

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

OFFICE OF COMMISSIONER

Lori Ann Sudell
19 Sachem Lane
Greenwich CT 06830

CMRRR#70021000000462297912
& First Class Mail

IN RE: Lori Ann Sudell, RDH

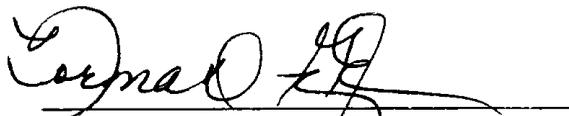
Petition No. 2003-0505-013-001

FINAL MEMORANDUM OF DECISION

In accordance with Connecticut General Statutes Section 4-180, the attached Proposed Memorandum of Decision issued July 17, 2003, by Hearing Officer Stacy Owens, is hereby adopted as the final decision of the Acting Commissioner of the Department of Public Health in this matter. A copy of the Proposed Memorandum of Decision is attached hereto and incorporated herein.

AUGUST 7, 2003

Date


Norma D. Gyle, R.N./Ph.D.
Acting Commissioner

c: Richard J. Lynch, Assistant Attorney General
Wendy H. Furniss, Bureau Chief, Healthcare Systems
Marianne Horn, Director, Health Systems Regulation
Stanley K. Peck, Director, Legal Office
Jennifer Filippone, Public Health Services Manager, OPLC



**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
Public Health Hearing Office**

Lori Ann Sudell, Dental Hygienist
License No.: 006240

Petition No.: 2003-0505-013-001

PROPOSED MEMORANDUM OF DECISION
Procedural Background

On June 19, 2003 the Department of Public Health (“the Department”) issued a letter to Lori Ann Sudell (“respondent”) stating that the Department was summarily suspending and proposing to revoke her dental hygienist license no. 006240 due to her alleged violations of the Connecticut General Statutes (“the Statutes”) and the Regulations of Connecticut State Agencies (“the Regulations”) as described more particularly below. Rec. Exh. 4.

On June 19, 2003, a Notice of Hearing on the Statement of Charges was provided to respondent. In the Notice of Hearing, the undersigned was appointed by the Commissioner of the Department to be the Hearing Officer and to rule on all motions, and to recommend findings of facts and conclusions of law. Rec. Exh. 2.

The administrative hearing was held on June 30, 2003, in accordance with Connecticut General Statutes Chapter 54 and Regulations §§19a-9-1 *et seq.* Respondent did not attend the hearing, nor was she represented; Attorney Diane Wilan represented the Department. Both parties were given the opportunity to present evidence and argument on all issues and to conduct cross-examination

This Memorandum of Decision is based entirely on the record and sets forth this Hearing Officer’s findings of fact, conclusions of law and order. To the extent the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc. v. S&H Computer Systems, Inc.*, 605 F. Supp. 816 (M.D. Tenn 1985).

Allegations

Summary Suspension

On May 22, 2003, the Department moved to summarily suspend respondent's license pursuant to §§4-182(c) and 19a-17(c) of the Statutes, based on allegations that respondent's continued practice as a dental hygienist represents a clear and immediate danger to the public health and safety.

The factual allegations that support the Summary Suspension Order are set forth in the Statement of Charges.

Statement of Charges

1. In paragraph 1 of the Charges, the Department alleges that respondent is, and has been at all times referenced in the Charges, the holder of Connecticut dental hygienist license number 006240.
2. In paragraph 2 of the Charges, the Department alleges the Department issued a Memorandum of Decision in Petition Number 2001-0125-013-001 (hereinafter "the Decision") that placed respondent's dental hygiene license on probation for a period of three years. Such disciplinary action was based upon proof of respondent's use of her two employer's DEA identification numbers to call in hydrocodone prescriptions for her own use.
3. In paragraph 3 of the Charges, the Department alleges that said Decision placed respondent's license on probation for three years, and specifically provided that she must participate in therapy, submit to random screens for drugs and alcohol, attend support groups, provide employer reports and successfully complete her criminal probation.
4. In paragraph 4 of the Charges, the Department alleges that respondent failed to comply with any of these terms of her probation.
5. In paragraph 5 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 Decision, and subjects respondent's license to revocation or other disciplinary action authorized by the General Statutes of Connecticut, §§ 19a-17 and 20-126o.

Findings of Fact

1. The Department provided respondent with reasonable and adequate written notice of the public hearing. Rec. Exh. 2, 3, 5; Tr. 6/30/03 p. 5.
2. The Department issued the Decision on January 31, 2003, placing respondent's dental hygiene license on probation for a period of three years. Such disciplinary action was based upon proof of respondent's use of her two employer's DEA identification numbers to call in hydrocodone prescriptions for her own use. Rec. Exh. 4; Tr. 6/30/03 p. 6.
3. The Decision placed respondent's license on probation for three years, and specifically provided that she must participate in therapy, submit to random screens for drugs and alcohol, attend support groups, provide employer reports and successfully complete her criminal probation. Rec. Exh. 4; Tr. 6/30/03 pp. 6, 7.
4. A letter from Richard Goldman, Paralegal Specialist II for the Department, was sent to respondent on February 24, 2003, providing respondent with deadlines for compliance with the Order as provided in the Decision. Rec. Exh. 4.
5. On April 17, 2003, Bonnie Pinkerton, Registered Nurse Consultant ("RNC"), spoke with respondent on the phone, at which time respondent stated "nothing has been done" to comply with the order. Rec. Exh. 4.
6. On April 17, 2003, Ms. Pinkerton also spoke with respondent's employer, Dr. Julian Mark, informing him that respondent's continued failure to comply with the order would result in additional disciplinary action. Rec. Exh. 4.
7. A letter memorializing the conversation between Bonnie Pinkerton, RNC, and respondent was sent to respondent from Ms. Pinkerton on April 17, 2003. The letter enumerated respondent's failure to meet the deadlines for compliance with the Order and provided a 15-day extension for compliance. Rec. Exh. 4.
8. Respondent failed to comply with any of these terms of her probation. Rec. Exh. 4.
9. Respondent's license number 006240 was summarily suspended on June 19, 2003. Rec. Exh. 4.
10. Respondent reported to work on June 23, 2003, and was informed by Dr. Mark that she could not work because her license was suspended. Dept. Exh. A; Tr. 6/30/03 p. 5.

Discussion and Conclusions of Law

Section 20-126o provides, in pertinent part:

(a) The Department of Public Health may take any of the actions set forth in section 19a-17 for any of the following causes: . . . (3) negligent, incompetent or wrongful conduct in professional activities . . .

The Department bears the burden of proof by a preponderance of the evidence in this matter. *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 allegations set forth in paragraphs 1 through 5 of the Charges.

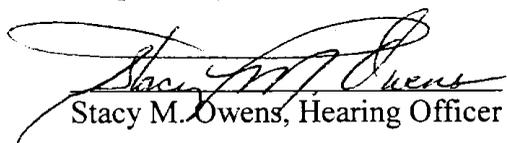
In this matter, respondent's failure to comply with the conditions set forth in the January 31, 2003 Memorandum of Decision constitutes "wrongful conduct in professional activities" in violation of §20-126o of the Connecticut General Statutes. Thus, in accordance with Conn. Gen. Stat. §20-126o, and based on the foregoing findings of fact and conclusions of law, respondent's license is subject to disciplinary action.

Pursuant to §19a-17(a) of the Connecticut General Statutes, ". . . the Department of Public Health . . . may take any of the following actions singly or in combination . . . (1) revoke a practitioner's license or permit. . . ."

Proposed Order

Based upon the record in this case, the above findings of fact and conclusions of law, and pursuant to Conn. Gen. Stats. §§ 19a-17 and 20-126o, this Hearing Officer respectfully recommends to the Commissioner that respondent's dental hygienist license number 006240 be revoked.

Respectfully Submitted,


Stacy M. Owens, Hearing Officer

2/17/03
Date