STATE OF CONNECTICUT

BOARD OF EXAMINERS FOR NURSING

Department of Public Health

vs.

Pamela Gage, RN, Lic. No. R39215
APRN, Lic. No. 000428
Respondent

Petition Nos. 2005-0817-010-069;
2005-0817-012-006

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges dated August 26, 2005. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Pamela Gage (hereinafter "respondent") which would subject respondent's registered nurse and advanced practice registered nurse licenses to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b).

The Board issued a Notice of Hearing dated September 21, 2005, scheduling a hearing for April 19, 2006. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. The Notice of Hearing and Statement of Charges were delivered by certified mail return receipt requested and first class mail to respondent on October 3, 2005. Dept. Exh. 1.

At respondent's request, the hearing was continued and took place on July 19, 2006, in Room 1-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Dept. Exhs. 2, 3.

Respondent was present during the hearing but was not represented by counsel. Transcript, July 19, 2006, pp. 2-3.

Respondent orally answered the Statement of Charges. Transcript, p. 13.

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.

Findings of Fact

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

1. Respondent was issued registered nurse license number R39215 on July 31, 1985 and was issued advanced practice registered nurse license number 000428 on July 9, 1991. Respondent was the holder of said licenses at all times referenced in the Statement of Charges. Dept. Exh. 6-tab B; Transcript, p. 13.

2. Pursuant to a Memorandum of Decision dated February 2, 2005, the Board ordered that respondent's registered nurse and advanced practice registered nurse licenses be placed on probation for a period of four years. Such disciplinary action was based upon findings that respondent, while driving to see patients, was involved in a motor vehicle accident, subsequent to which she failed a field sobriety test. Subsequent blood and urine tests were positive for alcohol and cocaine respectively. Said 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 therapeutic purpose by a licensed health care professional authorized to prescribe medications and that respondent shall submit to random alcohol/drug screens that shall be negative for the presence of alcohol and drugs. Dept. Exh. 6-tab A; Transcript p. 13.

3. Respondent submitted to random urine screening on July 29, 2005. Laboratory results for the July 29, 2005 urine specimen were positive for the presence of Morphine (opiates) at a level of 421 NG/ml. The cut-off level for a positive result is 300 NG/ml. During the period of respondent's probation, this is the only urine screen that has tested positive for drugs and/or alcohol. Dept. Exhs. 4, 6-tab A13-14; Transcript, pp. 13, 16.

4. Respondent believes that the consumption of a poppy seed food product contributed to the positive urine result for morphine. Transcript, p 15.

5. Respondent's therapist reports that respondent has not exhibited any behavior suggestive of opiate use. Resp. Exh. A-tab B.

Conclusions of Law and Discussion

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

Pamela Gage held a valid registered nurse and advanced practice registered nurse licenses in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* §§ 4-177(a) and (b), and 4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as §§ 19a-9-1 through 19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by *Conn. Gen. Stat.* § 4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

The Statement of Charges alleges that respondent tested positive for opiates in violation of the terms of probation set forth in a Memorandum of Decision dated February 2, 2005:

Respondent admits that her urine screen of July 29, 2005 was positive for the presence of opiates (morphine). Transcript, p. 13.

The General Statutes of Connecticut § 20-99 provides in relevant part:

> (a) The Board of Examiners for Nursing 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. . . .

Based on its findings, and respondent's admission, the Board concludes that respondent's conduct as alleged in the Statement of Charges is proven by a preponderance of the evidence presented, however, no evidence was presented during the hearing to suggest that respondent was abusing drugs or alcohol.

Although respondent's conduct as alleged in the Statement of Charges is proven, the evidence is insufficient to **form** a basis for disciplinary action by this Board.

Order

Pursuant to its authority under *Conn. Gen. Stat.* §§ 19a-17 and 20-99, the Board of Examiners for Nursing hereby orders the following:

1. The Statement of Charges dated August 26, 2005, is dismissed.
2. The Memorandum of Decision dated February 2, 2005 shall continue in full force and effect.

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

Dated at Newington, Connecticut this 17th day of January 2007.

BOARD OF EXAMINERS FOR NURSING

By _____

Pamela Gage 2006.doc

CERTIFICATION

I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 18th day of January 2007, by certified mail, return receipt requested and first class mail, to:

Pamela Gage, RN, APRN
72 Totem Trail
Sandy Hook, CT 06482

Certified Mail RRR #70042510000753840923

and by Inter-Departmental Mail to:

Stanley K. Peck, Director
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
Hartford, CT 06134-0308

Jeffrey A. Kardys
Administrative Hearings Specialist/Board Liaison
Department of Public Health
Public Health Hearing Office