

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

Department of Public Health

Petition No. 2005-1107-010-088

vs.

Michelle Drury, RN, Lic. No. R45168
Respondent

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 February 23, 2006. Dept. Exh. 3. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Michelle Drury (hereinafter “respondent”) which would subject respondent’s registered nurse license to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b).

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that respondent’s continued nursing practice presented a clear and immediate danger to public health and safety. On March 15, 2006, the Board ordered, pursuant to its authority under § 4-182(c) and § 19a-17(c) of the General Statutes of Connecticut, that respondent’s registered nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. 3.

The Board issued a Notice of Hearing dated March 15, 2006, scheduling a hearing for April 5, 2006. Dept. Exh. 3.

Respondent was provided notice of the hearing and charges against her. The Summary Suspension Order, Notice of Hearing and Statement of Charges were delivered to respondent’s address of record by State Marshal on March 17, 2006 and by certified mail on March 20, 2006. Dept. Exhs. 1 and 2.

The hearing took place on April 5, 2006, at the Hartford Hospital – Newington Campus, 181 Patricia M. Genova Drive, Newington, Connecticut.

Respondent was not present during the hearing and was not represented by counsel. Transcript, April 5, 2006, p. 2.

Respondent did not submit an Answer to the Statement of Charges. During the hearing on April 5, 2006, the Department moved to have the allegations deemed admitted. The Board granted the motion. Transcript, pp. 5-6.

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.

Findings of Fact

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

1. Respondent was issued registered nurse license number R45168 on November 1, 1989. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 4 - tab B.
2. At all relevant times, respondent was employed as a registered nurse at Waterbury Hospital, Waterbury, Connecticut. Dept. Exh. 4 - tab A4.
3. From approximately April 2005 to August 2005, while working as a registered nurse at Waterbury Hospital, respondent:
 - a. Diverted Percocet and/or injectable hydromorphone;
 - b. Failed to completely, properly and/or accurately document medical or hospital records; and/or,
 - c. Falsified one or more Controlled Substance Receipt Records.Dept. Exh. 4 - tab A, pp. 5, 22; Transcript, p. 5.
4. From approximately April 2005 through August 2005, respondent abused or utilized to excess Percocet and/or injectable hydromorphone. Dept. Exh. 4 - tab A, pp. 5-6; Transcript, p. 5.
5. Respondent's abuse of Percocet and/or injectable hydromorphone does, and/or may, affect her practice as a registered nurse. Transcript, p. 5.
6. From approximately April 2005 through August 2005, respondent exhibited behavioral problems while on duty at Waterbury Hospital including falling asleep during the change of shift report, tardiness, falling behind in her work, and failing to follow through with issues for the next shift. Dept. Exh. 4 - tab A, p. 4; Transcript, p. 5.

Conclusions of Law and Discussion

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

Michelle Drury 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 provided sufficient legal notice as mandated by *Conn. Gen. Stat.* §§ 4-177(a) and (b), and 4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as §§ 19a-9-1 through 19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by *Conn. Gen. Stat.* § 4-182(c).

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

The **FIRST COUNT, PARAGRAPH 3** of the Statement of Charges alleges that between approximately April 2005 and August 2005 while working as a registered nurse at Waterbury Hospital, respondent:

- a. diverted Percocet and/or injectable hydromorphone from patient stock for her own personal 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 **FIRST COUNT, PARAGRAPH 4** of the Statement of Charges alleges that from approximately April 2005 through August 2005, respondent abused or excessively used the controlled substance(s) Percocet and/or injectable hydromorphone.

The **FIRST COUNT, PARAGRAPH 5** of the Statement of Charges alleges that respondent's abuse of Percocet and/or injectable hydromorphone does, and/or may, affect her practice as a registered nurse.

The **SECOND COUNT, PARAGRAPH 8** of the Statement of Charges alleges that between approximately April 2005 and August 2005, while working as a registered nurse at Waterbury Hospital, respondent exhibited behavioral problems while on duty, including falling asleep during the verbal change of shift report, tardiness, falling behind in her work and failing to follow through with issues for the next shift.

Respondent did not submit an Answer to the Statement of Charges. Pursuant to § 19a-9-20 of the Regulations of Connecticut State Agencies the Board deems the allegations in the Statement of Charges to be admitted.

The General Statutes of Connecticut § 20-99 provides in relevant part:

- (a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17. . . .

(b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following...(2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...(5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...(6) fraud or material deception in the course of professional services or activities.

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 3, 4, and 5 of the First Count and Paragraph 8 of the Second Count is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§ 20-99(b)(2), (5), (6) and 19a-17.

Order

Pursuant to its authority under *Conn. Gen. Stat.* §§ 19a-17 and 20-99, the Board of Examiners for Nursing hereby orders the following:

1. That for the First Count and the Second Count of the Statement of Charges, respondent's registered nurse license number R45168, is revoked effective the date this Memorandum of Decision is signed by the Board.
2. The Board finds the violations set forth in Count One and Count Two are severable and each separate Count warrants the revocation of respondent's license.

The Board of Examiners for Nursing hereby informs respondent, Michelle Drury, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 19th day of July 2006.

BOARD OF EXAMINERS FOR NURSING

By  ^{pd}