

STATE OF CONNECTICUT  
CONNECTICUT EXAMINING BOARD FOR BARBERS,  
HAIRDRESSERS AND COSMETICIANS

Paul C. LaChance, III  
License No. 046168

Petition No. 2012-646

**MEMORANDUM OF DECISION**

*Procedural Background*

The Department of Public Health (“Department”) presented the Connecticut Examining Board for Barbers, Hairdressers and Cosmeticians (“Board”) with a Motion for Summary Suspension (“Motion”) and a Statement of Charges (“Charges”) brought against Paul C. LaChance, III (“Respondent”) dated July 13, 2012. Bd. Exh.1.

On August 2, 2012, Respondent filed a Motion to Object to the Department’s Motion. Bd. Exh. 6.

On August 6, 2012, the Board convened a special meeting via telephone conference, to discuss the Department’s Motion and Respondent’s objection to the same. All Board members participated in the conference call, except one member who was excused. Both the Department counsel and Respondent’s counsel also participated in the conference call.

Based on the allegations in the Charges, the affidavits and reports accompanying the Motion, and the parties’ arguments with respect to the Motion, the Board granted the Motion, finding that Respondent’s continued practice as a licensed hairdresser presented a clear and immediate danger to public health and safety. The Board ordered, on August 6, 2012, pursuant to §§ 4-182(c) and 19a-17(c) of the Connecticut General Statutes (“ Statutes”), that Respondent’s hairdresser license be summarily suspended pending a final determination by the Board of the allegations contained in the Charges (“Order”). Bd. Exh. 3.

On August 6, 2012, the Charges, the Order, and a Notice of Hearing were sent to Respondent by certified mail, return receipt requested, and first class mail. Bd. Exh. 5. On August 27, 2012, the Board held an administrative hearing to adjudicate Respondent’s case. Respondent appeared with his attorney, Mary Alice Moore Leonhardt, Esq. Attorney Joelle Newton represented the Department.

During the hearing, the Department moved to deem the allegations admitted. Transcript (“Tr.”) p. 19. The Board denied the Motion. Respondent admitted to all of the Charges on the record. Tr. pp. 19-21.

The Board conducted the hearing in accordance with the Statutes and §§ 19a-9-1, *et seq.* of the Regulations of the State Agencies (“Regulations”). All Board members received copies of the entire record and attest that they have heard the case or read the record in its entirety. This decision is based entirely on the record. To the extent that 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***

1. In paragraph 1 of the Charges, the Department alleges that Respondent of Manchester, Connecticut is, and has been at all times referenced in the Charges, the holder of Connecticut hairdresser license number 046168.
2. In paragraph 2 of the Charges, the Department alleges that on or about May 14, 2012, the Board issued a Decision in Petition No. 2011-520, which required Respondent to produce urine screens negative for the presence of alcohol and controlled substances.
3. In paragraph 3 of the Charges, the Department alleges that on or about June 5, 2012, Respondent tested positive for cocaine.
4. In paragraph 4 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 Statutes §§ 19a-17 and 20-263.

#### ***Findings of Fact***

1. Respondent of Manchester, Connecticut is, and has been at all times referenced in the Charges, the holder of Connecticut hairdresser license number 046168. Tr. pp. 19-21.
2. On or about May 14, 2012, the Board issued a Memorandum of Decision (“Decision”) in Petition No. 2011-520, to extend the probationary period previously placed on his license until August 31, 2012. Dept. Exh. 4, pp. 6-9.
3. The Decision required Respondent, as a condition of his probation, to refrain from using alcohol and controlled substances or legend drugs not prescribed by a licensed health care professional authorized to prescribe medications. Dept. Exh. 4, p. 7
4. The Decision further required Respondent to submit, at least biweekly, during the probationary period, to random observed urine screens for alcohol, controlled substances, and legend drugs. Dept. Exh. 4, pp. 7-8.

5. The Decision also required all of Respondent's random urine screens to be negative for alcohol, controlled substances, and legend drugs, except for medications prescribed by Respondent's physician, in order to avoid further discipline. Dept. Exh. 4, pp.7- 8.
6. On or about June 5, 2012, Respondent tested positive for cocaine. Bd. Exh. 2, pp. 6-8; Bd. Exh. 4; Tr. pp. 19-21, 34-36.

### ***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, 821 (2008).<sup>1</sup>

Conn. Gen. Stat. § 20-263 provides in pertinent part that:

. . . The board may suspend the license of any registered hairdresser . . . , and may revoke the hairdresser . . . license of any person convicted of violating any provision of this chapter or any regulation adopted under this chapter or take any of the actions set forth in section 19a-17 for any of the following reasons: . . . (2) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; . . . .

Respondent admits to all of the Charges; and, the Department, therefore, sustained its burden of proof with regard to all of the allegations contained in the Charges. The record establishes that on May 14, 2012, the Board issued a Decision that extended the probation on Respondent's license until August 31, 2012, and that the probation required, among other terms and conditions, that Respondent's observed, random urine screens be drug and alcohol free. Bd. Exh. 2, pp. 18-20. On June 5, 2012, Respondent tested positive for cocaine. Bd. Exh. 2, pp. 6-8.

The Department established by a preponderance of the evidence that Respondent ingested cocaine at a golfing event on June 1, 2012. However, Respondent denied ingesting any illegal drugs when Ms. Olive Tronchin, Health Program Assistant, contacted him on June 22, 2012, regarding his positive urine screen. Tr. pp. 34-36, 109-111, 130-134. Ms. Tronchin, who is responsible for monitoring Respondent's compliance with his probation, testified that

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<sup>1</sup> The Board is aware that the Connecticut Supreme Court is reviewing the issue of whether the standard of proof in cases before the Board involving physicians should be the preponderance of evidence standard or the clear and convincing standard (*Charles Ray Jones, M.D., v. Connecticut Medical Examining Board*, S.C. 18843). In the present case, the Board finds that even if the standard of proof were clear and convincing evidence, the Department met its burden with respect to all of the allegations contained in the Charges.

Respondent attempted to attribute his positive urine screen to the Amoxicillin that his dentist prescribed for him on June 1, 2012, for an abscessed tooth. Bd. Exh. 2, p. 10; Tr. pp. 34-35. On June 25, 2012, Respondent also emailed an article to Ms. Tronchin that claimed that Amoxicillin could cause a false positive for amphetamines. Bd. Exh. 2, pp. 4, 10-12; Tr. pp. 34-36, 111.

On June 25, 2012, Ms. Tronchin wrote to the Bendiner & Schlesinger Medical Laboratory ("Bendiner & Schlesinger") to inquire whether Respondent's positive screen for cocaine could be the result of his taking Amoxicillin. In response to Ms. Tronchin's inquiry, William Closson, Ph.D., Director, at Bendiner & Schlesinger, wrote that "the testing of GC/MS [gas chromatograph/mass spectrometer] produces a mass spectrum of the drug detected. In this case, the mass spectrum detected for benzoylecgonine is definitive proof of the consumption of cocaine. No other drug or metabolite has the mass spectrum for benzoylecgonine." Bd. Exh. 4, pp. 4, 9. Clearly, Respondent's denials were false.

During the hearing, Respondent conceded that his denials were due to nervousness, fear and desperation, and that he now acknowledges that he is an addict and that he has been struggling with his addiction for ten years. Respondent also testified that now he realizes that whatever he was doing previously to cope with his addiction was not enough. He apologized to the Board for his conduct and expressed sincere remorse for this latest relapse. Tr. pp. 116-117, 125-128, 130-132, 137-139.

Since his positive drug screen on June 5, 2012, Respondent voluntarily sought treatment for his addiction and enrolled in an intensive outpatient program ("IOP") at Rushford Outpatient Center, which was scheduled to run from August 3, 2012 to September 14, 2012. He also obtained a sponsor at Alcoholics Anonymous ("AA") with whom he is in daily contact, attends AA meetings daily, submits to weekly, random drug screens and breathalyzer tests (Resp. Exh. 2), participates in group therapy, and meets with his psychotherapist, Jay Todd Schuder, on a weekly basis (Tr. pp. 57, 68, 80); all at Respondent's expense. Tr. pp. 122-124, 133-136.

Respondent also reports that he has developed a positive support network of family and friends, changed his lifestyle, developed skills to cope with his addiction triggers (depression, feelings of isolation, changes in the weather, arguments with co-workers) and accepts the fact that he is not in control of his life. He also testified that he prays twice every day for sobriety, and reaches out to others for help in order to prevent any further relapses. There have been no other positive urine screens since June 5, 2012. Tr. pp. 112-118, 137-140.

While the Board can appreciate Respondent's remorse and the steps he has taken recently to cope with his addiction, Respondent must understand that his taking concerted, remedial actions when faced with the possible revocation of his license does not excuse his prior misconduct. This is Respondent's *sixth* violation of § 20-263 of the Statutes since August 1, 2008. Dept. Exhs. 1-4.<sup>2</sup> The record establishes that Respondent has been on probation since May 29, 2009, and has had four different hearings before the Board. Despite the fact that the Board has given Respondent numerous opportunities to keep his license to practice, he has failed repeatedly to comply with the terms and conditions of his probation. Therefore, in light of Respondent's extensive history of violations and disciplinary actions that have been imposed on his license, the Board finds that the following disciplinary action pursuant to §§ 20-263(2), and 19a-17(c) of the Statutes is warranted.

#### ***Order***

Pursuant to the authority vested in it by §§ 19a-17 and 20-263 of the Statutes, the Board orders in Petition No. 2012-646, with respect to hairdresser license number 046168 issued to Paul LaChance, III, that:

1. Respondent's license shall remain under suspension until February 1, 2013. All three originals of Respondent's license shall be provided to the Department within ten days of the effective date of this Order.
2. Concurrently, Respondent's license shall be placed on probation until February 1, 2014, under the following terms and conditions:
  - a. Respondent shall participate in regularly scheduled therapy at his own expense with a licensed psychiatrist, psychologist or substance abuse counselor, pre-approved by the Department ("therapist").
    - (1) Respondent shall provide a copy of this Decision to his therapist.
    - (2) Respondent's therapist shall furnish written confirmation to the Department of his or her engagement in that capacity and receipt of a copy of this Decision within 15 days of receipt.

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<sup>2</sup> The various violations include: (1) in August 2008, Respondent was arrested for possession of narcotics; and, on February 26, 2009, he pleaded guilty to use of drug paraphernalia; (2) from August 1, 2008 through February 2009, Respondent worked without a license as a hairdresser and cosmetologist; (3) and (4) on November 9 and December 23, 2009, Respondent tested positive for cocaine; (5) on February 23, 2010, Respondent tested positive for morphine; and, (6) on December 6, 2011, Respondent failed to appear and submit for a urine screen when his monitors called him. Dept. Exhs. 1-4.

- (3) If the therapist determines that therapy is no longer necessary, that a reduction in frequency of therapy sessions is warranted, or that Respondent should be transferred to another therapist, the therapist shall advise the Department, and the Department shall pre-approve said termination of therapy, reduction in frequency of therapy sessions, and/or Respondent's transfer to another therapist.
  - (4) The therapist shall submit reports once per month for the entire period of probation, which shall address, but not necessarily be limited to, Respondent's ability to practice as a hairdresser in an alcohol and substance free state safely and competently. Said reports shall continue until the therapist determines that therapy is no longer necessary or the period of probation has terminated.
  - (5) The therapist shall immediately notify the Department in writing if the therapist believes Respondent's continued practice poses a danger to the public, or if Respondent discontinues therapy and/or terminates his or her services.
- b. During the entire probationary period, Respondent shall refrain from the ingestion of alcohol in any form and the ingestion, inhalation, injection or other use of any controlled substance and/or legend drug unless prescribed or recommended for a legitimate purpose by a licensed health care professional authorized to prescribe medications. In the event a medical condition arises requiring treatment utilizing controlled substances, legend drugs, or alcohol in any form, Respondent shall notify the Department and, upon request, provide such written documentation of the treatment as is deemed necessary by the Department.
- (1) After the six-month suspension is lifted, and for the remainder of the probationary period, Respondent shall submit to bi-weekly random observed urine screens for alcohol, controlled substances, and legend drugs.  
Respondent shall submit to such screens on a more frequent basis if requested to do so by the therapist, the Department, or the Board. Said screens shall be administered by a facility approved by the Department. All such random screens shall be legally defensible in that the specimen donor and chain of

custody shall be identified throughout the screening process. All laboratory reports shall state that the chain of custody procedure has been followed.

- (2) Respondent shall cause to have the facility provide monthly reports to the Department on the urine screens for alcohol, controlled substances and legend drugs. All such screens shall be negative for alcohol, controlled substances, and legend drugs, except for medications prescribed by Respondent's physician. If Respondent has a positive urine screen, the facility shall immediately notify the Department. All positive random drug and alcohol screens shall be confirmed by gas chromatograph/mass spectrometer testing.
  - (3) Respondent understands and agrees that if he fails to submit a urine sample when requested by his monitor, such missed screen shall be deemed a positive screen.
  - (4) Respondent shall notify each of his health care professionals of all medications prescribed for him by any and all other health care professionals.
- c. Respondent 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.
  - d. Respondent shall attend "anonymous" or support group meetings on an average of a minimum of four times per month, and shall provide monthly reports to the Department concerning his record of attendance.
  - e. During the period of probation, Respondent shall report to the Department any arrest under the provisions of §14-227a of the Statutes. Such report shall occur within 15 days of such event.
2. The Board must be informed in writing prior to any change of address.
  3. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, Nurse Consultant  
Department of Public Health  
Division of Health Systems Regulation

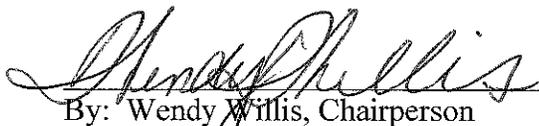
410 Capitol Avenue, MS#12HSR  
P. O. Box 340308  
Hartford, CT 06134-0308

Ms. Pinkerton can also be contacted at the following email address:  
[bonnie.pinkerton@ct.gov](mailto:bonnie.pinkerton@ct.gov).

4. Respondent shall pay all costs necessary to comply with this Decision.
5. This Order shall become effective upon the signature of the Board Chairperson.

Date

1/28/13



By: Wendy Willis, Chairperson  
Connecticut Examining Board for  
Barbers, Hairdressers and Cosmeticians

**CERTIFICATION**

I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 28<sup>th</sup> day of January 2013, by certified mail, return receipt requested to:

Mary Alice Moore Leonhardt, Esq.  
102 Oak Street  
Hartford, CT 06106

Certified Mail 91 7199-9991-7030-9618-9573

and via email to:

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



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



# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

August 27, 2013

Paul C. LaChance, III  
441 South Main Street  
Manchester, CT 06040

Re: Memorandum of Decision  
Petition No. 2012-646  
License No. 046168

Dear Mr. LaChance:

Please accept this letter as notice that your license suspension has ended effective February 1, 2013. Your license probation continues until February 1, 2014.

Thank you for your ongoing cooperation in this process.

Very truly yours,



Olive Tronchin, HPA  
Practitioner Licensing and Investigations Section

✓ c: J. Fillippone



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