

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health

Petition No. 991223-011-041

vs.

Mary Mercier, LPN, Lic. No. 020035
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 dated January 29, 2001. Dept. Exh. 1-A. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Mary Mercier, LPN (hereinafter "respondent") which would subject respondent's licensed practical nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

The Board issued a Notice of Hearing dated February 7, 2001, scheduling a hearing for April 18, 2001. Dept. Exh. 1-A; Board Exh. 1.

Respondent was provided notice of the hearing and charges against her. Department Exhibit 1 indicates that the Notice of Hearing and Statement of Charges were delivered by certified mail to respondent.

The hearing took place on April 18, 2001, at Wethersfield Town Hall, Town Council Chambers, 505 Silas Deane Highway, Wethersfield, Connecticut.

Respondent was not present during the hearing and was not represented by counsel. Transcript, April 18, 2001, p. 2.

During the hearing, the Department presented a Motion to Deem Allegations Admitted and orally moved to Amend the Statement of Charges. Both motions were granted by the Board. Board Exh. 1; Transcript, April 18, 2001, pp. 7, 17-18.

Each member of the Board involved in this decision attests that 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 licensed practical nurse license number 020035 on February 1, 1989. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1-C.
2. Beginning on or about February 8, 1999, respondent was employed as a licensed practical nurse at Olympus Healthcare Center, Farmington, Connecticut. Dept. Exh. 1-B5.
3. From on or about July 27, 1999 to August 3, 1999, while working as a licensed practical nurse at Olympus Healthcare Center, respondent provided nursing care to patients #7, 22, 24, 25, 26, 27, and 28. Dept. Exh. 1-B; Transcript April 18, 2001, pp. 12-17.
4. From on or about July 27, 1999 to August 3, 1999, while working as a licensed practical nurse at Olympus Healthcare Center, respondent failed to give ordered administrations of the medications Lanoxin, Cardizem, and Coumadin to patients. Dept. Exh. 1-B7; Transcript, pp. 9-17.
5. The Board finds Barbara Grimes to be a credible witness.

Conclusions of Law and Discussion

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

Respondent 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 3 of the Statement of Charges, as amended, alleges that on July 27, 1999, while working as a licensed practical nurse at Olympus Healthcare Center, Farmington, Connecticut, respondent failed to give ordered medications to approximately four residents of Olympus Healthcare.

PARAGRAPH 4 of the Statement of Charges, as amended, alleges that on August 3, 1999, while working as a licensed practical nurse at Olympus Healthcare Center, Farmington, Connecticut, respondent failed to give ordered medications to approximately three residents of Olympus Healthcare.

Respondent did not submit an Answer to the Statement of Charges. Pursuant to §19-9-20 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 performing usual nursing functions

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 3 and 4 of the Statement of Charges is proven by a preponderance of the evidence presented. The nursing care respondent rendered to patients at Olympus Healthcare Center was below accepted nursing standards in that respondent failed to administer ordered medications and thereby put patients at risk. The Board further concludes that said conduct constitutes violations of *Conn. Gen. Stat.* §20-99(b)(2). Therefore, respondent's licensed practical nurse license is subject to disciplinary action pursuant to *Conn. Gen. Stat.* §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. For Paragraph 3 of the Statement of Charges, respondent's licensed practical nurse license number 020035 is placed on probation for a period of four (4) years.
2. For Paragraph 4 of the Statement of Charges, respondent's licensed practical nurse license number 020035 is placed on probation for a period of four (4) years.

3. If any of the following conditions of the four year probation are not met, respondent's licensed practical nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.
 - A. During the entire four year period of probation the Board shall pre-approve respondent's employment or change of employment within the nursing profession.
 - B. Respondent shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. The Board shall be notified in writing by any employer(s), within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
 - C. If employed as a nurse, respondent shall cause monthly employer reports to be submitted to the Board by her immediate supervisor during the entire probationary period.
 - D. The employer reports cited in Paragraph C above shall include documentation of respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph J below.
 - E. Should respondent's employment as a nurse be involuntarily terminated, respondent and/or her employer shall notify the Board within seventy-two (72) hours of such termination.
 - F. If respondent pursues further training in any subject area that is regulated by the Department, respondent shall provide copy of this Memorandum of Decision to the educational institution or, if not an institution, to respondent's instructor. Such institution or instructor shall notify the Department in writing as to receipt of a copy of this Memorandum of Decision within fifteen (15) days of receipt. Said notification shall be submitted directly to the Department at the address cited in Paragraph J below.
 - G. During the first three months of probationary period, respondent shall successfully complete a Board approved licensed practical nurse refresher program.
 - H. Certification of successful completion of the refresher program cited in Paragraph G shall be submitted to the Board, directly from the educational institution where said program was taken, within thirty (30) days of the program's completion.
 - I. During the first three months of probationary period, respondent shall complete forty (40) hours of one-on-one supervised medication administration. Certification of successful completion of the supervised medication administration shall be submitted to the Board at the address cited in Paragraph J below.

J. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, RN, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
Board of Examiners For Nursing
410 Capitol Avenue, MS #12HSR
P. O. Box 340308
Hartford CT 06134-0308

4. Any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, shall constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order. Any finding that respondent has violated this Order will subject respondent to sanctions under §19a-17(a) and (c) of the General Statutes of Connecticut, including but not limited to, the revocation of her license. Any extension of time or grace period for reporting granted by the Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take subsequent action. The Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to respondent's address of record (most current address reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department of Public Health or the Board of Examiners for Nursing).

5. This Memorandum of Decision becomes effective, and the four (4) year probation of respondent's licensed practical nurse license shall commence on August 1, 2001.

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

Dated at Hartford, Connecticut this 18th day of July 2001.

BOARD OF EXAMINERS FOR NURSING

By 