

Gary Feathler  
PO Box 963  
94 South Lake Street  
Litchfield, CT 06759

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

State of Connecticut  
Department of Public Health

vs.

Gary Feathler, RN  
Registered Nurse License No. R35236  
Respondent.

CASE PETITION NO. 950906-10-082

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 Statement of Charges and Motion for Summary Suspension dated September 26, 1995 (Department Exhibit 4). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Gary Feathler (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 information, the Board found that the continued nursing practice of the Respondent presented a clear and immediate danger to public health and safety. On September 27, 1995, 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 4).

The Board issued a Notice of Hearing on September 27, 1995, scheduling a hearing for October 17, 1995 (Department Exhibit 4). The hearing scheduled for October 17, 1995 was continued and rescheduled to February 21, 1996. (Department Exhibit 1-F) (Hearing Transcript, October 17, 1995, pp. 9-10) The hearing was again continued (Department Exhibit 1-G) and took place on June 19, 1996, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

During the hearing on June 19, 1996, the department orally amended the Second Count, Paragraph 8a of the Statement of Charges by adding "and/or Lortab". (Hearing Transcript, June 19, 1996, pp. 8-9)

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. Gary Feathler, hereinafter referred to as the Respondent was given due notice of the hearing and charges against him. (Department Exhibits 1-F, 1-G, 4)
2. The Respondent was present during the hearing and was represented by counsel. (Hearing Transcript, June 19, 1996, p. 9)
3. During the hearing the Respondent orally answered the Statement of Charges. (Hearing Transcript, June 19, 1996, pp. 9-10)
4. The Respondent, was issued Registered Nurse License Number R35236 on March 23, 1982. Pursuant to a Consent Order dated August 23, 1983, the Respondent's license was ordered suspended for two (2) years for diverting the controlled substance Morphine. Pursuant to a

Consent Order dated February 7, 1984, the Respondent's license was ordered revoked for diverting the controlled substance Tylox; administering Tylox to a patient without a medication order; and practicing nursing while his license was suspended. Pursuant to a Memorandum of Decision dated March 25, 1992, the Respondent's license was reinstated to probation for five (5) years effective April 1, 1992. (Department Exhibit 1-C)

5. The probation of the Respondent's registered nurse license included the conditions that he provide any and all employers a copy of the Memorandum of Decision reinstating his license and that he notify the Board, in writing, prior to any change of employment. (Department Exhibit 1-C)
6. During November 1994 the Respondent terminated employment as a nurse at Valerie Manor, Torrington, Connecticut. The Respondent did not notify the Board prior to this change in employment. (Department Exhibit 1-A) (Answer: Hearing Transcript, June 19, 1996, p. 9)
7. On June 21, 1995, the Respondent began employment as a registered nurse at West Hill Convalescent Home, Rocky Hill, Connecticut without prior notification to the Board. In addition, the Respondent did not provide West Hill Convalescent Home with a copy of the Memorandum of Decision, which placed his registered nurse license on probation, nor did the Respondent inform the Director of Nursing for West Hill Convalescent Home about the probationary status of his license. (Department Exhibit 1-A, 1-B, 1-J) (Answer: Hearing Transcript, June 19, 1996, pp. 9-10)
8. While employed at West Hill Convalescent Home the Respondent's job description was that of a nurse manager on the Special Care (dementia) Unit. The Respondent's duties did not require that he administer medications to patients. (Department Exhibit 1-D2, 1-J3) (Hearing Transcript, June 19, 1996, p. 23-24, 67)
9. During July and August 1995, while working as a registered nurse at West Hill Convalescent Home, the Respondent signed out doses of Percocet on controlled substance proof of use sheets

indicating that said doses had been administered to patient Harriet MacDonald. (Department Exhibit 1-D, 1-I1b, 1-I3, 1-I4, 1-I5)

10. On July 23, 1995, the Respondent signed out three (3) doses of Percocet on a controlled substance proof of use sheet indicating administration to patient Harriet MacDonald. However, the Respondent documented the date as being July 22, 1995. (Department Exhibit 1-I1b)
11. On July 23, 1995, the Respondent documented on a medication administration record indicating that a PRN dose of Percocet was administered to patient Harriet MacDonald. However, a time of administration is not charted. (Department Exhibit 1-I9)
12. During August 1995, while working as a registered nurse at West Hill Convalescent Home, the Respondent signed out doses of Lortab on controlled substance proof of use sheets indicating that said doses had been administered to patient Elizabeth Bauer. (Department Exhibit 1-D, 1-H50)
13. On August 14, 15, 16, and 20 1995, the Respondent documented on a medication administration record indicating that PRN doses of Lortab were administered to patient Elizabeth Bauer. However, times of administration were not charted. (Department Exhibit 1-H12)
14. The medical records of patients Harriet MacDonald and Elizabeth Bauer were reviewed. The review determined that the Respondent's frequency of signing out doses of Percocet and Lortab exceeded that of other nurses working on the Special Care (dementia) Unit at West Hill Convalescent Home. (Department Exhibits 1-D2, 1-J3, and 2) (Hearing Transcript, June 19, 1996, pp. 24-29, 64)
15. The Respondent requested the physician of patient Harriet MacDonald to change his orders so as to authorize an increase in Percocet administration for the patient. (Hearing Transcript, June 19, 1996, pp. 26-27, 50-51)

16. The Respondent requested the physician of patient Elizabeth Bauer to change his orders so as to authorize an increase in Lortab administration for the patient. (Department Exhibit 2) (Hearing Transcript, June 19, 1996, pp. 50-51.)
17. Upon applying for employment at West Hill Convalescent Home the Respondent submitted a résumé which contained fraudulent information. (Department Exhibit 1-J14) (Hearing Transcript, June 19, 1996, p. 112-116)

### DISCUSSION AND CONCLUSIONS

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

Gary Feathler 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 his license as required by the General Statutes of Connecticut §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

The FIRST COUNT of the Statement of Charges, as amended, alleges that the Respondent violated the terms of probation of his registered nurse license, as set forth in a Memorandum of Decision dated March 1992. It is alleged that the Respondent, without required notification to the Board, terminated a nursing position at Valerie Manor, Torrington, Connecticut on or about 1994 or early 1995, and subsequently

began a nursing position at West Hill Convalescent Home, Rocky Hill, Connecticut in June of 1995. It is further alleged that the Respondent, upon accepting employment at West Hill Convalescent Home, failed to provide a copy of said Memorandum of Decision to his employer.

The Respondent admits these charges. (Answer: Hearing Transcript, June 19, 1996, pp. 9-10)

Based on its findings and the Respondent's admission, the Board concludes that the Respondent's conduct as specified in the First Count is proven and that said conduct constitutes a violation of the conditions of the probation of his registered nurse license as set forth in the Memorandum of Decision dated March 25, 1992. Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

The SECOND COUNT, PARAGRAPH 8 of the Statement of Charges, as amended, alleges that during July and August of 1995, while working as registered nurse at West Hill Convalescent Home, Rocky Hill, Connecticut, the Respondent:

- "a. diverted Percocet and/or Lortab;
- 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 denies these charges. (Answer: Hearing Transcript, June 19, 1996, p.10)

The Board found (Facts 8-16) based on its review of patient records and the testimony presented, that the Respondent, whose job duties did not require him to administer medications, signed out the controlled substances Percocet and Lortab at a frequency greater than that of other nurses. The Board also found incorrect dates and a lack of times charted in medication records completed by the Respondent. Furthermore, the Respondent requested patient's physicians to change orders authorizing an increase in Percocet and Lortab administration. These actions on the part of the Respondent are consistent with a pattern which indicates the diversion of drugs. The Board therefore concludes that the Respondent

diverted the controlled substances Percocet and Lortab while working on the Special Care (dementia) Unit at West Hill Convalescent Home.

The Board does not consider the Respondent's denial to the charge of diverting Percocet and Lortab, to be credible.

Based on the conclusion that the Respondent diverted the controlled substances Percocet and Lortab, the Board further concludes that the Respondent failed to completely, properly and/or accurately document medical or hospital records, and falsified one or more controlled substance receipt records. The Board concludes the Respondent documented in these records that Percocet and Lortab were administered to patients, when in fact they were diverted.

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 the Board concludes that the Department has met its burden of proof by a preponderance of the evidence presented in this matter. The Board concludes that the Respondent's conduct as alleged in Paragraph 8 of the Second Count of the Statement of Charges, as amended, 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

The SECOND COUNT, PARAGRAPH 9 of the Statement of Charges, as amended, alleges that during July and August of 1995, the Respondent abused or excessively used Percocet.

The Respondent denies this charge. (Answer: Hearing Transcript, June 19, 1996, p.10)

The Board concludes the Department presented insufficient evidence to meet its burden of proof with regard to this charge. Therefore, the Second Count, Paragraph 9 of the Statement of Charges, as amended, is dismissed.

**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 the First Count and the Second Count Paragraph 8 of the Statement of Charges, as amended, the Respondent's registered nurse license, No. R35236, 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, Gary Feathler, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 6th day of November, 1996.

BOARD OF EXAMINERS FOR NURSING

By 