

# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

PUBLIC HEALTH HEARING SECTION

July 21, 2011

Diane Petroski  
44 Campfield Road  
Manchester, CT 06040

Certified Mail 91-7108-2133-3932-0556-3177  
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: Diane Petroski, APRN, RN – Petition Nos. 2011-223; 2011-224**

Dear Ms. Petroski 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  
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**STATE OF CONNECTICUT  
BOARD OF EXAMINERS FOR NURSING**

Diane Petroski, R.N., A.P.R.N.  
License Nos. E31166, 000234

Petition Nos. 2011-223  
2011-224

**MEMORANDUM OF DECISION**

*Procedural Background*

On April 6, 2011, the Department of Public Health ("the Department") filed a Motion for Summary Suspension ("the Motion") and a Statement of Charges with the Board of Examiners for Nursing ("the Board"). Bd. Exhs. 2, 3. The Statement of Charges allege violations of certain provisions of Chapter 378 of the General Statutes ("the Statutes") by Diane Petroski ("respondent") which would subject respondent's registered nurse and advanced practice registered nurse licenses (collectively, "respondent's licenses") to disciplinary action pursuant to §§ 19a-17 and 20-99(b) of the Statutes.

Based on the allegations in the Statement of Charges and the affidavits and reports accompanying 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 April 6, 2011, pursuant to §§ 4-182(c) and 19a-17(c) of the Statutes, that respondent's licenses be summarily suspended pending a final determination by the Board of the allegations contained in the Charges ("the Order"). Bd. Exh. 2.

On April 6, 2011, the Statement of Charges, the Order, and a Notice of Hearing were sent to respondent by certified and first class mail. Bd. Exhs. 1-3. On April 11, 2011, they were served by marshal. Bd. Ex. 1, p. 3.

On April 15, 2011, the Department filed a Motion to Amend the Statement of Charges and an Amended Statement of Charges ("the Charges"). Bd. Exh. 5. On April 20, 2011, the Motion was granted. Bd. Exh. 5; Tr. pp. 5-6.

The hearing was held on April 20, 2011. Respondent appeared *pro se*; the Department was represented by Attorney Matthew Antonetti. Tr. p. 2. Respondent orally answered the Charges. Tr. pp. 7-10. Following the close of the record on April 20, 2011, 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 one and five of the Charges, the Department alleges that respondent of Manchester, CT, is, and has been at all times referenced in the Charges, the holder of Connecticut registered nurse license number E31166 and advanced practice registered nurse license number 000234.

**Count One**

2. In paragraph two of the Charges, the Department alleges that during February and/or March 2011, respondent abused and/or utilized to excess, alcohol.
3. In paragraph three of the Charges, the Department alleges that respondent's abuse of alcohol may affect her practice as a registered nurse and/or advanced practice registered nurse.
4. In paragraph four of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to §20-99(b) of the Statutes, including but not limited to §20-99(b)(5).

**Count Two**

5. In paragraph six of the Charges, the Department alleges that on or about July 16, 2008, the Board ordered a Consent Order in Petition Numbers 2007-0323-012-005 and 2007-0323-010-020 ("the Consent Order") that placed respondent's licenses on probation for a period of four years. Such disciplinary action was based, in part, upon respondent's history of diversion and controlled substance abuse.
6. In paragraph seven of the Charges, the Department alleges that said Consent Order specifically provided that respondent shall not obtain or use controlled substances, legend drugs or alcohol in any form unless prescribed or recommended for a legitimate purpose by an authorized licensed health care professional.
7. In paragraph eight of the Charges, the Department alleges that during February 2011 and/or March 2011, respondent ingested alcohol.
8. In paragraph nine of the Charges, 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 licenses to revocation or other disciplinary action authorized by §§19a-17 and 20-99(b) of the Statutes.

*Findings of Fact*

1. Respondent of Manchester, CT, is, and has been at all times referenced in the Charges, the holder of Connecticut registered nurse license number E31166 and advanced practice registered nurse license number 000234. Bd. Exh. 4; Dept. Exh. 1, p. 27; Tr. pp. 7-8.

2. On or about July 16, 2008, the Board ordered the Consent Order that placed respondent's licenses on probation for a period of four years. Such disciplinary action was based, in part, upon respondent's history of diversion and controlled substance abuse. Dept. Exh. 1, pp. 3-4, 6-17; Tr. pp. 17-19.
3. The Consent Order specifically provided that respondent shall not obtain or use controlled substances, legend drugs or alcohol in any form unless prescribed or recommended for a legitimate purpose by an authorized licensed health care professional. Bd. Exh. 4; Dept. Exh. 1, pp. 3-4, 8-10; Tr. pp. 17-19.
4. During February and March 2011, respondent abused and/or utilized alcohol to excess. Bd. Exh. 4; Dept. Exh. 1, pp. 3-5, 18-20, 23-26; Tr. pp. 17-21, 23.
5. Respondent's abuse of alcohol may affect her practice as a registered nurse and/or advanced practice registered nurse. Tr. pp. 22, 24, 26-30.

### ***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 all of the allegations contained in the Charges.

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 standard . . . (5) abuse or excessive use of drugs, including alcohol, . . . .

The Board concludes that respondent's conduct as alleged in Counts One and Two of the Charges is proven by a preponderance of the evidence presented.

Respondent admits all of the allegations. Specifically, respondent admits that during her probation, she consumed alcohol to excess in February and March 2011. Tr. pp. 7-10.

The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to §§20-99(b)(5) and 19a-17 of the Statutes. The Board finds that respondent can practice nursing with reasonable skill and safety under the terms of this Order.

*Order*

Based on the record in this case, the above findings of fact and conclusions of law, the Board hereby orders, with respect to registered nurse license number E31166 and advanced practice registered nurse license number 000234 held by Diane Petroski, as follows:

1. The Consent Order dated July 16, 2008 shall remain in full force and effect with the following additions and modifications:
  - a. Respondent's advanced practice registered nurse license number 000234 shall be suspended for a minimum period of two years commencing on the effective date of this Order and will remain suspended until respondent submits a satisfactory report to the Department from a licensed therapist or a psychologist documenting that she can resume practice with reasonable skill and safety.
  - b. Respondent's registered nurse license number E31166 shall be suspended for three months commencing on the effective date of this Order. Following said suspension, the probation of respondent's registered nurse license, ordered pursuant to the July 16, 2008 Consent Order, remains in full force and effect and is extended until August 31, 2014.
  - c. The probation of respondent's licenses as required in the Consent Order shall continue in full force and effect, concurrently with the suspensions ordered in paragraphs 1a and 1b herein. However, paragraph 4 of the Consent Order is hereby modified to extend the probation of respondent's licenses until August 31, 2014. Paragraph 4 of the Consent Order is further modified as follows:
    1. Paragraph 4B(3) is modified to require at least two observed random urine screens and laboratory reports per month during the fifth year of the probationary period; and, one such screen and laboratory report per week during the sixth year of the probationary period.

2. Paragraph 4C is modified to require that respondent shall cause evaluation reports to be submitted to the Board by her therapist monthly for the fifth year of probation and weekly for the sixth year of probation.
3. Paragraph 4K is modified such that if employed as a nurse, respondent shall cause employer reports to be submitted by her immediate supervisor to the Board monthly for the fifth year of probation and weekly for the sixth year of probation. Employer reports shall be submitted commencing with the report due on the first business day of month following respondent's employment as a nurse.

2. This Memorandum of Decision becomes effective as of the date of signature.

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

Dated at Hartford, Connecticut this 20<sup>th</sup> day of July, 2011.

BOARD OF EXAMINERS FOR NURSING

By Patricia C. Bouffard  
Patricia C. Bouffard, Chairperson

**CERTIFICATION**

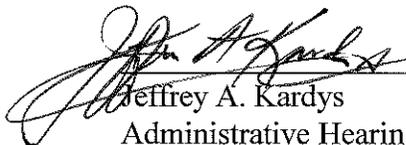
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 21st day of July 2011, by certified mail, return receipt requested and first class mail to:

Diane Petroski  
44 Campfield Road  
Manchester, CT 06040

Certified Mail 91-7108-2133-3932-0556-3177

and via email to:

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



Jeffrey A. Kardys

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