as a result of stealing merchandise from the Nordstrom's and Macy's stores in Farmington on or about October 6, 2007. Dept. Exhs. 1, 2-4, 6; Tr. pp. 6, 11-16, 30, 39-41.
4. On or about February 5, 2009, respondent was found guilty of Interfering with an Officer/Resisting Arrest, a Class A misdemeanor for conduct that occurred on or about November 14, 2008, when she was being detained and/or arrested for passing a fraudulent or stolen credit card in Milford. Tr. pp. 6, 17-19; Dept. Exh. 6.
5. On or about December 16, 2004, respondent was found guilty of Larceny in the 3rd Degree, a Class D felony, for an offense that occurred on or about September 29, 2003 in East Haven. Tr. pp. 6, 20-21; Dept. Exhs. 6, 7.
6. On or about April 29, 2004, respondent was found guilty of Conspiracy to Commit Larceny in the 3rd Degree, a Class D felony, for an offense that occurred on or about September 29, 2003 in Hamden. Tr. pp. 6-7, 22; Dept. Exhs. 1, 6, 8.
7. On or about September 5, 2003, respondent was found guilty of Larceny in the 4th Degree, a Class A misdemeanor, for an offense that occurred on or about July 31, 2003 in New London. Tr. pp. 7, 23; Dept. Exhs. 1, 6, 9.
8. On or about April 5, 2000, respondent was found guilty of Larceny in the 6th Degree, a Class C misdemeanor, for an offense that occurred on or about December 27, 1999 in West Hartford. Tr. pp. 7, 24; Dept. Exhs. 6, 10.
9. The evidence is insufficient to establish that on or about October 6, 2007, respondent threatened two Nordstrom loss prevention agents by stating that she had an HIV-infected needle, and she would stick them with it if they tried to stop her from leaving the store parking lot with stolen merchandise. Tr. pp. 8, 34, 37; Dept. Exh. 3.
10. On or about May 2, 2009, respondent falsely stated on her renewal application for her CT licensed practical nurse license that she had not been convicted of a felony within the last year. Tr. pp. 8, 39-41; Dept. Exh. 13.

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). The Department sustained its burden of proof with regard to the allegations contained in paragraphs one through eight, 10, 13, and 14 of the Charges, but failed to sustain its burden with regard to the allegations contained in paragraph 11.

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: (1) Fraud or material deception in procuring or attempting to procure a license to practice nursing; . . .

Respondent admitted all of the allegations in paragraphs one through eight, 10, 13, and 14 of the Charges. Therefore, the Department sustained its burden of proof concerning such allegations.

The Department failed to sustain its burden of proof concerning the allegation in paragraph 11 of the Charges that respondent threatened two Nordstrom loss prevention agents by stating that she had an HIV-infected hypodermic needle, and she would stick them with it if they tried to stop her from leaving the store parking lot with stolen merchandise. In presenting its case, the Department relied exclusively on a police report documenting statements from the loss prevention agents who reported the threat. However, the investigating police officer and the loss prevention agents did not testify.

In her defense, respondent denied ever making such a threat and attributed it to someone else who was with her at that time. The Department offered no other evidence to rebut respondent's denial. Therefore, the Board determined that the Department failed to sustain its burden of proof with respect to this allegation.

With respect to the allegation in paragraph 14 of the Charges that respondent falsely stated on her renewal application that she had not been convicted of a felony within the last year, the Department sustained its burden of proof. Respondent's license was issued on March 1, 2006, and her annual license renewal due date is by the end of the month of her birthday, which is in March. Therefore, the relevant time period for determining what occurred "within the last year" is from March 31, 2008 to March 31, 2009. On May 2, 2009,¹ respondent checked "no" to the question on the renewal form asking whether she had been convicted of a felony within the last year.² Respondent also attested to the accuracy of the information she provided on the form. These statements were false: on July 14, 2008, respondent was convicted of Robbery in the 3rd degree and Larceny in the 3rd degree, both Class D felonies.

In her defense, respondent claims that she did not report the convictions since they were not related to her license. The Board finds respondent's explanation to be not credible. The form simply asks whether an applicant has been convicted of a felony; it does not specify that the convictions must be related to an applicant's licensed practice. By failing to disclose the felony convictions, respondent also committed fraud or material deception in procuring or attempting to procure her licensed practice nurse license. Therefore, the Department sustained its burden of proof with respect to this allegation.

The Board concludes that respondent's conduct as alleged in paragraphs one through eight, 10, 13, and 14 of 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)(1) 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 respondent's license number 031718 to practice as a licensed practical nurse in the State of Connecticut is hereby revoked.

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

¹ Respondent had 90 days from the renewal due date within which to renew her license. See, §19a-88(f) of the Statutes.

² The renewal application form provides the following instructions: "Answer each question, read the statements that follow *as they relate to your license*, and sign below. 1. Within the last year have you been convicted of a felony or have you had any disciplinary action taken against you . . .?" Dept. Exh. 13; Tr. pp. 39-40. Emphasis added.

Dated at Hartford, Connecticut this 5th day of May, 2010.

BOARD OF EXAMINERS FOR NURSING

By Patricia C Bouffard
Patricia Bouffard, Chairperson

CERTIFICATION

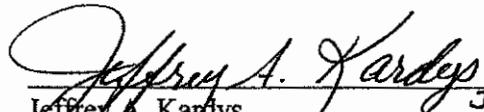
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 6th day of MAY 2010, by certified mail, return receipt requested to:

Kokumo Lauray
38 Southwood Lane
East Hartford, CT 06108

Certified Mail RRR #91 7108 2133 3931 8707 8430

and via email to:

Matthew Antonetti, Principal Attorney
Legal Office
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410 Capitol Avenue, MS #12LEG
Hartford, CT 06134-0308



Jeffrey A. Kardys J.W.
Administrative Hearings Specialist/Board Liaison
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