

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health v.

Ann Marie Clement, R.N.

Registered Nurse License No. R37825

23 Litchfield Drive

Simsbury CT 06070

CASE PETITION NO. 940405-10-037

MEMORANDUM OF DECISION

INTRODUCTION

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Public Health and Addiction Services ^{1/}(hereinafter the "Department") with a Statement of Charges dated November 1, 1994 (Department Exhibit 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Ann Marie Clement (hereinafter the "Respondent").

The Board issued a Notice of Hearing dated December 7, 1994. (Department Exhibit 1) The hearing took place on April 5 and 19, 1995 at the Department of Public Health and Addiction Services, Second Floor Hearing Room, 20 Trinity Street, Hartford, Connecticut.

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 and the Board's specialized professional knowledge in evaluation the evidence.

^{1/} Prior to July 1, 1995 the Department of Public Health was known as the Department of Public Health and Addiction Services. (Connecticut Public Act 95-257)

FACTS

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

1. Ann Marie Clement, hereinafter referred to as the Respondent, was issued Registered Nurse License Number R37825 on May 31, 1984 and has been the holder of said license at all times referenced in the Statement of Charges. (Department Exhibit 1-D)
2. Pursuant to the General Statutes of Connecticut, §4-182(c), the Respondent was provided full opportunity prior to the institution of agency action to show compliance with all the terms for the retention of her license. (Department Exhibit 1)
3. The Respondent was aware of the time and location of the hearing. Department Exhibit 1 indicates that the Notice of Hearing and Statement of Charges were delivered by certified mail to the Respondent and the Respondent's attorney.
4. The Respondent was present on both hearing dates and was represented by counsel. (Hearing Transcript, April 15, 1995) (Hearing Transcript, April 19, 1995)
5. During the hearing the Respondent submitted a written Answer to the Statement of Charges. (Respondent's Exhibit A)
6. The Respondent began employment as a registered nurse at Walnut Hill Convalescent Home, New Britain, Connecticut on or about December 21, 1993. (Hearing Transcript, April 5, 1994, p. 112)
7. On or about February 7, 1994 while working as a registered nurse at Walnut Hill Convalescent Home, the Respondent signed out doses of Oxycodone/APAP (Percocet) on proof of use sheet No. 2057844 at 12:30 AM and 6:00 AM indicating that the medication was administered to patient A.S. (Department Exhibit 1-A7)

8. A urine specimen collected from patient A.S. on February 7, 1994 at 8:00 AM tested negative for the presence of Oxycodone. ((Department Exhibit 1-A8) (Hearing Transcript, April 5, 1995, p. 23) (Hearing Transcript, April 19, 1995, pp. 5-6)
9. On or about February 21, 1994 while working as a registered nurse at Walnut Hill Convalescent Home, the Respondent signed out a dose of Lorazepam (Ativan) on proof of use sheet No. 207482C at 12:00 midnight indicating that the medication was administered to patient H.D. (Department Exhibit 1-A20)
10. A urine specimen collected from patient H.D. on February 21, 1994 at or about 8:30 AM tested negative for the presence of Lorazepam. (Department Exhibit 1-A21)
11. On or about February 21, 1994 while working as a registered nurse at Walnut Hill Convalescent Home, the Respondent signed out doses of Oxycodone/APAP (Percocet) on proof of use sheet No. 205784N at 1:00 AM and 5:00 AM indicating that the medication was administered to patient A.S. (Department Exhibit 1-A23)
12. A urine specimen collected from patient A.S. on February 21, 1994 at or about 8:30 AM tested negative for the presence of Oxycodone. (Department Exhibit 1-A24) (Hearing Transcript, April 19, 1995, pp. 11-12)
13. On or about February 23, 1995 while working as a registered nurse at Walnut Hill Convalescent Home, the Respondent pre-signed medication administration records prior to medications being administered to patients. (Department Exhibit 1-B2, 1-C)

DISCUSSION AND CONCLUSIONS

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

Ann Marie Clement 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 information as mandated by the General Statutes of Connecticut §4-177 and §4-182.

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 during February 1994 while working as a registered nurse at Walnut Hill Convalescent Home, New Britain, Connecticut the Respondent:

- "a. diverted controlled substances, including but not limited to, Darvocet, Percocet, tylenol with codeine and/or Ativan;
- b. abused or utilized to excess one or more of said medications;
- c. failed to completely, properly and/or accurately document medical and/or hospital records; and/or,
- d. falsified one or more Controlled Substance Receipt Records."

The Respondent admits Paragraph 3c (Hearing Transcript, April 19, 1995, p. 57) but denies Paragraphs 3a, 3b and 3d. (Answer: Respondent's Exhibit A) (Hearing Transcript, April 19, 1995, p. 57-58)

The Board has found (FACTS 7-12) that during February 1994 while working as a registered nurse at Walnut Hill Convalescent Home, New Britain, Connecticut the Respondent signed out doses of Percocet and Lorazepam (Ativan) on proof of use sheets indicating that the medications were administered to patients. However, subsequent urine specimens retrieved from the patients were tested and found to be negative for the presence of the medications which the Respondent documented as being administered. The Board therefore concludes that the doses of Percocet and Ativan which the Respondent signed out on proof of use sheets on February 7, 1994 and February 21, 1994 were not administered to the patients.

The Respondent testified, that at times, she signed out doses of medication on proof of use sheets but the medications were not administered to patients and were subsequently destroyed.

The process of destroying medications signed out but not administered to patients requires that documentation exist on proof of use sheets that a medication was destroyed and that the destruction was witnessed and co-signed by a second nurse. A review of the proof of use sheets on which the Respondent made entries (Department Exhibit 1-A) indicates they do not contain any documentation that doses of medications signed out by the Respondent were destroyed. The Board does not find the Respondent's testimony credible, that she signed out doses of medications which were not administered but were destroyed.

The Board finds that the doses of Percocet and Lorazepam (Ativan), which the Respondent signed out but did not administer and for which there exists no evidence of destruction, were diverted. Diversion of medication constitutes the signing out of a medication for a purpose other than administration to a patient.

The Board further finds that the Respondent falsified controlled substance receipt records in that she made entries on proof of use sheets by indicating diverted medications were administered to patients.

The Board also finds (FACT 13) based on the Respondent's admission and the evidence presented, that the Respondent failed to properly make documentations in medical records by signing medication administration records prior to administering medications to patients. The standard of nursing care requires that medication administration records are signed after a medication is administered to a patient.

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 carrying out usual nursing functions... (6) fraud or material deception in the course of professional services or activities...."

Based on its findings, the Board concludes the Respondent's conduct as specified in the Statement of Charges Paragraph 3a, as it pertains to Percocet and Ativan, and Paragraphs 3c and 3d is proven.

The Board further concludes that said conduct fails to conform to the accepted standards of the nursing profession and violates 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.

With regard to Paragraph 3b of the Statement of Charges, the Board concludes the Department did not present any evidence to meet its burden or proof by a preponderance of the evidence that the Respondent abused or utilized to excess, medications. Therefore, Paragraph 3b of the Statement of Charges is dismissed.

ORDER

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

1. That for Paragraphs 3a, 3c and 3d of the Statement of Charges, the Respondent's registered nurse license, No. R37825, be **revoked**.
2. Revocation shall become effective on the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

The Respondent, Ann Marie Clement, is hereby directed to immediately surrender Registered Nurse License No. R37825 to the Board of Examiners for Nursing, Department of Public Health, 150 Washington Street, Hartford, Connecticut 06106.

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

Dated at Hartford, Connecticut this 31st day of August, 1995.

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BOARD OF EXAMINERS FOR NURSING
By 