

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health

Petition No. 2003-0506-011-018

vs.

Michele McCabe, LPN, Lic. No. 025392
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 June 4, 2003. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Michele McCabe (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).

The Board issued a Notice of Hearing dated June 4, 2003, scheduling a hearing for November 19, 2003. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. The Notice of Hearing and Statement of Charges were delivered by certified mail to respondent and respondent's attorney. Dept. Exh. 1.

The hearing took place on November 19, 2003, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was present during the hearing and was represented by counsel. Transcript, November 19, 2003, p. 2.

Respondent submitted a written Answer to the Statement of Charges. Resp. Exh. A.

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 025392 on May 20, 1994. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh.1 - tab 2.
2. For approximately six and one-half years until February 27, 2003, respondent was employed as a licensed practical nurse at St. Mary's Hospital, Waterbury, Connecticut. Dept. Exh. 1-tab 1, p. 31 (underseal), tab 4; Transcript, p.136.
3. On various occasions in February 2003, while working as a licensed practical nurse at St. Mary's Hospital, respondent failed to administer morphine sulfate and/or hydromorphone to the following patients as ordered by such patients' physicians: (1) On February 10, 2003, although patient J.C. had physician orders to be administered 1 mg of Hydromorphone every 6 hours, respondent administered 0.5 mg of hydromorphone to patient J.C. at 12:15 a.m.; 12:45 a.m.; 4:45 a.m.; and 5:15 a.m.; (2) On February 19, 2003, although patient K.S. had physician orders for morphine sulfate to be administered every 3 to 4 hours, respondent withdrew morphine sulfate for administration to patient K.S. at 5:42 p.m.; 6:27 p.m.; 7:05 p.m.; and 8:47 p.m. Dept. Exh. 1 pp.4-7, 29 (underseal); Transcript, 144-150.
4. On one or more occasions in February 2003, respondent failed to have another licensed nurse observe and/or document respondent's waste of controlled substances. Dept. Exh. 1 pp.4-7; Transcript, p. 140 -142; Answer.
5. On one or more occasions in February 2003, respondent failed to completely, properly and/or accurately document medical or hospital records in that she withdrew doses of controlled substances for administration to patients but failed to ensure there was corresponding documentation on patients' medication administration records. Dept. Exh. 1, pp. 32-33(underseal); Resp. Exh. A-tab 1; Answer.
6. Respondent submitted to four random urine screens on March 25, 2003, April 9, 2003, April 21, 2003 and September 22, 2003. Laboratory results for the urine specimens were negative for the presence of any controlled substances or illegal drugs. Respondent underwent a substance abuse evaluation on March 25, 2003 to determine whether she had a chemical dependency. The report concluded respondent had no chemical dependency. Rt. Exh. A-tab 2; tab 4; Transcript, p. 150.

Conclusions of Law and Discussion

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

Respondent 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 her 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 3 of the Statement of Charges alleges that on various occasions in February 2003, while working as a licensed practical nurse at St. Mary's Hospital, Waterbury, Connecticut, respondent failed to properly administer morphine sulfate and hydromorphone to one or more patients as ordered by the patients' physicians.

Respondent denies this allegation in her Answer, but admitted the facts during her testimony. Resp. Exh. A

PARAGRAPH 4 of the Statement of Charges alleges that on one or more occasions in February 2003, while working as a licensed practical nurse at St. Mary's Hospital, respondent failed to have a second staff person observe and/or document the waste of controlled substances.

Respondent admits this allegation. Resp. Exh. A

PARAGRAPH 5 of the Statement of Charges alleges in February 2003, while working as a licensed practical nurse at St. Mary's Hospital, respondent:

- a. diverted morphine sulfate and/or hydromorphone (Dilaudid), both of which are schedule two controlled substances;
- b. failed to properly and accurately document in patient and/or hospital records; and/or,
- c. falsified one or more Controlled Substance Receipt Records.

Respondent denies the allegations in 5a and 5c but admits the allegation in 5b. Resp. Exh. A

PARAGRAPH 6 of the Statement of Charges alleges that in February 2003 respondent abused or utilized to excess morphine sulfate and/or hydromorphone.

Respondent denies this allegation. Resp. Exh. A

PARAGRAPH 7 of the Statement of Charges alleges that respondent's abuse of morphine sulfate and/or hydromorphone does, and/or may, affect her practice as a nurse.

Respondent denies this allegation. Resp. Exh. A

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

(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17. . . .

(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 . . .

Based on its findings, respondent's admissions and her credible testimony, the Board concludes that respondent's conduct as alleged in Paragraphs 2, 3, 4, and 5b, of the Statement of Charges 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) and 19a-17.

The Board concludes that the Department failed to prove by a preponderance of the evidence the allegations in paragraphs 5a, 5c, 6 and 7. Therefore, paragraphs 5a, 5c, 6 and 7 of the Statement of Charges are dismissed.

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, 4, and 5b of the Statement of Charges, respondent's licensed practical nurse license, number 025392, is placed on probation for a period of one (1) year.
2. If any of the following conditions of probation are not met, respondent's licensed practical nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.
 - A. During the period of probation, the Board shall pre-approve respondent's employment and/or change of employment within the nursing profession.

- B. 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 any employer(s), within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
- C. If employed as a nurse, respondent shall cause monthly employer reports to be submitted to the Board by her immediate supervisor during the entire probationary period.
- D. The employer reports cited in Paragraph C above shall include documentation of respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph H below.
- E. Should respondent's employment as a nurse be involuntarily terminated, respondent and/or her employer shall notify the Board, within seventy-two (72) hours, of such termination.
- F. If respondent pursues further training in any subject area that is regulated by the Department, respondent shall provide a copy of this Memorandum of Decision to the educational institution or, if not an institution, to respondent's instructor. Such institution or instructor shall notify the Department in writing as to receipt of a copy of this Memorandum of Decision within fifteen (15) days of receipt. Said notification shall be submitted directly to the Department at the address cited in Paragraph H below.
- G. The Board must be informed in writing prior to any change of address.
- H. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, RN, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
Board of Examiners For Nursing
410 Capitol Avenue, MS #12HSR
P. O. Box 340308
Hartford CT 06134-0308

- 3. Any deviation from the terms of probation, without prior written approval by the Board, shall constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order. Any finding that respondent has violated this Order will subject 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 Board shall not be a waiver or preclude the Board's right to take subsequent action. The Board 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 Office of Practitioner Licensing and Certification of the Department of Public Health or the Board).

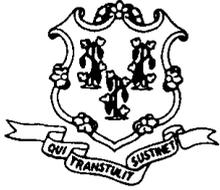
4. This Memorandum of Decision becomes effective, and the one year probation of licensed practical nurse license 025392 shall commence, on April 15, 2004.

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

Dated at Newington, Connecticut this 21st day of April 2004.

BOARD OF EXAMINERS FOR NURSING

By Jean Dolbin CRNA, APRN



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

May 13, 2005

Michele McCabe, LPN
146 Bunker Hill Road
Watertown, CT 06795

Re: Memorandum of Decision
Petition No. 2003-0506-011-018
License No. 025392

Dear Ms. McCabe:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective April 15, 2005.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your license related to the above-referenced Memorandum of Decision.

Please be certain to retain this letter as documented proof that you have completed your license probation.

Thank you for your cooperation during this process.

Very truly yours,

Bonnie Pinkerton, RN, Nurse Consultant
Division of Health Systems Regulation

cc: J. Filippone
J. Wojick



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