

Jillana Giamette
276 Peck Street
New Haven, CT 06511

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

State of Connecticut
Department of Public Health

vs.

Jillana Giamette, LPN
Licensed Practical Nurse License No. 020114
Respondent.

CASE PETITION NO. 971104-011-029

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 November 13, 1997 (Department Exhibit 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Respondent's Name (hereinafter the "Respondent") which would subject the Respondent's Licensed Practical Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of the Respondent presented a clear and immediate danger to public health and safety. On November 19, 1997, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that the Licensed Practical Nurse license of the Respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges (Department Exhibit 1).

The Board issued a Notice of Hearing dated November 19, 1997 scheduling a hearing for December 3, 1997 (Department Exhibit 1).

The hearing began on December 3, 1997, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. The hearing was continued to December 17, 1997 so as to confirm that the Respondent was provide notice of the hearing. (Hearing Transcript, December 3, 1997)

The hearing resumed on December 17, 1997, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Department Exhibit 1 indicates the Respondent was provided notice of the hearing and charges against her. The Summary Suspension Order, Statement of Charges and Notice of Hearing were delivered by certified mail to two known addresses of the Respondent and to the Respondent's attorney.

The Respondent was not present during the hearing and was not represented by counsel. (Hearing Transcript, December 17, 1997)

The Respondent did not submit an answer to the Statement of Charges.

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.

FACTS

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

1. The Respondent was issued Licensed Practical Nurse License Number 020114 on November 22, 1982. The Respondent was the holder of said license at all times referenced in the Statement of Charges. (Department Exhibit 2-B, p. 11)

2. Pursuant to a Memorandum of Decision dated November 5, 1997 the Board order that the Respondent's licensed practical nurse license be placed on probation for a period of three (3) years effective November 15, 1997. The probation was ordered upon a finding that the Respondent had abused or excessively used drugs or alcohol, while the holder of a licensed practical nurse license in the State of Connecticut. The Board further found that the Respondent had unsuccessful treatments for substance abuse which resulted in relapses. (Department Exhibit 2-B)

3. During August and September 1997, the Respondent worked as a licensed practical nurse at Atrium Plaza, New Haven, Connecticut. (Department Exhibits 2-A)

4. On various dates during August and September 1997, while working as a licensed practical nurse at Atrium Plaza, the Respondent signed out doses of the controlled substances Darvocet, Percocet, Ambien and Vicodin on controlled substance receipt and disposition records. The Respondent made sign out entries in the controlled substance receipt and disposition records indicating that the doses of the controlled substances she signed out had been administered to patients. Medication administration records and nurses notes do not contain corresponding entries indicating that the controlled substances were administered to the patients. (Department Exhibit 2-A)

5. On October 2, 1997, the Respondent gave a sworn statement, to agents of the Department of Consumer Protection Drug Control Division, admitting that she diverted the controlled substance Darvocet from Atrium Plaza. The Respondent stated she signed out doses of Darvocet on controlled substance receipt and disposition records but did not administer the doses to patients. (Department Exhibit 2-A, pp. 32-33)

DISCUSSION AND CONCLUSIONS

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

Jillana Giamette held a valid Licensed Practical Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Summary Suspension Order, Notice of Hearing and Statement of Charges sufficiently provided legal notice as mandated by the General Statutes of Connecticut §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut 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 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).

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

PARAGRAPH 3 of the Statement of Charges alleges that on or about August and September of 1997, while working as a registered nurse at Atrium Plaza, New Haven, Connecticut, the Respondent:

- a. diverted Darvocet, Percocet, Ambien and/or Vicodin;
- b. fail 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 in on or about September and October of 1997, the Respondent abused or excessively used Darvocet, Percocet, Ambien and/or Vicodin.

PARAGRAPH 5 of the Statement of Charges alleges that the Respondent’s abuse of Darvocet, Percocet, Ambien and/or Vicodin does and/or may effect her practice as a nurse.

The Respondent did not file an answer to the Statement of Charges. Pursuant to §19a-9-20 of the Regulations of Connecticut State Agencies, the Board deems the charges in Paragraphs 3, 4, and 5 of the Statement of Charges to be admitted.

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 performing 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 the Respondent’s conduct as alleged in Paragraphs 3, 4, and 5 of the Statement of Charges is proven and that said conduct constitutes violations of the General Statutes of Connecticut §20-99(b)(2), (5) and (6). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

In determining appropriate sanctions in this matter the Board may consider, in addition to the charges upon which there is a finding of guilt, any evidence presented during the hearing which is relevant to the Respondent’s ability to practice nursing in accordance with the accepted standards of the nursing profession. The Board had found in a previous matter that the Respondent had abused or excessively used drugs or alcohol, while the holder of a licensed practical nurse license in the State of Connecticut, and that the Respondent had unsuccessful treatments for substance abuse which resulted in relapses.

ORDER

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

1. That for Paragraphs 3, 4 and 5 of the Statement of Charges, the Respondent’s licensed practical nurse license, No. 020114, is revoked on the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

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

Dated at Wethersfield, Connecticut this 6th day of May 1998.

BOARD OF EXAMINERS FOR NURSING

By


