CERTIFIED RETURN RECEIPT REQUESTED NO. Z712655768

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health v.

Anne Gallitto, R.N., A.P.R.N.

Registered Nurse License No. R27282

Advanced Practice Registered Nurse License No. 000181

535 Kelsey Street

Middletown CT 06457

CASE PETITION NO. 950921-10-091 and 950921-12-002

MEMORANDUM OF DECISION
INTRODUCTION

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Public Health (Hereinafter the "Department") with two (2) Statements of Charges and two (2) Motions for Summary Suspension dated November 14, 1995 (Department Exhibits A and B). Both Statements of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Anne Gallitto (hereinafter the "Respondent") which would subject the Respondent's Registered Nurse license and Advanced Practice Registered Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statements of Charges and accompanying affidavits and reports, the Board found that the Respondent's continued practice as an Advanced Practice Registered Nurse presented a clear and immediate danger to public health and safety. On November 15, 1995, the Board ordered, pursuant to its authority under §19a-17 of the General Statutes of Connecticut that the Advanced Practice Registered Nurse license of the Respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges (Department Exhibit A). The Department's Motion for Summary Suspension of the Respondent's Registered Nurse license was not granted by the Board.

The Board issued a Notice of Hearing dated November 15, 1995 scheduling a hearing for December 6, 1995 (Department Exhibits A-5 and B-5). The hearing took place on December 6, 1995 in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. During the hearing on December 6, 1995 the Department verbally amended both Statements of Charges by changing "August" to "July" in Paragraph 3. (Hearing Transcript, December 6, 1995, pp. 72-73)

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.

FACTS

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

1. Anne Gallitto, hereinafter referred to as the Respondent, was issued Registered Nurse License Number R27282 on April 30, 1995 and was issued Advanced Practice Registered Nurse License Number 000181 on March 12, 1991. (Department Exhibits A-9, B-9.) The Respondent was the holder of said licenses at all times referenced in the Statement of Charges.

2. The Respondent was given due notice of the hearing and charges against her. Department Exhibits A-1 and B-1 indicate that the Statement of Charges, Notice of Hearing, and Summary Suspension Order of her Advanced Practice Registered Nurse License were served on the Respondent by Deputy Sheriff on November 27, 1995.

3. The Respondent was present during the hearing and was represented by counsel. (Hearing Transcript, December 6, 1995, pp. 2)

4. The Respondent verbally answered both Statements of Charges. (Hearing Transcript, December 6, 1995, pp. 65-66)

5. Beginning on or about 1990 the Respondent has been receiving treatment for atypical migraine headaches. Treatment has included prescriptions for the controlled substance Fiorinal. (Respondent's Exhibit 1-3) (Hearing Transcript, December 6, 1995, p. 38)

6. On or about January 1991 the Respondent's employment as a Certified Registered Nurse Anesthetist at New Britain General Hospital, New Britain, Connecticut, was terminated due to her excessive use of Fiorinal. (Hearing Transcript, December 6, 1995, pp. 39-40, 61-62)

7. From on or about May 1991 to September 1991, the Respondent underwent chemical dependency treatment at The Institute of Living, Hartford, Connecticut subsequent to her abuse and/or excessive use of the Fiorinal which had been prescribed for her migraine headaches and for abusing alcohol. (Respondent's Exhibit 1-11) (Hearing Transcript, December 6, 1995, pp. 20, 41-43, 62)

8. On or about November 1991 the Respondent began employment as a Certified Registered Nurse Anesthetist at Bristol Hospital, Bristol, Connecticut. (Hearing Transcript, December 6, 1995, p. 43)

9. On July 17 and 18, 1995 the Respondent excessively utilized the controlled substance Fiorinal, which had been prescribed for use, due to a migraine headache. (Respondent's Exhibit 1-1) (Hearing Transcript, December 6, 1995, pp. 48-49, 56)

10. On July 18, 1995, while working as a Certified Registered Nurse Anesthetist in Bristol Hospital the Respondent asked to be relieved from duty due to being ill and was subsequently admitted to the Bristol Hospital Emergency Department. A serum sample taken from the Respondent for toxicological analysis revealed a potentially toxic level of Fiorinal (Butalbital). (Hearing Transcript, December 6, 1995, pp. 20-22, 49-50) (Respondent's Exhibit 1-2) (Department Exhibit C-2)

11. On or about August 1995 the Respondent's privileges to work as a Certified Registered Nurse Anesthetist at Bristol Hospital were suspended. (Department Exhibit C-5) (Respondent's Exhibit 1-4)

12. From September 11, 1995 to October 19, 1995 the Respondent underwent chemical dependency treatment at the Stonehaven Program, of Elmcrest Hospital, Portland, Connecticut. (Respondent's Exhibit 1-5) (Hearing Transcript, December 6, 1995, pp. 51-52)

13. The Respondent attends the aftercare care program at Stonehaven Programs; receives individual therapy for substance abuse; and is participating in Alcoholics Anonymous and Narcotics Anonymous. (Respondent's Exhibits 1-6, 1-10) (Hearing Transcript, December 6, 1995, pp. 52-54)

DISCUSSION AND CONCLUSIONS

In consideration of the above Findings of Fact, the following conclusions are rendered:

Anne Gallitto held a valid Registered Nurse license and a valid Advanced Practice Registered Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Summary Suspension Order, Notice of Hearing, and Statement of Charges sufficiently provided legal notice as mandated by the General Statutes of Connecticut §4-177, §4-182, and §19a-17. The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19-2a-1 through §19-2a-30 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided the Respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by the General Statutes of Connecticut §4-182(c).

Paragraph 3 of both Statements of Charges alleges that in July 1995, while employed as an advanced practice registered nurse and a registered nurse at Bristol Hospital, Bristol, Connecticut, the Respondent abused or excessively used the controlled substance Fiorinal.

The Respondent denies this charge. (Answer: Hearing Transcript, December 6, 1995, p. 66)

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "...(5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...."

Based on its review of the evidence, inclusive of the Respondent's testimony, the Board concludes that the Respondent's conduct as alleged in Paragraph 3 of both Statements of Charges is proven and that said conduct violates the General Statutes of Connecticut §20-99(b)(5). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

Paragraph 4 of both Statements of Charges alleges that prior to 1995, while licensed as an advanced practice registered nurse and a registered nurse, the Respondent abused or excessively utilized the controlled substance Fiorinal.

The Respondent denies this charge. (Answer: Hearing Transcript, December 6, 1995, p. 66)

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "...(5) abuse or excessive use of drugs including alcohol, narcotics or chemicals...."

Based on its review of the evidence, inclusive of the Respondent's testimony, the Board concludes that the Respondent's conduct as alleged in Paragraph 4 of both Statements of Charges is proven and that said conduct violates the General Statutes of Connecticut §20-99(b)(5). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

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. That for Paragraphs 3 and 4 of the Statement of Charges, the Respondent's advanced practice registered nurse license, No. 000181, is revoked.

2. That for Paragraphs 3 and 4 of the Statement of Charges, the Respondent's registered nurse license, No. R27282, is placed on probation for a period of four (4) years.

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

   A. The Respondent 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 current employer(s), within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.

   B. Should the Respondent change employment during the probationary period, she shall provide a copy of this Memorandum of Decision to her employer and said employer shall notify the Board in writing, within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.

   C. The Respondent shall not administer, count or have access to narcotics or other 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.

   D. The Respondent shall not accept employment as a nurse for a personnel provider service, Visiting Nurse Association or home health care agency and shall not be self-employed as a nursing during the period of her probation.

   E. The Respondent shall cause monthly employer reports to be submitted to the Board by her immediate supervisor, if employed as a nurse, during the first, second and fourth years of the

probationary period and bi-monthly during the third year of the probationary period. Employer reports shall commence with the report due on the first day of the month following her employment as a nurse.

F. The employer reports cited in Paragraph E above shall include documentation of the Respondent's ability to safely and competently practice nursing. Employer reports shall be issued to the Board at the address cited in Paragraph Q below.

G. Should the Respondent's employment as a nurse be voluntarily or involuntarily terminated, the Respondent's employer shall notify the Board, within seventy-two (72) hours, of such termination.

H. At her own expense, the Respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist during the entire period of probation.

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

J. The Respondent shall cause monthly evaluation reports to be submitted to the Board by her therapist during the first, second and fourth years of the probationary period and bi-monthly during the third year of the probationary period. Therapist reports are due commencing with the report due May 1, 1996.

K. The therapist reports cited in Paragraph J above shall include documentation of dates of treatment, and an evaluation of the Respondent's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. Therapist reports shall be issued to the Board at the address cited in Paragraph Q below.

L. At her own expense the Respondent shall be responsible for submitting to random urine and/or blood screens for alcohol and drugs for the entire probationary period, as ordered by her therapist, and/or personal physician, and/or the Board of Examiners for Nursing. Random alcohol/drug screens shall be legally defensible in that chain of custody procedures must be followed throughout the screening process. The Respondent shall be responsible for immediately notifying the laboratory, her therapist and/or personal physician and the Board of Examiners for Nursing of any drug(s) she is taking.

There must be at least one (1) such random alcohol/drug screen monthly during the first, second and fourth years of the probationary period and at least one (1) such random alcohol/drug screen bi-monthly during the third year of the probationary period. Reports of said random alcohol/drug screens are due commencing with the report due on May 1, 1996.

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.

Random alcohol/drug screens must include testing for the following substances:

Amphetamines
Barbiturates
Benzodiazepines
Cannabinoids (THC Metabolites)
Cocaine
Meperidine (Demerol)
Methadone
Methaqualone
Opiates (Metabolites)
Phencyclidine (PCP)
Propoxyphene
Ethanol (alcohol)

Reports of random alcohol and drug screens shall be submitted directly to the Board, at the address cited in Paragraph Q below, by the Respondent's therapist or personal physician or the testing laboratory.

M. The 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, and the Respondent shall not abuse and/or excessively use alcohol and/or drugs.

N. The Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine. For that reason, any food substance containing poppy seeds should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine, the ingestion of poppy seeds shall not constitute a defense to such positive screen.

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

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

Q. All correspondence and reports are to be addressed to:

BOARD OF EXAMINERS FOR NURSING
DEPARTMENT OF PUBLIC HEALTH
410 Capitol Avenue, MS#12NUR
P. O. Box 340308
Hartford CT 06134-0308

4. Any deviation from the terms of probation without prior written approval by the Board of Examiners for Nursing will constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order and will subject the Respondent to sanctions under §19a-17(a) and (c) of the General Statutes of Connecticut including, but not limited to, the revocation of her 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 action at a later time. The Board of Examiners for Nursing 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 reports to the Licensure and Renewal Section of the Division of Medical Quality Assurance of the Department of Public Health or the Board of Examiners for Nursing).

5. Revocation of the Respondent's Advanced Practice Registered Nurse license shall be effective on the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

6. The four (4) year probation of the Respondent's registered nurse license shall commence on April 15, 1996.

The Board of Examiners for Nursing hereby informs the Respondent, Anne Gallitto and the Department of Public Health of the State of Connecticut of this decision.

Dated at Wethersfield, Connecticut this 3rd day of April 1996.

BOARD OF EXAMINERS FOR NURSING

By _____

gallitto.doc