

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

Department of Public Health

Petition No. 2001-0125-011-003

vs.

Joel Ketchale, LPN, Lic. No. 026598
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 and Motion for Summary Suspension dated February 1, 2001. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Joel Ketchale (hereinafter "respondent") which would subject respondent's licensed practical nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

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 February 7, 2001, 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 February 7, 2001, scheduling a hearing for February 21, 2001. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against him. The hearing was continued at respondent's request. The hearing was rescheduled and took place on December 5, 2001, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Board Exh. A; Transcript, pp. 5-6.

Respondent was not present during the hearing and was not represented by counsel. Transcript, pp. 3-4.

Respondent did not file an Answer to the Statement of Charges.

During the hearing, the Board granted the Department's Motion to Amend the Statement of Charges and the Department's Motion to Deem Allegations admitted. Transcript, pp. 2-3, 8.

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 026598 on February 7, 1997. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1-B.
2. In December 2000 and January 2001, respondent was employed as a licensed practical nurse at Alexandria Manor, Bloomfield, Connecticut. Dept. Exh. 1-A.
3. In or about December 2000 and January 2001, while working as a registered nurse at Alexandria Manor, respondent diverted for his own personal use the controlled substance Oxycontin and Zydone; failed to completely, properly, and/or accurately document medical or hospital records; and falsified one or more Controlled Substance Receipt Records. Dept. Exh. 1-A.
4. From in or about 1997 to January 2001, respondent abused or utilized to excess the controlled substance Oxycontin. Dept. Exh. 1-A.
5. Respondent's abuse of Oxycontin and Zydone does, and/or may, affect his practice as a licensed practical nurse.

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 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 3 of the First Amended Statement of Charges alleges that in or about December 2000 and January 2001, while working as a licensed practical nurse at Alexandria Manor, Bloomfield, Connecticut, respondent:

- a. diverted the controlled substances Oxycontin and Zydone;
- b. failed to completely, properly, and/or accurately document medical or hospital records; and/or,
- c. falsified one or more Controlled Substance Receipt Records;

PARAGRAPH 4 of the First Amended Statement of Charges alleges from in or about 1997 to January 2001, respondent abused or utilized to excess the controlled substance Oxycodone.

PARAGRAPH 5 of the First Amended Statement of Charges alleges that respondent's abuse of Oxycontin and Zydone does, and/or may, affect his practice as a licensed practical nurse.

Respondent did not submit an Answer to the Statement of Charges. Pursuant to §19-9-20 of the Regulations of Connecticut State Agencies the Board deems the allegations in the First Amended Statement of Charges to be admitted.

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 performing 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, the Board concludes that respondent's conduct as alleged in Paragraphs 3, 4, and 5 of the First Amended Statement of Charges is proven by a preponderance of the evidence. The Board further concludes that said conduct constitutes a violation of *Conn. Gen. Stat.* §20-99(b)(2), (5), and (6). 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 3, 4 and 5 of the First Amended Statement of Charges, respondent's licensed practical nurse license, number 026598, is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

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

Dated at Newington, Connecticut this 3rd day of April 2002.

BOARD OF EXAMINERS FOR NURSING

By  _____