

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
HEALTHCARE SYSTEMS BRANCH**

In re: Clifton Mix, N.H.A.

Petition No. 2009-0126-036-001

CONSENT ORDER

WHEREAS, Clifton Mix, N.H.A., of Wethersfield, Connecticut (hereinafter "respondent") has been issued license number 001105 to practice as a nursing home administrator by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 368v of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges and respondent admits that:

1. During a period of September through November 2008, while he was the administrator of Mystic Manor Nursing Home in Mystic, Connecticut, respondent diverted and abused various controlled substances, including but not limited to hydrocodone with acetaminophen, hydromorphone, morphine, and oxycodone.
2. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §19a-517(b), including, but not limited to:
 - a. §19a-517(b)(2); and/or
 - b. §19a-517(b)(3).

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest this matter and agrees that for purposes of this or any future proceedings before the Department Of Public Health (hereinafter "the Department"), this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-10, 19a-14 and 19a-517(a) of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14, 19a-17, 19a-517(a) of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives his right to a hearing on the merits of this matter.
2. Respondent's license shall be placed on probation for a period of ~~two~~ ^{THREE} years under the following terms and conditions:

THREE
GAZ
GAZ

- a. Respondent shall participate in regularly scheduled therapy at his own expense with a licensed or certified therapist, pre-approved by the Department (hereinafter "therapist").
 - (1) Respondent shall provide a copy of this Consent Order 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 Consent Order within fifteen (15) days of the effective date of this Consent Order.
 - (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 quarterly for the entire period of probation. Said reports shall address, but not necessarily be limited to, respondent's ability to practice as a nursing home administrator 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. All prescriptions for treatment of substance abuse and/or for any psychiatric diagnosis shall be managed by a single duly licensed physician, who has been pre-approved by the Department. Said physician shall submit reports quarterly. Said reports shall address, but not necessarily be limited to, respondent's ability to practice as a nursing home administrator in an alcohol and substance free state, safely and competently. Said reports shall continue until the physician determines that therapy is no longer necessary or the period of probation has terminated.
- c. 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 therapeutic purpose by a licensed

health care professional authorized to prescribe medications. Respondent shall inform said licensed health care professional of respondent's substance abuse history. 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) Respondent shall submit to random observed urine screens for alcohol, controlled substances, and legend drugs; in accordance with Department Requirements for Drug and Alcohol Screens, attached hereto marked as ('Attachment A: Department Requirements for Drug and Alcohol Screens'). During the first two years of probation, he shall submit to such tests every week. During the last two years, he shall submit to such screens twice each month. Respondent shall submit to such screens on a more frequent basis if requested to do so by the therapist or the Department. 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) Laboratory reports of random alcohol and drug screens and/or any other drug or alcohol related laboratory reports, including but not limited to results of DNA testing, shall be submitted directly to the Board and the Department by the testing laboratory. 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 his substance abuse history and of all medications prescribed for him by any and all other health care professionals.

- (5) Respondent is hereby advised that the ingestion of poppy seeds, mouthwash and over the counter cough or cold medicines or remedies has from time to time, been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, respondent agrees to refrain from ingesting poppy seeds in any food substances, mouthwash and over the counter cough or cold medicines or remedies during the term of this Consent Order. In the event respondent has a positive screen for morphine, opiates and/or alcohol, respondent agrees that the ingestion of poppy seeds and/or mouthwash and/or over the counter cough or cold medicines or remedies shall not constitute a defense to such a screen.
- d. Respondent shall attend "anonymous" or support group meetings at least eight times per month, and shall provide quarterly reports to the Department concerning his record of attendance.
- e. Respondent shall provide his employer at each place where respondent practices as a nursing home administrator with a copy of this Consent Order within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of employment at a new facility. Respondent agrees to provide reports from such employer quarterly, stating that respondent is practicing with reasonable skill and safety and in an alcohol and substance-free state.
- f. In the alternative to subparagraph e. above, respondent shall obtain the services of a duly licensed nursing home administrator, pre-approved by the Department (hereinafter "supervisor"), to conduct a review of respondent's practice.
- (1) Respondent shall provide a copy of this Consent Order to his practice supervisor. Respondent's supervisor shall furnish written confirmation to the Department of his or her engagement in that capacity and receipt of a copy of this Consent Order within fifteen (15) days of the effective date of this Consent Order.
- (2) Respondent's supervisor shall conduct such review and meet with him not less than once every three months.
- (3) The supervisor shall have the right to monitor respondent's practice by any reasonable means which he or she deems appropriate. Respondent shall fully cooperate with the supervisor in providing such monitoring.

- (4) Respondent shall be responsible for providing written supervisor reports directly to the Department within fifteen days of each visit by his supervisor. Such supervisor's reports shall include documentation of dates and duration of meetings with respondent, number and a general description of the patient care records reviewed, additional monitoring techniques utilized, and statement that respondent is practicing with reasonable skill and safety.
 - g. Respondent shall not have access to controlled substances at any facility where he is employed.
3. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308
4. All reports required by the terms of this Consent Order shall be due according to a schedule to be established by the Department of Public Health.
5. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
6. Respondent shall pay all costs necessary to comply with this Consent Order.
7. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:
 - a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.
 - b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.
 - c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 7.a. above to demonstrate to the satisfaction of the Department that he has complied with the terms of this Consent Order or, in the alternative, that he has cured the violation.
 - d. If respondent does not demonstrate compliance or cure the violation within the fifteen (15) days specified in the notification of violation to the satisfaction of the Department, he shall be entitled to a hearing before the Department which shall make a final determination of the disciplinary action to be taken.

- e. Evidence presented to the Department by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.
8. In the event respondent is not employed as a nursing home administrator for periods of thirty (30) consecutive days or longer, respondent shall notify the Department in writing. Such periods of times shall not be counted in reducing the probationary period covered by this Consent Order and such terms shall be held in abeyance. During such time period, respondent shall not be responsible for complying with the terms of probation of this Consent Order. In the event respondent resumes the practice of nursing home administrator, respondent shall provide the Department with thirty (30) days prior written notice. Respondent shall not return to the practice of nursing home administrator without written pre-approval from the Department. Respondent agrees that the Department, in its complete discretion, may require additional documentation from respondent and/or require respondent to satisfy other conditions or terms as a condition precedent to respondent's return to practice. If, during the period of probation, respondent practices as a nursing home administrator outside Connecticut, he shall provide written notice to the Department concerning such employment. During such time period, respondent shall not be responsible for complying with the terms of probation of this Consent Order, and such time period shall not be counted in reducing the probationary period covered by this Consent Order, except that respondent may comply with the terms of probation while practicing outside Connecticut if pre-approved by the Department. In the event respondent intends to return to the practice of nursing home administrator in Connecticut, respondent shall provide the Department with thirty (30) days prior written notice and agrees to comply with all terms and conditions contained in paragraph 2 above.
9. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Department.
10. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Practitioner Licensing and Investigations Section of the Healthcare Systems Branch of the Department.
11. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted and ordered by a duly authorized hearing officer of the Public Health Hearings Office of the Department Of Public Health.

12. This Consent Order is a public document, and respondent agrees that the Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Department in which his compliance with this Consent Order or with §19a-517 of the General Statutes of Connecticut, as amended, is at issue.
Further, respondent understands that any discipline imposed by this Consent Order, except for a civil penalty, shall be reported to the National Practitioner Data Bank.
13. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
14. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.
- 14 This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
- 15 Respondent permits a representative of the Legal Office of the Healthcare Systems Branch to present this Consent Order and the factual basis for this Consent Order to the Department. Respondent understands that the Department has complete and final discretion as to whether this executed Consent Order is approved or accepted.
- 16 Respondent understands and agrees that he is responsible for satisfying all of the terms of this Consent Order during vacations and other periods in which he is away from his residence.
17. Respondent has the right to consult with an attorney prior to signing this document.
18. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau. The purpose of this Consent Order is to resolve the pending administrative license disciplinary petition only, and is not intended to affect any civil or criminal liability or defense.
19. This Consent Order embodies the entire agreement of the parties with respect to this case. All previous communications or agreements regarding the subject matter of this consent

order, whether oral or written, between the parties are superseded unless expressly incorporated herein or made a part hereof.

* * * * *

I, Clifton Mix, N.H.A., have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.



Clifton Mix, N.H.A.

Subscribed and sworn to before me this 7 day of June 2010.



Notary Public or person authorized
by law to administer an oath or affirmation
Commissioner of the Superior Court

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 15th day of June 2010, it is hereby accepted.



Jennifer Filippone, Section Chief
Practitioner Licensing and Investigations
Healthcare Systems Branch

The above Consent Order having been presented to the designee of the Commissioner of the Department of Public Health on the _____ day of _____ 2010, it is hereby ordered and accepted.

His designee



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

Attachment "A"

REQUIREMENTS FOR DRUG AND ALCOHOL SCREENS

Respondent: _____

Petition No. _____

Screening Monitor Information (Name, Address, Phone and Fax):

SCREENING MONITORS: PLEASE READ THE FOLLOWING CAREFULLY AND CONDUCT SCREENS ACCORDINGLY:

1. Each screen must test for the following substances: alcohol (breathalyzer tests are not acceptable), amphetamines, barbiturates, benzodiazepines, cannabinoids (THC metabolites), cocaine, meperidine, opiates, methadone, phencyclidine (PCP), propoxyphene, Stadol, Tramadol, hydrocodone, hydromorphone, and oxycodone. Screens for additional substances, such as Fentanyl, may also be required if so requested by the Department. Partial screens will not be accepted.
2. Urine collections must be directly observed. The urine monitor must be in the room with the respondent and directly observe the donor providing the urine specimen into the cup.
3. The frequency of screens is as follows: _____.
4. Collections must be random. There must be no pre-arrangement between respondent and his or her employer, supervisor, therapist, screening monitor, and/or the lab in scheduling drug and alcohol screens. There must be no pattern of times, dates, or identifiable sequence (i.e. every Monday or alternating Wednesdays). If a respondent's therapist is also serving as screening monitor, the specimen collection may not occur on the same day as a therapy session. Screening will be done on weekends and holidays if ordered by the Board.



Phone: (860) 509-7400
Telephone Device for the Deaf (860) 509-7191
410 Capitol Avenue - MS # 12HSR
P.O. Box 340308 Hartford, CT 06134
An Equal Opportunity Employer

5. Specimens will be collected as follows (CHECK ONE):

- The screening monitor (pre-approved by the Department) will call the respondent for collections. The respondent shall provide the monitor with ONE telephone number where s/he may be reliably reached. Respondent shall check messages frequently.

OR

- Respondent shall phone the screening monitor (pre-approved by the Department) every day, Monday through Friday, before 9 a.m., without exception, at which time s/he shall be advised of whether s/he must appear for a screen.

Respondent must appear for specimen collections within 2 - 5 hours of being notified.

The screening monitor must provide immediate notice to the Department if respondent: fails to phone the screening monitor before 9 a.m. (if applicable); does not present himself or herself for screening; or, arrives at the collection site more than 5 hours after speaking with the screening monitor.

A MISSED OR LATE SCREEN IS CONSIDERED A POSITIVE SCREEN.

6. Respondent will notify the screening monitor and the Department in writing at least two weeks prior to scheduled vacations. Screens will be collected prior to and following periods of vacation at the Department's discretion. Respondent will give the screening monitor a minimum of seventy-two hours' prior notice if s/he will be unavailable for a screen on a certain day. Absent notice, a missed screen will be considered to be a positive screen.
7. Specimens are to be handled in such a manner as to maintain Chain of Custody. Chain of Custody documentation must accompany all laboratory reports and/or the laboratory reports shall indicate that the Chain of Custody procedure has been followed. **Respondent must document all medications s/he is taking on each Chain of Custody form (just find a blank space on the form).** Respondent is responsible for Chain of Custody documentation being completed properly. In the event Chain of Custody is incomplete, the respondent may be called for a repeat screen.
8. All positive results shall be confirmed by gas chromatograph/mass spectrometer (GC/MS) testing method.
9. Lab analysis of urine specimens must be conducted at: Bendiner & Schlesinger, Inc., 140 58th Street, Brooklyn, NY 11220. Contact: Mr. Francis Hartigan, at fhartigan@bendinerlab.com, or at (212) 353-5108.

Respondent must obtain Department-approval for any lab s/he chooses to use other than Bendiner & Schlesinger. The proposed lab must be capable of conducting forensic screens and testing for each of the substances set forth in paragraph 1 of these Guidelines.

10. If problems/questions, call Bonnie Pinkerton at (860) 509-7651, or Olive Tronchin at (860) 509-7644.

All screening monitors and back-up screening monitors must sign below acknowledging receipt and review of this protocol and indicating agreement to conduct screens accordingly.

Signature: _____

Signature: _____

Print name: _____

Print name: _____

Date: _____

Date: _____

Signature: _____

Signature: _____

Print name: _____

Print name: _____

Date: _____

Date: _____

Complete page 1, sign page 3, and fax all three pages to Bonnie Pinkerton at (860) 509-8368.

Re: _____

Pet. No. _____