2003-0107-010-003

012-001

STATE OF CONNECTICUT

BOARD OF EXAMINERS FOR NURSING

Richard Pepe
RE: Registered Nurse Lic No. R31471
Advanced Practice Registered Nurse Lic No. 000074

MEMORANDUM OF DECISION

Procedural Background

Richard Pepe (hereinafter "petitioner") was issued registered nurse license number R31471 on November 28, 1978 and was issued advanced practice registered nurse license number 000074 on January 8, 1991. Dept. Exhs. 1 and 2.

Pursuant to a Memorandum of Decision dated March 19 1997, the Board of Examiners for Nursing (hereinafter "the Board") ordered the revocation of petitioner's registered nurse and advanced practice registered nurse licenses. Board Exh. 2.

In a letter dated November 20, 2002, petitioner made a request that the Board reinstate his registered nurse and advanced practice registered nurse licenses. Respondent Exh. A.

Pursuant to petitioner's request, the Board scheduled a hearing for July 23, 2003. Board Exh. 1.

The hearing took place on July 23, 2003, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Petitioner was present at the hearing and was represented by counsel. Transcript, p. 2.

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 and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

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

1. During 1983, the Florida registered nurse license of petitioner was suspended and subsequently placed on probation upon findings that petitioner diverted and abused the controlled substance cocaine. Dept. Exh. 2.

2. Pursuant to a Memorandum of Decision dated July 3, 1985, the Board ordered a five year suspension (stayed) and an indefinite period of probation of petitioner's Connecticut registered nurse license. The order was based on the Board's finding that petitioner diverted and abused Cocaine while employed as a nurse anesthetist at Waterbury Hospital, Waterbury, Connecticut during 1984. The Board ordered the indefinite probation concluded on July 1, 1990. Dept. Exh. 1.

3. Pursuant to Memorandum of Decision dated March 19 1997, the Board ordered the revocation of petitioner's registered nurse and advanced practice registered nurse licenses. The order was based on the Board's finding that petitioner diverted and abused the controlled substances Fentanyl and Sufentanil while working as a nurse anesthetist at Veteran's Memorial Medical Center, Meriden, Connecticut during 1996. Board Exh. 2.

4. Petitioner has a history of substance abuse which began in the 1970's. Petitioner had a period of abstinence and recovery from on or about 1984 until a relapse on or about December 1995. Board Exh. 2.

5. From on or about March 1996 through August 1996, petitioner underwent inpatient and outpatient chemical dependency treatment at the Institute of Living, Hartford, Connecticut. During this treatment petitioner was diagnosed with a major depressive disorder which contributed to the December 1985 relapse. Board Exh. 2, pp. 4-5.

6. Following his discharge from the Institute of Living, petitioner has continued to engaged in treatment with a psychiatrist for his depressive disorder and relapse prevention. Petitioner's psychiatrist is of the opinion that petitioner can safely return to the practice of nursing and can safely practice as a nurse anesthetist. Respondent Exh. A; Transcript, pp. 16-20.

7. Petitioner has participated in voluntary urine drug and alcohol screening. All results have been negative for the presence of alcohol and/or drugs. Respondent Exh. A.

8. Petitioner has been an active participant in both Narcotics Anonymous and Nurses for Nurses. Exh. A; Transcript, pp. 25, 27.

9. Since 1997, petitioner has been employed at Coastal Oceanographics, Inc., Middlefield, Connecticut. Exh. A.

10. Petitioner has been in contact with the American Association of Nurse Anesthetists regarding re-education and re-certification. Exh. A; Transcript, pp. 50-51.

Discussion and Conclusions of Law

In accordance with the Notice of Hearing, petitioner has the burden of satisfying the Board that he is able to practice as a registered nurse with reasonable skill and safety by presenting relevant evidence at the hearing, including the following:

1. Evidence from a licensed therapist documenting his drug free status and participation in therapy and counseling;

2. Personal references addressing his drug free status, emotional health, and work habits;
3. Documentary evidence from his current and past employers;
4. Documentary evidence of random, legally defensible screens for drugs and alcohol conducted by a therapist or physician;
5. Documentation of participation in support groups.

The Board finds that the petitioner has presented relevant and credible evidence as required by the Notice of Hearing. Based on a review of the evidence presented, the Board concludes that petitioner has met the burden of satisfying the Board of his ability to return to the practice of nursing under the terms of the Order described below.

As to petitioner's request for reinstatement of his advanced practice registered nurse license, the Board concludes that monitoring of petitioner's return to nursing practice is necessary prior to consideration of advanced practice registered nurse licensure reinstatement. Petitioner's return to practice as nurse anesthetist would not be prudent at this time. Petitioner may petition the Board for reinstatement of his advanced practice registered nurse licensure after two (2) years of monitored registered nurse practice.

Order

Pursuant to its authority under § 19a-17 and § 20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. The registered nurse license, No. R31471, of petitioner, Richard Pepe, shall be reinstated to probationary status subject to the following conditions.
   - A. Petitioner shall successfully complete a Board approved registered nurse refresher program.
   - B. Certification of successful completion of the refresher program cited in Paragraph 1A shall be submitted to the Board, directly from the educational institution where said program was taken, within thirty (30) days of the program's completion.
   - C. Petitioner shall make application to the licensing authority of the Department of Public Health (hereinafter "the Department"). Petitioner shall be administered the licensing examination for registered nurses. Petitioner shall incur all expenses associated with applying for and taking the licensing examination.

E. Petitioner shall attain a passing score on the licensing examination for registered nurses.

F. Until such time that petitioner successfully completes the refresher program and has attained a passing score on the licensing examination, petitioner is prohibited from practicing as a nurse and petitioner's registered nurse license will be restricted and used for the sole purpose of participating in the refresher program.

2. Petitioner's registered nurse license No. R31471, shall be placed on probation for a period of four (4) years commencing on the date petitioner is notified by the Department that he passed the registered nurse licensing examination.

3. If any of the following conditions of probation are not met, petitioner's registered nurse may be subject to disciplinary action pursuant to § 19a-17 of the General Statutes of Connecticut.

A. During the period of probation, the Board shall pre-approve petitioner's employment or change of employment within the nursing profession.

B. Petitioner 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.

C. If employed as a nurse, petitioner shall cause monthly employer reports to be submitted to the Board, by his 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.

D. The employer reports cited in Paragraph C above shall include documentation of petitioner's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph P below.

E. Should petitioner's employment as a nurse be involuntarily terminated, petitioner and/or his employer shall notify the Board, within seventy-two (72) hours, of such termination.

F. If petitioner pursues further training in any subject area that is regulated by the Department, petitioner shall provide a copy of this Memorandum of Decision to the educational institution or, if not the institution, to petitioner's instructor. Such institution or instructor shall notify the Department in writing of 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 P below.

G. At his expense, petitioner shall engage in therapy and counseling for chemical dependency with a Connecticut licensed or certified therapist, approved by the Board and the Department, during the entire period of probation.

H. Petitioner shall provide a copy of this Memorandum of Decision to his therapist. The Board shall be notified in writing by his therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.

I. Petitioner shall cause monthly evaluation reports to be submitted to the Board by his therapist during the entire probationary period.

J. The therapist reports cited in Paragraph I above shall include documentation of dates of treatment, and an evaluation of petitioner'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 P below.

K. (1) At his expense, petitioner 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 his 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) Petitioner shall be responsible for notifying the laboratory, his therapist, the Board, the Department and his prescribing practitioner of any drug(s) he 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:

1. A list of controlled substances prescribed by this provider for the petitioner;
2. A list of controlled substance(s) prescribed by other providers;
3. An evaluation of the petitioner's need for the controlled substance;
4. An assessment of the petitioner's continued need for the controlled substance(s).

(3). There must be at least one (1) weekly random alcohol/drug screen during the first and second years of the probationary period, and at least two (2) monthly random alcohol/drug screens during the third and fourth 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)

(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 P below, by petitioner's therapist, personal physician or the testing laboratory.

L. Petitioner shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for him, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications. Petitioner shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.

M. Petitioner 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.

N. The Connecticut Board of Examiners for Nursing must be informed of petitioner's current address within ten (10) days of the effective date of this Decision.

O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.

P. All 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

4. That any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, shall constitute a violation of probation, which will be cause for an immediate hearing on charges of violating this Order. Any finding that petitioner has violated this Order will subject petitioner to sanctions under §19a-17(a) and (c) of the General Statutes of Connecticut, including but not limited to, the revocation of his license. Any extension of time or grace period for reporting granted by the Board of Examiners for Nursing 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 petitioner's address of record (most current address reported by the petitioner to the Office of Practitioner Licensing and Certification of the Department of Public Health or the Board).

5. This Memorandum of Decision becomes effective on MARCH 1, 2004.

The Board of Examiners for Nursing hereby informs petitioner, Richard Pepe, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 18th day of February, 2004.

BOARD OF EXAMINERS FOR NURSING

By Nancy L Befundo

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STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

October 27, 2011

Richard Pepe, RN, APRN
210 Bradley Avenue
Meriden, CT 06450-3964

Re: Memorandum of Decision
Petition Nos. 2003-0107-010-003
2003-0107-012-001

Reinstatement Consent Order
Petition No. 2007-0702-012-010

RN License No. R31471
APRN License No. 000074

Dear Mr. Pepe:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective October 1, 2011.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your license related to the above-referenced Memorandum of Decision and Consent Order.

Please be certain to retain a copy of this letter as documented proof that you have completed your license probation.

Thank you for your cooperation during this process, and good luck to you in the future.

Very truly yours,

Bonnie Pinkerton

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

cc: J. Filippone
J. Wojick

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