

STATE OF CONNECTICUT

BOARD OF EXAMINERS FOR NURSING

1988 0805 611 006

Department of Health Services v.

Mark S. Wilson

219 Indian Hollow Road

Windham, CT 06226

Connecticut LPN Lic. No. 022118

MEMORANDUM OF DECISION

INTRODUCTION

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Health Services (hereinafter the "Dept.") with a Statement of Charges dated August 22, 1988.

The Statement of Charges alleged violations of certain provisions of Chapter 378, Connecticut General Statutes. The Board issued a Notice of Hearing dated August 25, 1988. The hearing took place on Wednesday, September 28, 1988 in Room 112, National Guard Armory, Maxim Road, Hartford, Connecticut at which time the respondent made a request for a continuance of formal hearing in order to acquire the services of an attorney. The Board issued a notice of continuance of formal hearing dated October 3, 1988. The continuance of the hearing took place on Thursday, October 27, 1988 as stated in the notice of continuance of formal hearing which the respondent received by certified mail on October 6, 1988.

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.

FACTS

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

1. Mark S. Wilson, hereinafter referred to as Respondent, was issued Connecticut Licensed Practical Nurse license number 022118 on June 1, 1987.

2. Pursuant to Connecticut General Statutes, Section 4-182(c), the Respondent was provided a full opportunity prior to the institution of agency action to show compliance with all the terms for the retention of his license.

3. The Respondent was aware of the time and location of the hearing. Dept. of Health Services Exhibit 1 indicates that notice of the location and time of this hearing were delivered by certified mail to the Respondent.

4. The Respondent, while working as a licensed practical nurse at Canterbury Villa, in Willimantic, Connecticut during July, 1988, diverted the controlled substances Darvocet, Valium, Demerol and Tylox.

5. The Respondent, while working as a licensed practical nurse at Canterbury Villa during July, 1988, abused Darvocet, Valium, Demerol and Tylox.

6. The Respondent, while working as a licensed practical nurse at Canterbury Villa during July, 1988, failed to completely, properly and accurately make documentations in hospital and medical records.

7. The Respondent, while working as a licensed practical nurse at Canterbury Villa during July, 1988, falsified controlled substance receipt records.

8. The Respondent, during April, 1988 and subsequent times thereto, worked as a licensed practical nurse at Hamilton Pavillion, in Norwich, Connecticut.

9. The Respondent, while working as a licensed practical nurse at Hamilton Pavillion during April, 1988 and subsequent times thereto, diverted to himself the controlled substances Valium, Tussi-Organidin liquid, Robitussin AC, and Darvocet N.

10. The Respondent, while working as a licensed practical nurse at Hamilton Pavillion during April, 1988 and subsequent times thereto, diluted, substituted, and altered Valium.

11. The Respondent, while working as a licensed practical nurse at Hamilton Pavillion during April, 1988 and subsequent times thereto, abused Valium, Tussi-Organidin liquid, Robitussin AC, and Darvocet N.

12. The Respondent, while working as a licensed practical nurse at Hamilton Pavillion during April, 1988 and subsequent times thereto, failed to completely, properly and accurately make documentations in medical and hospital records.

13. The Respondent, while working as a licensed practical nurse at Hamilton Pavillion during April, 1988 and subsequent times thereto, falsified controlled substance receipt records.

14. The Respondent, during July, 1988 and subsequent times thereto, worked as a licensed practical nurse at Abbey Manor in Windham, Connecticut.

15. The Respondent, while working as a licensed practical nurse at Abbey Manor during July, 1988 and subsequent times thereto, diverted the controlled substance Ativan.

16. The Respondent, while working as a licensed practical nurse at Abbey Manor during July, 1988 and subsequent times thereto, abused Ativan while on duty as a nurse.

17. The Respondent, while working as a licensed practical nurse at Abbey Manor during July, 1988 and subsequent times thereto, failed to completely, properly and accurately make documentations in hospital or medical records.

18. The Respondent, while working as a licensed practical nurse at Abbey Manor during July, 1988 and subsequent times thereto, failed to perform required treatments on patients.

DISCUSSION AND CONCLUSIONS

The First Count, Subsection 3a, alleges that while employed as a licensed practical nurse at Canterbury Villa during July, 1988, the respondent diverted one or more of the following controlled substances: Darvocet, Valium, Tylox and Demerol. The Respondent was not present at the hearing to admit or deny this charge. The Board refers to Dept. Exhibit 3 in which the Respondent documented on July 1, 1988, having administered the substances Darvocet-N-100 to patient Anna McCarthy and Tylox to patient Caroline Golembioski. (Dept. Exhibit 3, p. 2). Dept. Exhibit 3, documents that on July 3, 1988, a patient's Valium for injection was significantly short. (Dept. Exhibit 3, p.1) Dept. Exhibit 5, p.2, demonstrates that a Tylox capsule had been tampered with and contained no oxycodone. (Also demonstrated therein is that a vial of Demerol labelled 50mg/ml, for patient Ruth Harris, contained 9.32mg/ml.)

Evidence supports the Board's belief that the said medications were not administered to the patient's referenced as documented by the Respondent, but diverted to the Respondent's own use. The Board believes, further, that the concentration of Demerol was altered due to the respondent's diversion of the drug for his own use.

This conduct is a violation of Connecticut General Statutes Section 20-99(b)(2),(6) and (7) which includes "(2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...;(6) fraud or material deception in the course of professional services or activities; (7) wilful falsification of entries in any hospital, patient or other record pertaining to drugs, the results of which are detrimental to the health of a patient...." The Board concludes that Respondent has violated Connecticut General Statutes Section 20-99(b)(2),(6) and (7), as specified in the First Count, Subsection 3a.

The First Count, Subsection 3b, alleges that the Respondent, while working as a licensed practical nurse at Canterbury Villa during July, 1988, abused or utilized to excess one or more of the said medications. The Respondent was not present at the hearing to either admit or deny this charge.

The Board has determined from evidence presented in the First Count, Subsection 3a, that the Respondent diverted said Valium, Darvocet N, Demerol and Tylox for his own use. Any use of a controlled substance for purposes other than what is prescribed is considered by the Board to constitute an abuse,

and therefore, is a violation of Connecticut General Statutes Section 20-99(b)(5) which includes: "(5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...." The Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(5) as specified in the First Count, Subsection 3b.

The First Count, Subsection 3c alleges that the Respondent, while working as a licensed practical nurse at Canterbury Villa during July, 1988, failed to completely, properly or accurately make documentations in hospital or medical records. Respondent was not present at the hearing to either admit or deny this charge.

The Board refers to Dept. Exhibit 3 in which the Respondent's charting is stated to have been "sloppy and irregular" (Dept. Exhibit 3, p. 1). Specifically, In a written statement to drug control officers, Director of Nursing Services Susan Richman stated "A deterioration had been seen in Marc's charting ... and there were no notes about his observations of why the patient needed [medications]...." (Exhibit 3, p. 8 and 9).

The described 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 concludes that 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 the Respondent, while working as a licensed practical nurse at Canterbury Villa during July, 1988, falsified one or more controlled substance receipt records. The Respondent was not present at the hearing to either admit or deny this charge.

The Board refers to Dept. Exhibit 3, in which the Respondent is stated to have falsified proof of use sheets. Specifically, on two occasions involving patients Anna McCarthy and Mary Delude, the Respondent falsified proof of use sheets claiming to have administered medications when in fact the patients either did not receive medications or received substitutions. (Example: Mary Delude received Darvocet at 8 p.m. and 12 p.m. However patient described the medication she received as "two white pills". Darvocet is oblong and orange.) (Dept. Exhibit 3, p.7.)

This conduct is a violation of Connecticut General Statutes 20-99(b)(7) which includes: "(7) wilful falsification of entries in any hospital, patient or other record pertaining to drugs, the results of which are detrimental to the health of a patient." The Board concludes that respondent has violated Connecticut General Statutes Section 20-99(b)(7), as specified in the First Count, Subsection 3d.

The Second Count, Subsection 3a, alleges that the Respondent, while working as a licensed practical nurse at Hamilton Pavillion during April, 1988, or at subsequent times thereto, diverted one or more of the controlled substances, Valium, Tussi-Organidin Liquid, Robitussin AC, Darvocet N, Tylox or Ativan to his own use.

The Respondent was not present at the hearing to either admit or deny this charge.

The Board refers to Dept. Exhibit 3, p.3 in which the Respondent is stated to have medicated patients who were not in need of medication, for example: to patient Clarisse Henderson, Respondent documented that he administered three (3) doses of Robitussin AC on June 19, 1988. Since April 7, 1988, no other nurse charted administering any dose of this drug except Mark Wilson, L.P.N. In a handwritten statement to Drug Control Agent Raymond DaDalt, on July 11, 1988, the respondent admitted to diverting narcotics from patient supplies for his own use (Dept. Exhibit 3, pp. 93-96). Page 3 of this same exhibit documents incidents when the respondent also administered Tussi-Organidin Liquid and Darvocet-N-100 to patients who had not received these drugs from other nurses or had not required these drugs at the frequency administered by the Respondent. Also, Exhibit 5, p.7 documents that upon analysis, a vial of Valium, labelled 5 mg/ml, contained 0.65 mg/ml after respondent had assumed responsibility for it.

It is the Board's belief that the Respondent unnecessarily charted administering medications to patients who were not in need of them, to cover diversion of the medications to himself. Furthermore, it is the Board's belief that the Respondent diluted the medication to avoid drawing attention to the otherwise missing dosages. This conduct is a violation of Connecticut General Statutes Section 20-99(b)(2) and (6), which include,

"(2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...; (6) fraud or material deception in the course of professional services or activities...." The Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(2) and (6), as specified in the Second Count Subsection 3a.

The Second Count, Subsection 3b, alleges that the Respondent, while working as a licensed practical nurse at Hamilton Pavillion during April, 1988 and subsequent times thereto diluted, substituted or otherwise altered one or more of the medications Valium, Tussi-Organidin Liquid, Robitussin AC, Darvocet N, Tylox or Ativan. The Respondent was not present at the hearing to either admit or deny this charge.

The Board refers to Dept. Exhibit 5, p.1, which documents that a vial of Valium labelled 5 mg/ml for patient Loretta Chapman contained 4.64 mg/ml after the respondent assumed responsibility for it.

This 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 activities...." The Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(6), as specified in the Second Count, Subsection 3b.

The Second Count, Subsections 3c and 3d allege that the Respondent, while working as a licensed practical nurse at Hamilton Pavillion during April, 1988 and subsequent times thereto,

- c.) abused or utilized to excess one or more of said medications.
- d.) utilized one or more of the said medications while on duty as a nurse.

The Respondent was not present at the hearing to either admit or deny this charge.

The Board refers to Dept. Exhibit 3, pp.5 and 85, concerning information in the statement by Cheryl Jencks, R.N. In a written statement to drug control officer Raymond DaDalt, Nurse Jencks stated that the Respondent, while on duty as a nurse during the 3pm-11pm shift at Canterbury Villa, exited the bathroom after a prolonged period of time (15 to 20 minutes), looking very pale and sweaty. While talking to the Respondent, Ms. Jencks, "...noted a small amount of blood on his shirt sleeve, inner left elbow area."(Dept. Exhibit 3, p.85)

The Board believes the action described to be those exhibited by an impaired individual and therefore constitute a violation of Connecticut General Statutes section 20-99(b)(2) and (5) which include "(2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...;(5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...." The Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(2) and (5), as specified in the Second Count subsection 3d.

The Second Count, Subsections 3e and 3f, allege that the Respondent, while working as a licensed practical nurse at Hamilton Pavillion during April, 1988 and subsequent times thereto,

- e.) failed to completely, properly or accurately make documentations in medical or hospital records; and
- f.) falsified one or more controlled substance receipt records.

The Respondent was not present at the hearing to either admit or deny this charge.

The Board refers to Dept. Exhibit 3, p.3, and what the Board would consider questionable administration and charting patterns by the Respondent. Specifically, discrepancies appeared in four different patients medical records. For example: "Patient Mary Stauble - Drug: Darvocet-N-100. Since 6/2/88, no nurse indicated that they had administered this drug to this patient except for Mark Wilson, L.P.N. On the Kardex he has noted administrations to this patient on 6/12/88 and 6/19/88 - 3 administrations each day."

It is the Board's belief that the Respondent was willingly falsifying medical record to cover diversion of medications to himself. This conduct is a violation of Connecticut General Statutes Section 20-99(b)(6) and (7) which include, "(6) fraud or material deception in the course of professional services or activities; (7) wilful falsification of entries in any hospital, patient or other record pertaining to drugs, the results of which are detrimental to the health of a patient...."

The Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(6) and (7) as specified in the Second Count Subsections 3e and 3f.

The Third Count, Subsections 3a and 3b, allege that the Respondent, while working as a licensed practical nurse at Abbey Manor during July, 1988 and subsequent times thereto,

- a.) diverted the controlled substance Ativan; and
- b.) abused or utilized to excess the controlled substance Ativan while on duty as a nurse.

The Respondent was not present at the hearing to either admit or deny this charge.

The Board refers to Dept. Exhibit 4 in which it is documented that the Respondent verbally admitted to Drug Control Agent Raymond DaDalt, on August 4, 1988, to using 2cc's of Ativan that evening while on duty. At that time, the Respondent produced the needle/syringe he had used to inject himself. Further examination showed an additional five syringes in his sock. It was also noted that the Respondent had difficulty walking down the corridor and had to be assisted in doing so. A vial of Ativan at the agency was analyzed and found to contain blood (Dept. Exhibit 4 p.2 and Dept. Exhibit 5, pp. 3,5 and 6).

This conduct is a violation of Connecticut General Statutes Section 20-99(b)(2) and (3) which include "(2) illegal conduct, incompetence or negligence in carrying out usual nursing functions; (3) physical illness or loss of motor skill, including but not limited to deterioration through the aging process...."

The Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(2) and (3) as specified in the Third Count subsections 3a and 3b.

The Third Count, Subsection 3c alleges that the Respondent, while working as a licensed practical nurse at Abbey Manor during July, 1988 and subsequent times thereto failed to completely, properly or accurately make documentations in hospital or medical records. The Respondent was not present at the hearing to either admit or deny this charge.

The Board refers to Dept.Exhibit 4, p.1, in which the Respondent's employer, Abbey Manor Nursing Home, is documented as having registered a complaint regarding Mark Wilson's charting. Specifically, Hannah Douville, RN, DNS, at Abbey Manor Nursing Home, telephoned Raymond DaDalt to inform him that a pool nurse, Mark Wilson, had failed to perform his required charting duties on at least nine patients. For those patients that he did chart, on one he recorded a temperature of 108 degrees fahrenheit instead of 100.8 degrees.

This 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 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 the Respondent, while working as a licensed practical nurse at Abbey Manor during July, 1988 and subsequent times thereto, failed to perform required treatments on patients. The Respondent was not present at the hearing to either admit or deny this charge.

The Board refers to Dept. Exhibit 4, pp. 3-5, which shows lack of care, and/or documentation thereof, and/or innacurate or incomplete documentation for sixteen (16) patients between August 3rd and 4th, 1988. The Board believes that the Respondent was not charting on his patient's records and not providing them with the minimum acceptable nursing care.

This conduct is a violation of Connecticut General Statutes Section 20-99(b)(2) and (7) which include "(2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...; (7) wilful falsification of entries in any hospital, patient or other record pertaining to drugs, the results of which are detrimental to the health of a patient...." the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99 (b)(2) and (7) as specified in the Third Count Subsection 3d.

ORDER

It is the unanimous decision of those members of the Board of Examiners for Nursing who were present and voting that:

1. The license of the respondent be revoked;
2. The date of this revocation shall commence on March 15, 1989.
3. The Respondent, Mark S. Wilson, is hereby directed to surrender his license and current registration to the Board of Examiners for Nursing at 150 Washington Street, Hartford, Connecticut 06106 on or before March 15, 1989.

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 Hartford, Connecticut, this 25th day of January, 1989.

BOARD OF EXAMINERS FOR NURSING

By Patricia Jane M. Murphy