

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health

Petition No. 2004-0331-010-028

vs.

Wendy Seifert, RN, Lic. No. R51450
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 a Motion for Summary Suspension dated November 3, 2004. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Wendy Seifert (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 November 17, 2004, 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. 2.

The Board issued a Notice of Hearing dated November 17, 2004, scheduling a hearing for December 1, 2004. Dept. Exh. 1. On December 1, 2004, the Board continued the case for December 15, 2004. Tr. 12/1/04, pp. 4-5.

Respondent was provided notice of the hearing and charges against her. The Notice of Hearing and Statement of Charges were delivered by certified mail to respondent and respondent's attorney. Dept. Tr. 12/5/04, pp. 3-4.

The hearing took place on December 15, 2004, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was not present during the hearing and was not represented by counsel. Tr. pp. 2-10.

Respondent failed to submit an Answer to the Statement of Charges. During the hearing on December 15, 2004, the Department moved to have the allegations admitted. The Board granted the motion. Tr. 12/15/04, pp. 5.

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. Wendy Seifert of Chicopee, Massachusetts is, and has been at all times referenced in this Statement of Charges, the holder of Connecticut nurse license number R51450. Tr.12/15/04, p. 5.
2. At all relevant times, respondent was employed as a registered nurse at Osborn Correctional Facility in Somers, Connecticut. Tr. 12/15/04, p. 5.
3. During November and December 2003, while working as a registered nurse at Osborn Correctional Facility, respondent:
 - a. diverted Oxycontin, Oxycodone, and Acetaminophen with Codeine tablets 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. Tr. 12/15/04, p. 5.
4. During November and December 2003, respondent abused or utilized to excess Oxycontin, Oxycodone, and Acetaminophen with Codeine tablets. Tr. 12/15/04, p. 5.
5. Respondent's abuse of Oxycontin, Oxycodone, and/or Acetaminophen with Codeine tablets does and/or may affect her practice as a registered nurse. Tr. 12/15/04, p. 5.

Conclusions of Law and Discussion

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

Wendy Seifert held a valid registered 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.

PARAGRAPH 2 of the Statement of Charges alleges that at all times, respondent was employed as a registered nurse at Osborn Correctional Facility in Somers, Connecticut.

PARAGRAPH 3 of the Statement of Charges alleges that During November and December 2003, while working as a registered nurse at Osborn Correctional Facility, respondent:

- a. diverted Oxycontin, Oxycodone, and Acetaminophen with Codeine tablets 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.

PARAGRAPH 4 of the Statement of Charges alleges that during November and December 2003, respondent abused or utilized to excess Oxycontin, Oxycodone, and Acetaminophen with Codeine tablets.

PARAGRAPH 5 of the Statement of Charges alleges that respondent's abuse of Oxycontin, Oxycodone, and/or Acetaminophen with Codeine tablets does, and/or may, affect her practice as a registered nurse.

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 First Count of 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 . . .

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 2, 3, 4, and 5 of the Statement of Charges 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) and (5) 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:

That for Paragraphs 2, 3, 4, and 5 of the Statement of Charges, respondent's registered nurse license number R51450, is revoked effective the date this Memorandum of Decision is signed by the Board.

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

Dated at Newington, Connecticut this 2nd day of March 2005.

BOARD OF EXAMINERS FOR NURSING

By  _____

CERTIFICATION

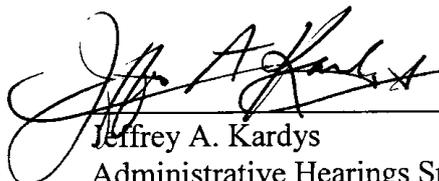
I hereby certify that, pursuant to Connecticut General Statutes §4-180(c), a copy of the foregoing Memorandum of Decision was sent this 3rd day of March 2005, by certified mail, return receipt requested, and first class mail to:

Wendy Seifert
Winthrop Street
Chicopee, MA 01025

Certified Mail RRR #70041116000008833592989

and by Inter-Departmental Mail to:

Stanley K. Peck, Director
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
Hartford, CT 06134-0308



Jeffrey A. Kardys
Administrative Hearings Specialist/Board Liaison
Department of Public Health
Public Health Hearing Office