

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

PUBLIC HEALTH HEARING SECTION

March 3, 2011

Katy Duclos
1 Hemingway Drive
Wallingford, CT 06492

**Certified Mail RRR #91-7108-2133-3932-0556-3092
and First Class Mail**

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

Via Email

RE: Katy Duclos, LPN – Petition No. 2010-5096

Dear Ms. Duclos 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 Section

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**

Katy Duclos, L.P.N.
License No. 031899

Petition No. 2010-5096

MEMORANDUM OF DECISION
Procedural Background

On July 12, 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 Katy Duclos ("respondent") which would subject respondent's licensed practical nurse 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 August 18, 2010, pursuant to §§ 4-182(c) and 19a-17(c) of the Statutes, that respondent's license be summarily suspended pending a final determination in this matter ("the Order"). Bd. Exh. 1.

On August 23, 2010, the Order, Charges and a Notice of Hearing were delivered to respondent's address of record by State Marshal, scheduling a hearing for September 1, 2010. Bd Exh. 2. On that date, respondent was present and requested a continuance which was granted. Tr. 9/1/10, pp. 2-4. The hearing was reconvened on October 6, 2010. Respondent did not appear at the hearing and did not file an Answer to the Charges. Tr. 10/6/10, pp. 2, 5. The Department was represented by Attorney Diane Wilan. Tr. 10/6/10, p. 2. Following the close of the record, 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 paragraph one of the Charges, the Department alleges that respondent has been the holder of Connecticut licensed practical nurse ("LPN") license number 031899.
2. In paragraph two, the Department alleges that on October 7, 2009, the Board ordered a Consent Order in Petition No. 2009-0225-011-006 ("the Consent Order") that placed respondent's LPN license on probation for four years based on respondent's admitted abuse of multiple controlled and illegal substances including benzodiazepines, marijuana, crack cocaine, and opiates including heroin.
3. In paragraph three, the Department alleges that the Consent Order specifically required respondent to engage in scheduled therapy and counseling for the entire period of her LPN license probation.
4. In paragraph four, the Department alleges that respondent failed to participate in therapy as required by the Consent Order, in that respondent met with a therapist only three times between November 1, 2009 and June 16, 2010.
5. In paragraph five, the Department alleges that the Consent Order required that respondent submit to observed random urine screens, and that such screens be negative for the presence of drugs and alcohol.
6. In paragraph six, the Department alleges that on or about May 5, 11, and/or 26, 2010, respondent tested positive for alcohol.
7. In paragraph seven, 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 LPN license to revocation or other disciplinary action authorized by §§ 19a-17 and 20-99(b) of the Statutes.

Findings of Fact

1. The Department provided respondent with reasonable and adequate written notice of the allegations contained in the Charges. Bd. Exh. 2; Tr., 10/6/10, pp. 3-4.
2. Respondent did not file an Answer to the Charges. Tr., 10/6/10, p. 5.
3. The factual allegations contained in paragraphs 1, through and including 6 of the Charges, are deemed admitted and true. Tr. 10/6/10, p. 5-6.

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).

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 Notice of Hearing, Statement of Charges, and hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by §4-182(c) of the Statutes. Respondent requested and was granted a continuance to obtain her treatment records to prove she complied with the Consent Order, and then did not attend the hearing, submit her records, provide the Department with any medical releases to obtain such records, or even answer the Charges.

Pursuant to § 19a-9-20 of the Regulations, the allegations are deemed admitted. Therefore, the Department sustained its burden of proof. Respondent's conduct violated the terms of probation as set forth in the Consent Order, thereby, subjecting respondent's license to disciplinary action pursuant to §§ 20-99(b) and 19a-17 of the Statutes.

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Order

Based on the record in this case, the above findings of fact and conclusions of law, the Board hereby orders that respondent's license number 031899 to practice as a licensed practical nurse in the State of Connecticut is **REVOKED**.

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

Dated at Hartford, Connecticut this 2nd day of March, 2011.

BOARD OF EXAMINERS FOR NURSING

By Patricia Bouffard
Patricia Bouffard, R.N.
Chairperson

CERTIFICATION

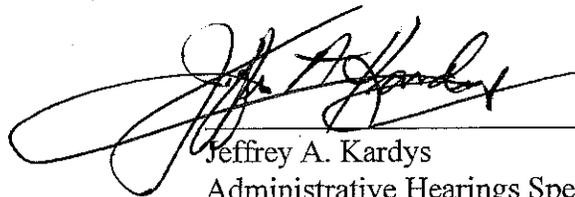
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 3rd day of MARCH 2011, by certified mail, return receipt requested and first class mail to:

Katy Duclos
1 Hemingway Drive
Wallingford, CT 06492

Certified Mail RRR #91-7108-2133-3932-0556-3092

and via email to:

Matthew Antonetti, Principal Attorney
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