

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

Department of Public Health

Petition No. 2004-0408-011-006

vs.

Patricia Nelson, LPN, Lic. No. 017836
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 May 6, 2004. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Patricia Nelson (hereinafter "respondent") which would subject respondent's licensed practical 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 May 19, 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 licensed practical nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. 1.

The Board issued a Notice of Hearing dated May 19, 2004, scheduling a hearing for June 2, 2004. Dept. Exh. 1.

On June 2, 2004, respondent requested a continuance which was granted and the hearing was rescheduled for December 1, 2004. Board Exh. A.

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. Dept. Exh. 1.

The hearing took place on December 1, 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. 6/2/04, p. 2; Tr. 12/1/04, p. 2.

Respondent failed submitted an Answer to the Statement of Charges. Tr. 12/1/04, pp 6-7. During the hearing on December 1, 2004, the Department moved to have the allegations admitted. The Board granted the motion. Tr. 12/1/04, pp.6-7.

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. Patricia Nelson of Fairfield is, and has been at all times referenced in this Statement of Charges, the holder of Connecticut licensed practical nurse license number 017836.
2. On or about June 13, 2001, while working as a licensed practical nurse at St. Vincent's Hospital, respondent diverted Oxycodone.
3. On or about June 13, 2001, respondent abused or utilized to excess alcohol and was arrested and charged with driving under the influence and possession of narcotics.
4. On February 20, 2002, the Board ordered a Consent Order in Petition Number 2001-0705-011-019 that placed respondent's nursing license on probation for a period of four years. Such disciplinary action was based upon respondent's admitted diversions of Oxycodone, arrest for driving under the influence of liquor or drugs, and possession of narcotics.
5. Said Order specifically provided that respondent shall submit to observed random urine screens for drugs and alcohol during the probationary period, and that all screens shall be negative for the presence of drugs and alcohol.
6. On or about April 7, 2004, respondent admitted to her therapist that she had used alcohol.

Conclusions of Law and Discussion

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

Patricia Nelson held a valid licensed practical 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.

PARAGRAPH 2 of the Statement of Charges alleges that on or about June 13, 2001, while working as a licensed practical nurse at St. Vincent's Hospital, respondent diverted Oxycodone.

PARAGRAPH 3 of the Statement of Charges alleges that on or about June 13, 2001, respondent abused or utilized to excess alcohol and was arrested and charged with driving under the influence and possession of narcotics.

PARAGRAPH 4 of the Statement of Charges alleges that on February 20, 2002, the Board ordered a Consent Order that placed respondent's nursing license on probation for a period of four years. Such disciplinary action was based upon respondent's admitted diversions of Oxycodone, arrest for driving under the influence of liquor or drugs, and possession of narcotics.

PARAGRAPH 5 of the Statement of Charges alleges that said Consent Order specifically provided that respondent shall submit to observed random urine screens for drugs and alcohol during the probationary period, and that all screens shall be negative for the presence of drugs and alcohol.

PARAGRAPH 6 of the Statement of Charges alleges that on or about April 7, 2004, respondent admitted to her therapist that she had used alcohol.

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 . . .

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 2 through 6 of the Statement of Charges conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§20-99(b) 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 through 6 of the Statement of Charges, respondent's licensed practical nurse license number 017836, is revoked effective the date this Memorandum of Decision is signed by the Board.

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

Dated at Newington, Connecticut this 16th day of March 2005.

BOARD OF EXAMINERS FOR NURSING

By  _____