

# STATE OF CONNECTICUT

## DEPARTMENT OF PUBLIC HEALTH

### PUBLIC HEALTH HEARING OFFICE

October 3, 2013

Samantha Colbert  
58 Westland Street  
Hartford CT 06120-1829

CMRRR No. 91 7199 9991 7032 2703 7346  
First Class Mail

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

E-mail

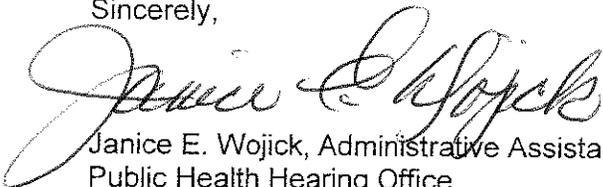
**RE: Samantha Colbert, LPN**

**Petition No. 2012-190**

Dear Ms. Colbert and Attorney Antonetti:

Enclosed please find a copy of the Amended Memorandum of Decision which was signed by the **Board of Examiners for Nursing** on October 2, 2013 to correct a typographical error.

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  
Bonnie Pinkerton, RN, Nurse Consultant, Department of Public Health, DPH  
Linda Fazzina, Staff Attorney, Licensure Regulation and Compliance, DPH

Phone:



Telephone Device for the Deaf: (860) 509-7191

410 Capitol Avenue - MS # \_\_\_\_\_

P.O. Box 340308 Hartford, CT 06134

*Affirmative Action / An Equal Opportunity Employer*

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

Samantha Colbert, L.P.N.  
License No. 034897

Petition No. 2012-190

**AMENDED MEMORANDUM OF DECISION**

**I**

*Procedural Background*

On January 4, 2013, the Department of Public Health ("Department") filed a Statement of Charges ("Charges") with the Board of Examiners for Nursing ("Board"). Board ("Bd.") Exhibit ("Ex.") 1. The Charges allege violations of Chapter 378 of the General Statutes of Connecticut ("Conn. Gen. Stat.") by Samantha Colbert ("Respondent"), which would subject Respondent's licensed practical nurse ("L.P.N.") license to disciplinary action pursuant to Conn. Gen. Stat. §§ 19a-17 and 20-99(b).

On February 6, 2013, the Department filed a Motion for Summary Suspension ("Motion") with the Board, which was granted. Bd. Ex. 2.

Based on the allegations in the Charges, the Board found that Respondent's continued nursing practice presented a clear and immediate danger to public health and safety and ordered, on February 6, 2013, pursuant to Conn. Gen. Stat. §§ 4-182(c) and 19a-17(c), 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. Ex. 2.

On February 6, 2013, Respondent was served the Order, Charges, and Notice of Hearing ("Notice") in person. Bd. Ex. 1-3.

On February 14, 2013, Respondent requested a continuance of the hearing, which was scheduled for February 20, 2013. Bd. Ex. 4. The Board granted Respondent's request for a continuance of the hearing until March 20, 2013. Bd. Ex. 4.

On March 19, 2013, Respondent filed a letter as her response to the Charges. Bd. Ex. 5. However, Respondent's letter was not considered to be a formal Answer to Charges. Tr. p. 4.

On March 20, 2013, Respondent orally answered the Charges on the record. Respondent admitted each and every allegation contained in the Charges. Tr. pp. 4-7.

Following the close of the record, the Board conducted fact finding.

Each member of the Board involved in this decision attests that 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. *Pet v. Department of Health Services*, 228 Conn. 651 (1994).

## II

### *Allegations*

1. In paragraphs 1 and 7 of the Charges, the Department alleges that Samantha Colbert of Hartford, Connecticut is, and has been at all times, as referenced in the Charges, the holder of Connecticut L.P.N. license number 034897.

#### *Count One*

2. In paragraph 2 of the Charges, the Department alleges that at all relevant times, Respondent was employed as a L.P.N. at Chelsea Place, in Hartford, Connecticut.
3. In paragraph 3 of the Charges, the Department alleges that in or about November 2012, while working as a L.P.N. at Chelsea Place, Respondent:
  - a. diverted Oxycodone 5 mg tablets and/or Oxycodone-Acetaminophen 5/325 tablets from one or more patients;
  - 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 4 of the Charges, the Department alleges that in or about November 2012, Respondent abused or utilized to excess Oxycodone and/or Oxycodone-Acetaminophen.
5. In paragraph 5 of the Charges, the Department alleges that Respondent's abuse of Oxycodone and/or Oxycodone-Acetaminophen does, and/or may affect her practice as a nurse.
6. In paragraph 6 of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to Conn. Gen. Stat. § 20-99(b), including, but not limited to:
  - a. § 20-99(b)(2);
  - b. § 20-99(b)(5); and/or,
  - c. § 20-99(b)(6).

***Count Two***

8. In paragraph 8 of the Charges, the Department alleges that Respondent was employed as a nurse at Park Place, in Hartford, Connecticut, from in or about May 2010 until in or about April 2011. Subsequently, Respondent was employed at St. Mary's Home, in West Hartford, Connecticut, from in or about July 2011 until in or about December 2011. Subsequently, beginning in or about April 2012, Respondent was employed at Chelsea Place.
9. In paragraph 9 of the Charges, the Department alleges that in or about February 2011, while working as a nurse at Park Place and/or continuing with her employment at St. Mary's Home and/or at Chelsea Place, Respondent diverted Percocet from patient stock for her personal use.
10. In paragraph 10 of the Charges, the Department alleges that in or about February 2011 until in or about November 2012, Respondent abused or utilized to excess Percocet.
11. In paragraph 11 of the Charges, the Department alleges that Respondent's abuse of Percocet does, and/or may affect her practice as a nurse.
12. In paragraph 12 of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to Conn. Gen. Stat. § 20-99(b), including, but not limited to:
  - a. § 20-99(b)(2);and/or,
  - b. § 20-99(b)(6).

**III**

***Findings of Fact***

1. Samantha Colbert of Hartford, Connecticut is, and has been at all times, as referenced in the Charges, the holder of Connecticut L.P.N. license number 034897. Tr. p. 5.

***Count One***

2. At all relevant times, Respondent was employed as a L.P.N. at Chelsea Place, in Hartford, Connecticut. Tr. p. 5.
3. In or about November 2012, while working as a L.P.N. at Chelsea Place, Respondent:
  - a. diverted Oxycodone 5 mg tablets and/or Oxycodone-Acetaminophen 5/325 tablets from one or more patients;
  - b. failed to completely, properly and/or accurately document medical or hospital records; and/or,
  - c. falsified one or more Controlled Substance Receipt Records. Tr. pp. 5-6.

4. In or about November 2012, Respondent abused or utilized Oxycodone and/or Oxycodone-Acetaminophen to excess. Tr. p. 6.
5. Respondent's abuse of Oxycodone and/or Oxycodone-Acetaminophen does, and/or may affect her practice as a nurse. Respondent ("Resp.") Ex. A (under seal), B (under seal).

***Count Two***

6. Respondent was employed as a nurse at Park Place, in Hartford, Connecticut, from in or about May 2010 until in or about April 2011. Subsequently, Respondent was employed at St. Mary's Home, in West Hartford, Connecticut, from in or about July 2011 until in or about December 2011. Subsequently, beginning in or about April 2012, Respondent was employed at Chelsea Place. Tr. pp. 6-7.
7. In or about February 2011, while working as a nurse at Park Place and/or continuing with her employment at St. Mary's Home and/or at Chelsea Place, Respondent diverted Percocet from patient stock for her personal use. Tr. p. 7; p. 17 (under seal).
8. In or about February 2011 until in or about November 2012, Respondent abused or utilized Percocet to excess. Tr. p. 7; p. 17 (under seal).
9. Respondent's abuse of Percocet does, and/or may affect her practice as a nurse. Respondent ("Resp.") Ex. A (under seal), B (under seal).

**IV**

***Discussion and Conclusions of Law***

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Jones v. Connecticut Medical Examining Board*, 309 Conn. 727 (2013). The Department sustained its burden of proof with regard to all of the allegations contained in the Charges.

Conn. Gen. Stat. § 20-99 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; (6) fraud or material deception in the course of professional services or activities; . . . .

With respect to the allegations contained in Counts One and Two of the Charges, Respondent admitted each and every allegation. Findings of Fact (“FF”) 3-4, 7-8. Thus, the Department sustained its burden of proof with respect to these allegations.

The admitted conduct renders Respondent’s license subject to sanctions, including among others, revocation, suspension or probation. *See*, Conn. Gen. Stat. §§ 19a-17(a)(1), (2) and (5).

Under Conn. Gen. Stat. §§ 20-99(b) (2), (5) and (6), the Board can discipline the license of a nurse who “fails to conform to the accepted standards of practice of the nursing profession, including, but not limited to, the following: . . . illegal conduct, incompetence or negligence in carrying out usual nursing functions; abuse or excessive use of drugs, including alcohol, narcotics or chemicals; [and], fraud or material deception in the course of professional services or activities.”

Based on the foregoing, the Board finds that the Department has established that Respondent, while working as a L.P.N. at Park Place, St. Mary’s Home, and Chelsea Place, diverted Oxycodone 5 mg tablets and/or Oxycodone-Acetaminophen 5/325 tablets, from one or more residents at these facilities, and diverted Percocet from patient stock for her personal use; failed to completely, properly and/or accurately document medical or hospital records, and falsified numerous controlled Substance Receipt Records. FF 3-4, 7-8. The Board further finds that Respondent has abused Oxycodone, Oxycodone-Acetaminophen, and Percocet to excess and Respondent’s abuse of Oxycodone, Oxycodone-Acetaminophen, and Percocet affects her practice as a licensed practical nurse. FF 5, 9. Thus, the Board concludes that Respondent’s conduct constitutes grounds for disciplinary action pursuant to Conn. Gen. Stat. §§ 20-99(b)(2), (5), (6) and 19a-17.<sup>1</sup> Nonetheless, the Board finds that despite Respondent’s severe depression and drug addiction, she makes no excuses for her behavior. Rather, Respondent accepts full responsibility for her misconduct and expresses sincere remorse for her serious lapses in judgment. Therefore, the Board finds that Respondent can practice nursing with reasonable skill and safety under the terms of this Order.

---

<sup>1</sup> Pursuant to Conn. Gen. Stat. § 19a-17, the Board may impose disciplinary action, as set forth in the Statute, upon the finding of a good cause.

V  
*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 034897 held by Samantha Colbert, as follows:

1. Respondent's license shall remain under suspension, pursuant to the February 6, 2013 Suspension Order, from March 20, 2013 through September 20, 2013.
2. Following said suspension, 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 Conn. Gen. Stat. § 19a-17.
  - A. During the period of probation, the Department 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 during the probationary period.
  - C. Respondent shall provide a copy of this Decision to any and all employers if employed as a nurse 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 nurse during the probationary period.
  - E. If employed as a nurse, 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 nurse. Employer reports shall be submitted monthly for the entire probationary period.

- 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 directly to the Department at the address cited in Paragraph Q below.
- G. Should Respondent's employment as a nurse be involuntarily terminated or suspended, Respondent and her employer shall notify the Department within 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 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 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 Department, during the entire probationary period. Respondent shall submit to an evaluation by her therapist by September 20, 2013. Such evaluation report shall state that Respondent is competent and safe to practice and such report must be approved by the Board.
- J. 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.
- K. Respondent shall cause evaluation reports to be submitted to the Department by her therapist during the entire probationary period. In addition to the evaluation report that must be submitted to the Department by September 20, 2013, therapist reports shall be submitted monthly to the Department for the entire 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 practice nursing safely and competently.

Therapist reports shall be submitted directly to the Department 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 probationary period, at a testing facility approved by the Department. 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 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 Respondent's need for the controlled substance;
  - d. An assessment of Respondent's continued need for the controlled substance(s).
- (3) There must be at least one such random alcohol/drug screen on a weekly basis during the first and fourth years of the probationary period; and, at least such one such random alcohol/drug screen twice a 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 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)0    |

- (6) Laboratory reports of random alcohol and drug screens shall be submitted directly to 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. The ingestion of mouthwash, over the counter cough suppressants and cold/flu remedies may produce a positive result indicating the presence of alcohol. For that reason, any food substance containing poppy seeds, mouthwash and over the counter cough suppressants and cold/flu remedies 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, mouthwash over the counter cough suppressants and/or cold/flu remedies shall not constitute a defense to such positive screen.
- P. The Department 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  
Board of Examiners for Nursing  
410 Capitol Avenue, MS #12HSR

P. O. Box 340308  
Hartford CT 06134-0308

4. 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 Conn. Gen. Stat. §§ 19a-17(a) and (c), 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 Practitioner Licensing and Investigations Section of the Healthcare Quality and Safety Branch of the Department).
  
5. This document has no bearing on any criminal liability without the written consent of the Director of Medicaid Fraud Control Unit or the Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau.

This Order is effective on the date it is signed by the Board.

The Board hereby informs Respondent, Samantha Colbert, and the Department of this decision.

Dated at Hartford, Connecticut this 2<sup>nd</sup> day of October, 2013.

BOARD OF EXAMINERS FOR NURSING

By Mary M. Brown  
Mary Brown, RN, Chair Pro Tem

**CERTIFICATION**

I hereby certify that, pursuant to Connecticut General Statutes Section 4-180(c), a copy of the foregoing Amended Memorandum of Decision was sent this 3<sup>rd</sup> day of October 2013, certified mail return receipt requested and first class mail to:

Samantha Colbert  
58 Westland Street  
Hartford CT 06120-1829

*and E-Mail to:*

Matthew Antonetti, Principal Attorney  
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