

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

Department of Public Health

Petition No. 2005-0927-011-037

vs.

Christopher Grigaitis, LPN, Lic. No. 024600
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 October 27, 2005 and Motion for Summary Suspension dated November 2, 2005. Dept. Exh. 1. The Statement of Charges, which was in two counts, alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Christopher Grigaitis (hereinafter "respondent") which would subject respondent's licensed practical nurse license to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b).

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that respondent's continued nursing practice presented a clear and immediate danger to public health and safety. On November 2, 2005, the Board ordered, pursuant to its authority under § 4-182(c) and § 19a-17(c) of the General Statutes of Connecticut, that respondent's licensed practical nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. 1.

The Board issued a Notice of Hearing dated November 2, 2005, scheduling a hearing for November 16, 2005. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against him. The Notice of Hearing and Statement of Charges were delivered by state marshal to respondent on November 4, 2005. Dept. Exh. 1.

The hearing took place on November 16, 2005, in Room 1-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was present during the hearing but was not represented by counsel. Transcript, November 16, 2005, pp. 2.

Respondent submitted an oral Answer to the Statement of Charges. Transcript, pp. 5-9.

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.

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 024600. Respondent was the holder of said license at all times referenced in the Statement of Charges. Transcript, p. 6.

First Count

2. At all relevant times, respondent was employed as a licensed practical nurse at Haven Health of Newington, in Newington, Connecticut. Transcript, p. 6.
3. On or about September 10, 2005, patient S.F. had medication orders for 1 or 2 tablets of Roxicet (Percocet) to be administered every four hours. On September 10, 2005, respondent signed out on the controlled substance disposition record for patient S.F. that he administered 2 tablets of Roxicet at approximately 2:00 a.m. and again at 6:00 a.m. Patient S. F. questioned whether in fact she was given her correct medication. It was determined that the tablets given to patient S.F. at 6:00 a.m. were in fact extra strength Tylenol. Patient S.F. did not have orders to be administered extra strength Tylenol. Dept. Exh. 2, pp. 4, 22-23; Transcript, pp. 20, 23.
4. On or about September 10, 2005, patient M.D. had medication orders for 1 or 2 tablets of Roxicet (Percocet) to be administered every four hours. At approximately 2:00 a.m. on September 10, 2005 patient M.D. requested her Percocet medication, however, respondent administered two tablets of extra strength Tylenol. Dept. Exh. 2, p. 18.
5. Respondent signed out on the controlled substance disposition record for patient M.D. that he administered 2 tablets of Roxicet at approximately 2:00 a.m. and again at 6:00 a.m. on September 10, 2006. Patient M.D. informed staff that she did not receive any analgesics after being administered the Tylenol. Dept. Exh. 2, pp. 3, 20-21; Transcript, pp. 22.
6. During September 2005, while working as a licensed practical nurse at Haven Health of Newington, in Newington, Connecticut, respondent failed to completely, properly, and/or accurately document medication records. Transcript, p. 6.
7. On or about September 10, 2005, respondent diverted controlled substances by administering extra strength Tylenol instead of Percocet that was ordered for patients. In addition, respondent falsified one or more controlled substance receipt records by documenting that he administered Percocet to patients when in fact the patients did not receive the medication. Dept. Exh. 2; Transcript, p. 29.

Second Count

8. Pursuant to a Memorandum of Decision in Petition Number 2002-0710-011-031 issued by the Board dated June 18, 2003, the Board ordered that respondent's licensed practical nurse license be placed on probation for a period of four years. Such disciplinary action was based upon respondent's admitted diversion of lorazepam, and failure to completely, properly, and/or accurately document medical or facility records, and failure to properly deliver medications to patients. Dept. Exh. 2, pp. 6-13.

9. On July 20, 2005, the Board issued a Memorandum of Decision in Petition Number 2005-1021-011-021 that ordered that the Memorandum of Decision in Petition Number 2002-0710-011-031 continue in full force and effect. Such disciplinary action was based in part on upon proof of respondent's admitted failure to properly document the dispensing of medications to patients. Said Order specifically required that respondent's employer submit reports to the Department documenting respondent's ability to safely and competently practice nursing. Dept. Exh. 2, pp. 14-17.
10. Respondent's employer reported to the Department that respondent was suspended and was subsequently terminated from Haven Health of Newington effective September 11, 2005, for failure to follow facility, State and Federal professional standards of practice.

Conclusions of Law and Discussion

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

Christopher Grigaitis 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 his 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 2 OF THE FIRST COUNT of the Statement of Charges alleges that at all relevant times, respondent was employed as a licensed practical nurse at Haven Health of Newington, in Newington, Connecticut.

PARAGRAPH 3 OF THE FIRST COUNT of the Statement of Charges alleges that respondent, while working as a licensed practical nurse at Haven Health of Newington, failed to completely, properly and/or accurately document medication records.

PARAGRAPH 4 OF THE FIRST COUNT of the Statement of Charges alleges that while working as a licensed practical nurse at Haven Health of Newington, in Newington, Connecticut respondent:

- a. diverted controlled substances by administering Tylenol Extra Strength instead of the Percocet prescribed for two patients;
- b. failed to completely, properly and/or accurately document medical records; and/or
- c. falsified one or more Controlled Substance Receipt Records.

PARAGRAPH 5 OF THE FIRST COUNT of the Statement of Charges alleges that respondent's abuse of controlled substances does, and/or may, affect his practice as a licensed practical nurse.

PARAGRAPH 8 OF THE SECOND COUNT of the Statement of Charges alleges that on June 18, 2003, the Board issued an Memorandum of Decision in Petition Number 2002-0710-011-031 (hereafter "the First Decision") that placed respondent's licensed practical nurse license on probation for a period of four years. Such disciplinary action was based in part upon proof of respondent's admitted diversions of lorazepam, failure to completely, properly, and/or accurately document medical or facility records, and failure to properly deliver medications to patients.

PARAGRAPH 9 OF THE SECOND COUNT of the Statement of Charges alleges that on July 20, 2005, the Board issued a Memorandum of Decision in Petition Number 2004-1021-011-021 (hereafter "The Second Decision") that ordered that the Memorandum of Decision in Petition Number 2002-0710-011-031 continue in full force and effect. Such disciplinary action was based in part upon proof of respondent's admitted failure to properly document dispensing of medication to patients.

PARAGRAPH 10 OF THE SECOND COUNT of the Statement of Charges alleges that said Decision specifically provided that the respondent's employee reports shall include documentation of his ability to safely and completely practice nursing.

Respondent admits to these charges. Transcript, November 16, 2005, pp. 8-9.

PARAGRAPH 11 OF THE SECOND COUNT of the Statement of Charges alleges that respondent's employment at Haven Health of Newington was terminated by the facility during September 2005 for his failure to follow facility, state and Federal professional standards of practice.

As to the First Count respondent admits paragraphs 2, 3, 4b, but denies paragraphs 4a, 4c, and 5. As to the Second Count respondent admits paragraphs 8, 9, and but denies paragraph 11.

The General Statutes of Connecticut § 20-99 provides in relevant part:

(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 carrying out usual nursing functions... (7) willful falsification of entries in any hospital, patient or other record pertaining to drugs, the result of which are detrimental to the health of a patient.

Based on its findings and respondent's admissions, the Board concludes that respondent's conduct as alleged in Paragraphs 2, 3, and 4 of the First Count is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§20-99(b)(2), (7), and 19a-17.

Based on the finding that respondent documented on controlled substance disposition records that Roxicet (Percocet) was administered when in fact the patients did not receive said medications, a preponderance of the evidence establishes that the medications were diverted. The Board further concludes that respondent's failure to administer the medications as ordered and requested by the patients was detrimental to the well being of the patients. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§20-99(b)(2) and (7) and 19a-17.

The Board finds no evidence of impairment to suggest that respondent abused the medications that were diverted. The Board concludes Paragraph 5 of the First Count was not proven by a preponderance of the evidence and is therefore dismissed.

Based on its findings, the Board concludes that Paragraphs 8, 9, 10 and 11 of the Second Count were proven by a preponderance of the evidence presented. The Board concludes that respondent's conduct of failing to follow facility, State and Federal professional standards of practice constitutes a violation of the terms of probation as set forth in the Memorandum of Decision dated June 18, 2003. 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. That for Paragraphs 2, 3, and 4 of the First Count and Paragraphs 8, 9, 10, 11, of the Second Count respondent's licensed practical nurse license number 024600, is revoked effective the date this Memorandum of Decision is signed by the Board.

2. The Board finds the violations set forth in the First Count and the Second Count of the Statement of Charges are severable and each separate Count warrants the revocation of respondent's license.

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

Dated at Hartford, Connecticut this 21st day of June 2006.

BOARD OF EXAMINERS FOR NURSING

By 