

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health v.

April Kim Hyatt, L.P.N.

Licensed Practical Nurse License No. 023971

115 Moss Lane

Moodus, Connecticut 06469

CASE PETITION NO. 940803-11-036

MEMORANDUM OF DECISION

INTRODUCTION

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Public Health and Addiction Services ^{1/} (hereinafter the "Department") with a Statement of Charges dated August 31, 1994^{2/} (Department Exhibit 1). The Statement of Charges alleged, in two counts, violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by April Kim Hyatt (hereinafter the "Respondent").

The Board issued a Notice of Hearing dated December 7, 1994 scheduling a hearing for March 22, 1995 (Department Exhibit 1). The hearing was rescheduled and took place on April 19, 1995 at the Department of Public Health and Addiction Services, Second Floor Hearing Room, 20 Trinity Street, Hartford, Connecticut.

^{1/} Prior to July 1, 1995 the Department of Public Health was known as the Department of Public Health and Addiction Services. (Connecticut Public Act No. 95-257)

^{2/} The Statement of Charges was presented to the Board as part of a Motion for Summary Suspension dated August 31, 1994. The Motion for Summary Suspension was denied by the Board.

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 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. April Kim Hyatt, hereinafter referred to as the Respondent, was issued Licensed Practical Nurse License Number 023971 on June 3, 1991 and was the holder of said license at all times referred to in the Statement of Charges. (Department Exhibit 1-B)
2. The Respondent was given due notice of the hearing and the charges against her. (Hearing Transcript, April 19, 1995, pp. 2-3)
3. The Respondent was present during the hearing but was not represented by counsel. (Hearing Transcript, April 19, 1995, pp.2-3).
4. During the hearing the Respondent verbally answered the Statement of Charges. (Hearing Transcript, April 19, 1995, pp. 9-11)
5. On or about December 1993, while working as a licensed practical nurse at Middlesex Memorial Hospital, Middletown, Connecticut, the Respondent diverted narcotics. (Hearing Transcript, April 19, 1995, pp. 26-27)
6. Beginning on or about March 1994 the Respondent was employed as a licensed practical nurse at Harbor Hill Care Center, Middletown, Connecticut. (Department Exhibit 1-A5)

7. On approximately three occasions while employed as a licensed practical nurse at Harbor Hill Care Center, inclusive of June 9, 1994, the Respondent diverted for her own use the controlled substance Tylenol with Codeine #3. (Department Exhibit 1-A) (Hearing Transcript, April 19, 1995, pp. 10, 27)
8. On June 9, 1994 while working as a licensed practical nurse at Harbor Hill Care Center the Respondent falsified controlled substance disposition records by forging the signature of two other nurses and by documenting that doses of Tylenol with Codeine #3 which she diverted for her own use had been administered to a patient. (Department Exhibit 1-A)
9. The Respondent abused and/or utilized to excess the controlled substance Tylenol with Codeine #3 which she diverted from Harbor Hill Care Center. (Department Exhibit 1-A) (Answer: Hearing Transcript, April 10, 1995, p. 10)
10. The Respondent has a history of alcohol abuse. (Hearing Transcript, April 19, 1995, pp. 10, 22)
11. On or about October 1994 the Respondent began substance abuse treatment inclusive of treatment with the opiate blocker Naltrexone. (Respondent's Exhibit A)
12. Beginning on or about November 1994 the Respondent has been employed as a licensed practical nurse at Cobalt Lodge Convalescent Home, Cobalt, Connecticut. (Respondent's Exhibit A)
13. On or about March 6, 1995 while employed as a licensed practical nurse at Cobalt Lodge Convalescent Home the Respondent relapsed and diverted for her own use the controlled substance Tylenol with Codeine #3. (Hearing Transcript, April 19, 1995, pp. 12-16)
14. The Respondent continues to receive treatment and counseling for chemical dependency and she actively participates in the support group Nurses for Nurses. (Respondent's Exhibit A)

DISCUSSION AND CONCLUSIONS

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

April Kim Hyatt held a valid registered nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges sufficiently provided information as mandated by the General Statutes of Connecticut §4-177 and §4-182. The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19-2a-1 through §19-2a-30 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 FIRST COUNT PARAGRAPH 2 of the Statement of Charges alleges that on or about June 13, 1994 while employed as a licensed practical nurse at Harbor Hill Care Center, Middletown, Connecticut the Respondent diverted for her own use the controlled substance Tylenol with Codeine #3, and falsified controlled substance administration records to accomplish her divisions.

The Respondent admits this charge. (Answer: Hearing Transcript, April 19, 1995, p. 10)

The FIRST COUNT PARAGRAPH 3 of the Statement of Charges alleges that on or before June of 1994, while the holder of a licensed practical nurse license, the Respondent abused and/or utilized to excess the controlled substance Tylenol with Codeine #3, and alcohol.

The Respondent admits this charge. (Answer: Hearing Transcript, April 19, 1995, p. 10)

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 carrying out 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 and the Respondent's admissions, the Board concludes that the Respondent's conduct as specified in the First Count Paragraphs 2 and 3 of the Statement of Charges is proven and that said conduct violates the General Statutes of Connecticut §20-99(2), (5) and (6). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

The SECOND COUNT of the Statement of Charges alleges that the Respondent suffers from a mental illness and/or emotional disorder which affects her ability to practice nursing with the accepted standards of the nursing profession.

The Respondent denies this charge. (Answer: Hearing Transcript, April 19, 1995, p. 11)

The Board concludes that the Department failed to prove this charge by a preponderance of the evidence. Therefore, the Second Count of the Statement of Charges is dismissed.

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 pertaining to the Respondent's conduct prior and/or subsequent to the specified charges, which is relevant to the Respondent's ability to practice nursing in accordance with the accepted standards of the nursing profession.

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 2 and 3 of the First Count the Respondent's licensed practical nurse license, No. 023971, is placed on probation for a period of four (4) years.
2. If any of the following conditions of probation are not met, the Respondent's licensed practical nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

- A. The 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 her employer(s), within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.

- B. Should the Respondent change employment during the probationary period, she shall provide a copy of this Memorandum of Decision to her employer and said employer shall notify the Board, within thirty (30) days, as to receipt of a copy of this Memorandum of Decision.

- C. The Respondent shall not accept employment as a nurse for a personnel provider service, Visiting Nurse Association or home health care agency and shall not be self-employed as a nurse during the period of her probation.

- D. For a period of six (6) months retroactive to April 19, 1995, the Respondent shall not administer, count or have access to controlled substances or have responsibility of such activities in the course of nursing duties.

- E. The Respondent shall cause monthly employer reports to be submitted to the Board by her immediate supervisor, if employed as a nurse, for the entire probationary period.

- F. The employer reports cited in Paragraph E above shall include documentation of the Respondent's ability to safely and competently practice nursing. Employer reports shall be issued to the Board at the address cited in Paragraph P below and shall commence with the report due October 1, 1995.

- G. At her own expense, the Respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist for the entire period of probation.

- H. The Respondent shall provide a copy of this Memorandum of Decision to her therapist. The Board shall be notified in writing by her therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.
- I. The Respondent shall cause monthly therapy reports to be submitted to the Board by her therapist, commencing on October 1, 1995, for the entire probationary period.
- J. The therapist reports cited in Paragraph I above shall include documentation of dates of treatment, and an evaluation of the Respondent's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. The therapist reports shall also confirm Naltrexone treatment. Discontinuation of Naltrexone treatment shall be reported to the Board. Therapist reports shall be issued to the Board at the address cited in Paragraph P below.
- K. At her own expense the Respondent shall be responsible for submitting to random urine and/or blood screens for alcohol and drugs for the entire probationary period, as ordered by her therapist, and/or personal physician, and/or the Board of Examiners for Nursing. Said screens shall be legally defensible in that chain of custody procedures must be followed throughout the screening process. The Respondent shall be responsible for immediately notifying the laboratory, her therapist and/or personal physician and the Board of Examiners for Nursing of any drug(s) she is taking. There must be at least one random alcohol/drug screen monthly for the entire probationary period. Reports of said random alcohol/drug screens are due monthly commencing with reports due on October 1, 1995.

Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

Random alcohol/drug screens must include testing for the following substances:

- Amphetamines
- Barbiturates
- Benzodiazepines
- Cannabinoids (THC Metabolites)
- Cocaine
- Meperidine (Demerol)
- Methadone
- Methaqualone
- Opiates (Metabolites)
- Phencyclidine (PCP)
- Propoxyphene
- Ethanol (Alcohol)

Reports of random alcohol and drug screens shall be submitted directly to the Board, at the address cited in Paragraph P below, by the Respondent's therapist or personal physician or the testing laboratory.

- L. The Respondent shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for her, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications, and the Respondent shall not abuse and/or excessively use alcohol and/or drugs.

- M. The Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine. For that reason, any food substances containing poppy seeds should be avoided during the probationary period.

In the event that a drug/alcohol screen is positive for opiates/morphine, the ingestion of poppy seeds shall not constitute a defense to such positive screen.

- N. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.

- O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.

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

BOARD OF EXAMINERS FOR NURSING
Department of Public Health
150 Washington Street
Hartford CT 06106

3. Any deviation from the terms of probation without prior written approval by the Board of Examiners for Nursing will constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order and will subject the 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 Connecticut Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take action at a later time. The Connecticut 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 Renewal Section of the Division of Medical Quality Assurance of the Department of Public Health and Addiction Services or the Connecticut Board of Examiners for Nursing.)
4. This Memorandum of Decision becomes effective, and the probation of the Respondent's licensed practical nurse license shall commence, on September 1, 1995.

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

Dated at Hartford, Connecticut this 31st day of August, 1995.

1246Q

BOARD OF EXAMINERS FOR NURSING

By

