

Sarah Burke
12 Pequot Drive
East Norwalk, CT 06855

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

State of Connecticut
Department of Public Health
vs.
Sarah Burke, RN
Registered Nurse License No. E52162
Respondent.

CASE PETITION NO. 960228-10-020

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 Motion for Summary Suspension dated March 27, 1996 and a Statement of Charges and dated March 28, 1996 (Department Exhibit 1-D). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Sarah Burke (hereinafter the "Respondent") which would subject the Respondent's Registered Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of the Respondent presented a clear and immediate danger to public health and safety. On April 3, 1996, the Board ordered, pursuant to its authority under §19a-17(c) of the General Statutes of Connecticut, that the Registered Nurse license of the Respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges (Department Exhibit 1-D).

The Board issued a Notice of Hearing dated April 3, 1996, scheduling a hearing for April 24, 1996. The hearing scheduled for April 24, 1996 was continued and took place on September 4, 1996, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. (Department Exhibit 1-D)

During the hearing on September 4, 1996, the Department orally amended the Statement of Charges by adding paragraph 4a. (Hearing Transcript, September 4, 1996, pp. 3-4)

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.

FACTS

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

1. Sarah Burke, hereinafter referred to as the Respondent, was issued Registered Nurse License Number E52162 on August 24, 1989. The Respondent was the holder of said license at all times referenced in the Statement of Charges. (Department Exhibit 1-C)
2. The Respondent was given due notice of the hearing and charges against her. Department Exhibit 1-D indicates that the Notice of Continuance of Formal Hearing were delivered to the Respondent's attorney by certified mail on April 22, 1996.
3. The Respondent was not present during the hearing but was represented by counsel. (Hearing Transcript, September 4, 1996, p. 3)
4. The Respondent submitted a written answer to the Statement of Charges (Respondent's Exhibit A-1) and orally answered the amendment to the Statement of Charges (Hearing Transcript, September 4, 1996, p. 4)

5. During 1995, the Respondent was employed as a registered nurse at Norwalk Hospital, Norwalk, Connecticut. (Department Exhibit 1-B3)
6. From on or about April 1995 to November 1995, while working as a registered nurse at Norwalk Hospital, the Respondent diverted from the emergency department, for her own personal use, the controlled substances Morphine and Demerol (Meperidine). The Respondent accomplished the diversion by removing the Morphine and Demerol from the emergency department narcotic cabinet along with corresponding controlled drug receipt records. (Department Exhibits 1-A, 1-B) (Answer: Respondent's Exhibit A-1)
7. From on or about April 1995 to November 1995, a total of seven hundred forty (740) doses of Morphine and Demerol injectable, of varying strengths, were missing from the emergency department at Norwalk Hospital. (Department Exhibit 1-A13-15, 17)
8. On or about November 3, 1995, the Respondent was on duty as a registered nurse in the emergency department at Norwalk Hospital while impaired due to the use of alcohol and/or drugs. (Department Exhibit 1-A3, 1-A8-9) (Hearing Transcript, September 4, 1995, pp. 22-23)
9. The Respondent has a history of alcohol abuse. (Department Exhibit 1-B2)
10. The Respondent has not worked at Norwalk Hospital since November 3, 1995. (Department Exhibit 1-A)
11. On February 13, 1996, agents of the State of Connecticut, Department of Consumer Protection, Drug Control Division proceeded to the home of the Respondent in an attempt to interview her regarding the diversion of controlled substances from Norwalk Hospital. The agents found the Respondent in a severely impaired state, suggestive of excessive use of alcohol and/or drugs. However, the odor of alcohol was not present on the Respondent's breath. (Department Exhibit 1-A3-4) (Hearing Transcript, September 4, 1996, pp. 28-30)

12. On February 29, 1996, the Respondent provided a sworn written statement to agents of the Department of Consumer Protection, Drug Control Division in which she states that she has not used drugs since February 14, 1996. The Respondent further stated that she had used and abused alcohol the weekend prior to February 14, 1996. (Department Exhibit 1-B5)
13. The Respondent is undergoing individual and group therapy for chemical dependency and is participating in Alcoholics Anonymous. (Respondent's Exhibit A-2, A-3)

DISCUSSION AND CONCLUSIONS

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

Sarah Burke held a valid Registered Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges sufficiently provided legal notice as mandated by the General Statutes of Connecticut §4-177, §4-182 and §19a-17. The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19-2a-1 through §19-2a-30 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided the Respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by the General Statutes of Connecticut §4-182(c).

PARAGRAPH 3 of the Statement of Charges alleges that from approximately April 1995 through approximately February 1996, while working as a registered nurse at Norwalk Hospital, Norwalk, Connecticut, the Respondent:

- a. diverted Morphine and Demerol injectable from patient stock for her own use;
- b. failed to completely, properly and/or accurately document medical or hospital records; and/or
- c. falsified one or more Controlled Substance Receipt Records.”

The Respondent admits to the charges in Paragraph 3 as they pertain to April 1995 to November 1995. The Respondent denies the charges for the time period subsequent to November 1995. (Answer: Respondent's Exhibit A-1)

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in performing usual nursing functions... (6) fraud or material deception in the course of professional services or activities...."

Based on its findings and the Respondent's admission, the Board concludes that the Respondent's conduct as alleged in Paragraph 3 of the Statement of Charges, as it pertains to the time period April 1995 to November 1995, is proven and that said conduct constitutes violations of the General Statutes of Connecticut §20-99(b)(2) and (6). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

PARAGRAPH 4 of the Statement of Charges alleges that from approximately April 1995 through approximately February 1996, the Respondent abused or utilized to excess, Morphine and Demerol injectable.

The Respondent admits this charge in Paragraph 4 as it pertains to April 1995 to November 1995. The Respondent denies this charge for the time period subsequent to November 1995. (Answer: Respondent's Exhibit A-1)

PARAGRAPH 4a of the Statement of Charges, as amended, alleges during February 1996, the Respondent abused or utilized alcohol to excess.

The Respondent admits this charge. (Answer: Hearing Transcript, September 4, 1996, p. 4)

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals..."

Based on its findings and the Respondent's admission, the Board concludes that the Respondent's conduct as alleged in Paragraphs 4 and 4a of the Statement of Charges, as amended, is proven and that said conduct constitutes a violation of the General Statutes of Connecticut §20-99(b)(5). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

ORDER

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. That for Paragraphs 3, 4 and 4a of the Statement of Charges, as amended, the Respondent's registered nurse license, No. E52162, is revoked on the effective date of this Memorandum of Decision.
2. This Memorandum of Decision becomes effective on the date signed by the Board of Examiners for Nursing

The Board of Examiners for Nursing hereby informs the Respondent, Sarah Burke, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 5th day of March, 1997.

BOARD OF EXAMINERS FOR NURSING

By Nancy S. Belfrage