

**STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
PUBLIC HEALTH HEARING OFFICE**

Donald R. Donahoe, L.A.D.C.  
License No. 000094

Petition No. 2001-0503-044-001

**MEMORANDUM OF DECISION**

**Procedural Background**

On September 20, 2001, the Department of Public Health ("the Department") issued a Statement of Charges ("the Charges") against Donald R. Donahoe, L.A.D.C. ("respondent"), alleging that respondent's license is subject to disciplinary action pursuant to §§19a-10 and 19a-14 of the Connecticut General Statutes ("the Statutes") based on his forgery of documents submitted to obtain Medicare and Medicaid funding, and his criminal conviction for that forgery. H.O. Exh. 1.

On October 5, 2001, the Department issued a Notice of Hearing ("the Notice") in which the Commissioner appointed this Hearing Officer to hear this matter, to rule on all motions, and to determine findings of fact and conclusions of law, and issue an Order. Respondent was notified of the hearing via certified mail, return receipt requested. Respondent received the Notice on October 11, 2001. H.O. Exh. 1

On November 28, 2001, the Department filed a Motion to Deem Allegations Admitted ("the Motion"), pursuant to §19a-9-20 of the Regulations of Connecticut State Agencies ("the Regulations"), which the undersigned took under advisement at that time. The undersigned hereby grants that Motion.

A public hearing was held on April 12, 2001. Respondent failed to appear and was not represented by an attorney. Attorney Stephen Miltmore represented the Department.

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 that the proposed findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Int., Inc., v. S&H Computer Systems, Inc.*, 605 F. Supp. 816 (M.D. Tenn. 1985).

### **Allegations**

1. Respondent is, and has been at all times referenced in the Statement of Charges, the holder of Connecticut licensed alcohol and drug counselor license number 000094.
2. On or about March 8, 1999, respondent was program coordinator of the Evening Ambulatory Program at Brooke Foundation Hospital in Westport, Connecticut.
3. On or about March 8, 1999, respondent falsified and forged a daily attendance roster, which was used to generate bills to Medicaid and Medicare.
4. On or about April 3, 2001, respondent was convicted in Norwalk Superior Court on one count of second-degree forgery in violation of *Conn. Gen. Stat. §53a-139(a)(1)*<sup>1</sup> for the actions described in paragraph 3.
5. The above-described facts constitute grounds for disciplinary action pursuant to *Conn. Gen. Stat. §20-74s(r)*.

### **Findings of Fact**

1. The Department provided respondent with reasonable and adequate written notice of the allegations contained in the Charges. H.O. Exhibit 1; Dept. Exh. 1.
2. The allegations contained in paragraphs one through four, inclusive, of the Charges, as set forth above, are deemed admitted and true.

### **Discussion and Conclusions of Law**

Pursuant to *Conn. Gen. Stat. §20-74s(r)*, the Department may suspend or revoke the license of a licensed alcohol and drug counselor “in circumstances that are likely to endanger the health, welfare or safety of the public.” In addition, pursuant to *Conn. Gen. Stat. §19a-14(c)*, the Department may also impose any disciplinary sanction authorized by *Conn. Gen. Stat. §19a-17* on the license of a licensed alcohol and drug counselor upon a finding of the existence of good cause. In addition to imposing suspensions and revocations, Section 19a-17 authorizes the Department to assess a civil penalty and/or place a counselor on probation under various specified conditions.

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<sup>1</sup> The original Charges incorrectly cited to *Conn. Gen. Stat. §53a-139(d)(1)*. This typographical error was corrected during the hearing. Tr. p. 4.

Respondent's commission of forgery in the course of his employment as a licensed alcohol and drug abuse counselor, and his subsequent criminal conviction for that forgery, establish the existence of good cause for the imposition of discipline pursuant to *Conn. Gen. Stat. §19a-17(a)*.

The Department has recommended the imposition of the following disciplinary action: (1) a \$1,000 civil penalty; (2) a written reprimand; and, (3) a six month suspension with a concurrent two year probation, during which time respondent would submit monthly employer reports to the Department, have 20% of his records reviewed, and take sixteen hours of continuing education in ethics. Given the facts of this case, the discipline recommended by the Department is reasonable. However, in view of respondent's past criminal behavior, he should also be required to report any future arrests to the Department, and be prohibited from working in any facility that is a Medicaid or Medicare provider, for the duration of his probation.<sup>2</sup>

### Order

Based on the record in this case, the above findings of fact and conclusions of law, the following is ordered in the case of Donald R. Donahoe, alcohol and drug counselor license number 000094:

- (1) Respondent shall pay a civil penalty of one thousand dollars (\$1,000) by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number on the face of the check, and shall be payable within thirty days of the date of issuance of the Final Decision in this matter.
- (2) Respondent's license shall be suspended for a period of six months. All originals of respondent's license shall be provided to the Department within ten days of the date of issuance of the Final Decision in this matter.
- (3) Concurrent with the suspension, respondent's license shall be placed on probation for a period of two years under the following terms and conditions:
  - (a) Respondent shall attend and successfully complete sixteen hours of continuing education, in courses pre-approved by the Department, in the field of professional ethics, within six months of the date of

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<sup>2</sup> It is noted that respondent's sentence from the Superior Court prohibits him from working in a facility that is a Medicaid or Medicare provider during the three year term of his criminal probation.

issuance of the Final Decision in this matter. Within two weeks of the completion of any such course, respondent shall provide the Department with proof, to the Department's satisfaction, of the successful completion of such courses.

- (b) During the period of probation, respondent shall report to the Department any arrests. Such report shall occur within fifteen (15) days of such arrest.
- (c) At the conclusion of the period of suspension, respondent shall provide his employer at any facility at which he is employed as a licensed alcohol and drug abuse counselor, or with which he is affiliated, with a copy of the Final Decision in this matter within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of such employment at a new facility. Respondent agrees to provide reports from such employer for the entire period of his probation stating that respondent is practicing with reasonable skill and safety and in conformance with the ethical requirements of his profession.
- (d) At the conclusion of the period of suspension, and after respondent commences employment as a licensed alcohol and drug abuse counselor, respondent shall obtain at his own expense, the services of a licensed alcohol and drug abuse counselor, pre-approved by the Department ("supervisor"), to conduct a monthly random review of twenty (20) percent of respondent's patient records, created or updated during the term of his probation.
  - (1) Respondent's supervisor shall meet with him not less than once every month for the entire period of his probationary period.
  - (2) The supervisor shall have the right to monitor respondent's practice by any other reasonable means which he or she deems appropriate. Respondent shall fully cooperate with the supervisor in providing such monitoring.
  - (3) Respondent shall be responsible for providing written supervisor reports directly to the Department for the entire duration of the probationary period. Such supervisor's reports shall include documentation of dates and durations of meetings with respondent, number and a general description of the patient records reviewed, additional monitoring techniques utilized, and a statement that respondent is practicing with reasonable skill and safety

and in conformance with the ethical requirements of his profession.

- (e) At the conclusion of the period of suspension, respondent shall not be employed, or seek employment with, a facility that is a Medicaid or Medicare provider.
4. All checks, 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 34308  
Hartford, CT 06134-0308
5. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
6. Respondent shall be responsible for all costs associated with satisfaction of this Order.
7. The Order in this matter shall be effective as of the date of issuance of the Final Decision in this matter.

Respectfully Submitted,



Donald H. Levenson, Esq.  
Hearing Officer

3-26-02

Date