

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Health Services v.
Dorothy Schlesinger, L.P.N. Lic. NO. 022071
161 Lorann Drive
Naugatuck, CT 06770

CASE PETITION NO. 891101-11-020

MEMORANDUM OF DECISION

INTRODUCTION

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Health Services (hereinafter the "Department") with a Statement of Charges dated March 20, 1990.

The Statement of Charges alleged violations of certain provisions of Chapter 378, Connecticut General Statutes. The Board issued a Notice of Hearing dated March 21, 1990. The hearing took place on April 19, 1990 in Room 112, National Guard Armory, Maxim Road, Hartford, Connecticut. The Respondent was not present or represented by counsel at the time of the hearing.

Each member of the Board involved in this decision attests that he/she has reviewed the record, and that this decision is based entirely on the record and their specialized professional knowledge in evaluating the evidence.

FINDINGS OF FACT

Based on the testimony given and the exhibits offered into evidence, the Board made the following findings of fact:

1. Dorothy Schlesinger, hereinafter referred to as Respondent, was issued Connecticut practical nurse license number 022071 on June 1, 1987;
2. Pursuant to Connecticut General Statutes, Section 4-182(c), the Respondent was provided full opportunity prior to the institution of agency action to show compliance with all the terms for the retention of her license.
3. The Respondent was aware of the time and location of the hearing. Department Exhibit 2 indicates that notice of the location and time of this hearing were delivered by certified mail to the Respondent's address of record.
4. The Respondent, while working as a licensed practical nurse at the Country Manor, in Prospect, Connecticut, during May, 1989 and subsequent times thereto, failed to completely or properly or accurately make documentations in the medical or hospital records.
5. The Respondent, while working as a licensed practical nurse at the Country Manor, in Prospect, Connecticut, during May, 1989 and subsequent times thereto, falsified one or more Controlled Substance Receipt Records.
6. The Respondent, while working as a licensed practical nurse at the Country Manor, in Prospect, Connecticut, during May, 1989 and subsequent times thereto, inappropriately provided this medication to another person or persons.

7. The Respondent, while working as a licensed practical nurse at Park Manor, in Waterbury, Connecticut, during June and July, 1989 and subsequent times thereto, diverted the controlled substances Darvocet N-100 and Valium.

8. The Respondent, while working as a licensed practical nurse at Park Manor, in Waterbury, Connecticut, during June and July, 1989 and subsequent times thereto, abused or utilized to excess said medications.

9. The Respondent, while working as a licensed practical nurse at Park Manor, in Waterbury, Connecticut, during June and July, 1989 and subsequent times thereto, failed to completely or properly or accurately make documentations in the medical or hospital records.

10. The Respondent, while working as a licensed practical nurse at Park Manor, in Waterbury, Connecticut, during June and July, 1989 and subsequent times thereto, falsified one or more Controlled Substance Receipt Records.

11. The Respondent, while working as a licensed practical nurse at Park Manor, in Waterbury, Connecticut, during June and July, 1989 and subsequent times thereto, inappropriately provided this medication to another person or persons.

12. The Respondent, while working as a licensed practical nurse at Waterbury Extended Care, in Watertown, Connecticut, during August, 1989 and subsequent times thereto, diverted the controlled substance Darvocet N-100.

13. The Respondent, while working as a licensed practical nurse at Waterbury Extended Care, in Watertown, Connecticut, during August, 1989 and subsequent times thereto, abused or utilized to excess said medication..

14. The Respondent, while working as a licensed practical nurse at Waterbury Extended Care, in Watertown, Connecticut, during August, 1989 and subsequent times thereto, failed to completely or properly or accurately make documentations in the medical or hospital records.

15. The Respondent, while working as a licensed practical nurse at Waterbury Extended Care, in Watertown, Connecticut, during August, 1989 and subsequent times thereto, falsified one or more Controlled Substance Receipt Records.

16. The Respondent, while working as a licensed practical nurse at Waterbury Extended Care, in Watertown, Connecticut, during August, 1989 and subsequent times thereto, inappropriately provided this medication to another person or persons.

DISCUSSION AND CONCLUSIONS

The First Count, Subsection 3a, alleges that while employed as a licensed practical nurse, at Country Manor, in Prospect, Connecticut, during May, 1989 and subsequent times thereto, the Respondent diverted the controlled substance Percocet. The Respondent neither admits or denies this charge.

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(2), which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...."

The Board has determined that insufficient evidence exists to find the Respondent on this charge. Thus, the charge is dismissed.

The First Count, Subsection 3b, alleges that while employed as a licensed practical nurse, at Country Manor, in Prospect, Connecticut, during May, 1989 and subsequent times thereto, the Respondent abused or utilized to excess said medication. The Respondent neither admits or denies this charge.

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(5), which includes "... (5) abuse or use of drugs, including alcohol, narcotics or chemicals...."

The Board has determined that insufficient evidence exists to find the Respondent on this charge. Thus, the charge is dismissed.

The First Count, Subsection 3c, alleges that while employed as a licensed practical nurse at Country Manor, in Prospect, Connecticut, during May, 1989 and subsequent times thereto, the Respondent failed to completely or properly or accurately make documentations in the medical or hospital records. The Respondent admits this charge. Specifically, in a handwritten statement to Drug Control Agent Alexandra Mathiasen, the Respondent stated that "...While employed at Country Manor in Prospect I diverted Darvocet N-100 by giving one dose and signing out for 2." (Department Exhibit 4, p. 6).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(2), which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...."

The Board has determined that the Respondent failed to completely or properly or accurately make documentations in the medical or hospital records. Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99 (b)(2), as specified in the First Count, Subsection 3c.

The First Count, Subsection 3d, alleges that while employed as a licensed practical nurse at Country Manor, in Prospect, Connecticut, during May, 1989 and subsequent times thereto, the Respondent falsified one or more Controlled Substance Receipt Records. The Respondent admits this charge. Specifically, in a handwritten statement to Drug Control Agent Alexandra Mathiasen, the Respondent stated that "... While employed at Country Manor in Prospect I diverted Darvocet N-100 by giving one dose and signing out for 2." (Department Exhibit 4, p. 6).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(6), which includes "... (6) fraud or material deception in the course of professional services or duties...."

The Board has determined that the Respondent falsified one or more Controlled Substance Receipt Records. Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99 (b)(6), as specified in the First Count, Subsection 3d.

The First Count, Subsection 3e, alleges that while employed as a licensed practical nurse at Country Manor, in Prospect, Connecticut, during May, 1989 and subsequent times thereto, the Respondent inappropriately provided said medication to another person or persons. The Respondent admits this charge. Specifically, in a handwritten statement to Drug Control Agent Alexandra Mathiasen, the Respondent stated "I didn't divert these drugs for my own personal use...." (Department Exhibit 4, p. 7).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(2), which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions....".

The Board has determined that the Respondent inappropriately provided said medication to another person or persons. Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99 (b)(2), as specified in the First Count, Subsection 3e.

The Second Count, Subsection 3a, alleges that while employed as a licensed practical nurse at Park Manor, during June, 1989 and July, 1989 and subsequent times thereto, the Respondent diverted the controlled substance Darvocet N-100 and Valium. The Respondent admits this charge. Specifically, in a handwritten statement to Drug Control Agent Alexandra Mathiasen, the Respondent stated "While employed at Park Manor I diverted Darvocet N-100 & Valium...." (Department Exhibit 4, p. 6).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(2), which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions....".

The Board has determined that the Respondent diverted the controlled substance Darvocet N-100 and Valium. Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99 (b)(2), as specified in the Second Count, Subsection 3a.

The Second Count, Subsection 3b, alleges that while employed as a licensed practical nurse at Park Manor, during June, 1989 and July, 1989 and subsequent times thereto, the Respondent abused or utilized to excess said medication. The Respondent denies this charge. Specifically, in a handwritten statement to Drug Control Agent Alexandra Mathiasen, the Respondent stated "I didn't divert these drugs for my own personal use and I don't have a drug problem...." (Department Exhibit 4, p. 7).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(5), which includes "... (5) abuse or use of drugs, including alcohol, narcotics or chemicals...."

The Board has determined that while employed as a licensed practical nurse at Park Manor, the Respondent abused or utilized to excess said medication. The Respondent admitted to diverting said medications, although she claimed that they were not for her own personal use. Such diversion, of the same substances, from three places of employment constitutes abuse or use to excessiveness of said medication. The Board's opinion is that the Respondent was diverting said medication for another person or persons use, but that the Respondent was also abusing said medication. The Board felt that not all of said medication was being given to another person or persons, therefore constituting abuse or use to excessiveness. Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(5), as specified in the Second Count, Subsection 3b.

The Second Count, Subsection 3c, alleges that while employed as a licensed practical nurse at Park Manor, during June, 1989 and July, 1989 and subsequent times thereto, the Respondent failed to completely or properly or accurately make documentations in the medical or hospital records. The Respondent admits this charge. Specifically, in a handwritten statement, the Respondent admitted to Drug Control Agent Alexandra Mathiasen, she stated that "While employed at Park Manor I diverted Darvocet N-100 and Valium for example Carmella Moffo Valium on 7-19-89 4 & 8 pm I kept one & gave the pt [patient] the other." (Department Exhibit 4, p. 6).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(2), which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions....".

The Board has determined that the Respondent failed to completely or properly or accurately make documentations in the medical or hospital records. Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99 (b)(2), as specified in the Second Count, Subsection 3c.

The Second Count, Subsection 3d, alleges that while employed as a licensed practical nurse at Park Manor, during June, 1989 and July, 1989 and subsequent times thereto, the Respondent falsified one or more Controlled Substance Receipt Records. The Respondent admits this charge. Specifically, in a handwritten statement, the Respondent admitted to Drug Control Agent Alexandra Mathiasen, she stated that "... While employed at Park Manor I diverted Darvocet N-100 and Valium for example Carmella Moffo Valium on 7-19-89 4 & 8 pm I kept one & gave the pt [patient] the other." (Department Exhibit 4, p. 6).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(6), which includes "... (6) fraud or material deception in the course of professional services or duties....".

The Board has determined that the Respondent falsified one or more Controlled Substance Receipt Records. Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99 (b)(6), as specified in the Second Count, Subsection 3d.

The Second Count, Subsection 3e, alleges that while employed as a licensed practical nurse at Park Manor, in Waterbury, Connecticut, during June, 1989 and July, 1989 subsequent times thereto, the Respondent inappropriately provided said medication to another person or persons. The Respondent admits this charge. Specifically, in a handwritten statement to Drug Control Agent, Alexandra Mathiasen, the Respondent stated "I didn't divert these drugs for my own personal use..." (Department Exhibit 4, p. 7).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(2), which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions....".

The Board has determined that the Respondent inappropriately provided said medication to another person or persons. Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99 (b)(2), as specified in the Second Count, Subsection 3e.

The Third Count, Subsection 3a, alleges that while employed as a licensed practical nurse at Waterbury Extended Care, in Watertown, Connecticut, during August, 1989 and subsequent times thereto, the Respondent diverted the controlled substance Darvocet N-100. The Respondent admits this charge. Specifically, in a handwritten statement to Drug Control Agent Alexandra Mathiasen, the Respondent stated "While employed at Watertown Extended Care I diverted Darvocet N-100...." (Department Exhibit 4, p. 6).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(2), which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions....".

The Board has determined that the Respondent diverted the controlled substance Darvocet N-100. Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99 (b)(2), as specified in the Third Count, Subsection 3a.

The Third Count, Subsection 3b, alleges that while employed as a licensed practical nurse at Waterbury Extended Care, in Watertown, Connecticut, during August, 1989 and subsequent times thereto, the Respondent abused or utilized to excess said medications. The Respondent denies this charge. Specifically, in a handwritten statement to Drug Control Agent Alexandra Mathiasen, the Respondent stated "I didn't divert these drugs for my own personal use and I don't have a drug problem...." (Department Exhibit 4, p. 7).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(5), which includes "... (5) abuse or use of drugs, including alcohol, narcotics or chemicals...."

The Board has determined that while employed as a licensed practical nurse at Waterbury Extended Care, the Respondent abused or utilized to excess said medication. The Respondent admitted to diverting said medications, although she claimed that they were not for her own personal use. Such diversion, of the same substance, from three places of employment constitutes abuse or use to excessiveness of said medication. The Board's opinion is that the Respondent was diverting said medication for another person or persons use, but that the Respondent was also abusing said medication. The Board felt that not all of said medication was being given to another person or persons, therefore constituting abuse or use to excessiveness. Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(5), as specified in the Third Count, Subsection 3b.

The Third Count, Subsection 3c, alleges that while employed as a licensed practical nurse at Waterbury Extended Care, in Watertown, Connecticut, during August, 1989 and subsequent times thereto, the Respondent failed to completely or properly or accurately make documentations in the medical or hospital records. The Respondent admits this charge. Specifically, in a handwritten statement, the Respondent admitted to Drug Control Agent Alexandra Mathiasen, she stated that "While employed at Park Manor I diverted Darvocet N-100 for example Florence Sheehan on 8-15-89 signed dose but didn't need it." (Department Exhibit 4, p. 6).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(2), which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions....".

The Board has determined that the Respondent failed to completely or properly or accurately make documentations in the medical or hospital records. Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99 (b)(2), as specified in the Third Count, Subsection 3c.

The Third Count, Subsection 3d, alleges that while employed as a licensed practical nurse at Waterbury Extended Care, in Watertown, Connecticut, during August, 1989 and subsequent times thereto, the Respondent falsified one or more Controlled Substance Receipt Records. The Respondent admits this charge. Specifically, in a handwritten statement, the Respondent admitted to Drug Control Agent Alexandra Mathiasen, she stated that "While employed at Waterbury Extended Care I diverted Darvocet N-100 for example Florence Sheehan on 8-13-89 signed dose but didn't need it." (Department Exhibit 4, p. 6).

ORDER

It is the unanimous decision of those members of the Board of Examiners for Nursing who were present and voting that for each of the following subsections of the First Count, Section 3, Subsections (c), (d), and (e), and the Second Count, Section 3, Subsections, (a), (b), (c), (d), and (e), and the Third Count, Section 3, Subsections (a), (b), (c), (d), and (e):

1. The license of the Respondent be revoked.
2. The date of this revocation shall commence on December 1, 1990.

The Board of Examiners for Nursing hereby informs the Respondent and the Department of Health Services of the State of Connecticut of this decision.

Dated at Windsor, Connecticut, this 21st day of September, 1990.

BOARD OF EXAMINERS FOR NURSING

BY John J. Murphy, RN

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