STATE OF CONNECTICUT

BOARD OF EXAMINERS FOR NURSING

Department of Public Health

vs.

Phyllis Robinson, LPN, Lic. No. 027827
Respondent

Petition No. 2001-0802-011-024

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 December 20, 2001. Dept. Exh. A. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Phyllis Robinson (hereinafter "respondent") which would subject respondent's licensed practical nurse license to disciplinary action pursuant to 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 January 16, 2002, 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. A.

The Board issued a Notice of Hearing dated January 16, 2001, scheduling a hearing for February 6, 2002. Dept. Exh. A.

Respondent was provided notice of the hearing and charges against her. Department Exhibit A indicates that the Summary Suspension Order, Notice of Hearing and Statement of Charges were served on respondent by State Marshal on February 4, 2002.

The hearing took place on February 6, 2002, in the Council Chambers, Newington Town Hall, 131 Cedar Street, Newington, Connecticut.

Respondent was present during the hearing but was not represented by counsel. Transcript, February 6, 2002, pp. 3.

Respondent orally answered the Statement of Charges. Transcript, February 6, 2002, pp. 8-9.

The Board continued the hearing to allow respondent an opportunity to present evidence and witnesses. Transcript, February 6, 2002, pp. 44-54.

Respondent did not appear at a hearing scheduled for June 19, 2002. Transcript, June 19, 2002, p. 3.

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 027827 on October 1, 1999. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. A-D; Transcript, February 6, 2002, p. 8.

2. During 2001, while employed by Nursing Services Incorporated, respondent worked at Bayview Healthcare, Waterford, Connecticut; Groton Regency, Groton, Connecticut; Camelot Nursing and Rehabilitation Center, New London, Connecticut; and St. Christopher's Health Center, Norwich, Connecticut. Dept. Exh. A-B.

3. While working at Bayview Healthcare, respondent forgot to give patients their medications, was asleep while on duty, and was not dependable. Dept. Exh. A-B5.

4. While working at St. Christopher's Health Center, respondent documented on a controlled substance disposition record that she administered the controlled substance Ambien to patient K.B. during the months of March and April 2001. Patient K.B., who is alert and oriented informed the Director of Nursing Services that she does not take Ambien. Dept. Exh. A-B5, B6, B11.

5. While working at Camelot Nursing and Rehabilitation Center, respondent documented on a Controlled Drug/Receipt/Disposition Form that she administered the controlled substance Darvocet-N 100 to patient F.L. on thirteen occasions from April 18, 2001 to June 14, 2001; however, there was no corresponding documentation in the medication administration records or nursing notes. Dept. Exh. A-B6, B13-17.

6. While working at Camelot Nursing and Rehabilitation Center, respondent documented on a Controlled Drug/Receipt/Disposition Form that she administered the controlled substance Oxycodone to patient A.C. at 12:15 a.m. and 6:30 a.m. on June 22, 2001, and at 9:00 p.m. on June 26, 2001; however, there was no corresponding documentation in the medication administration records or nursing notes. Patient A.C., who is alert and oriented, denied receiving the 6:30 a.m. dose on June 22, 2001 or the 9:00 p.m. dose on June 26, 2001. A urine specimen obtained from A.C. was negative for the presence of Oxycodone. Dept. Exh. A-B6, B7, B18-21.

7. While working at Camelot Nursing and Rehabilitation Center, respondent documented on a Controlled Drug/Receipt/Disposition Form that she administered the controlled substance Endocet (Oxycodone) to patient L.M. at 5:00 p.m. on. June 21, 2001; however, there was no corresponding documentation in the medication administration records or nursing notes. Patient L.M., who is alert and oriented, denied receiving the dose of Endocet. A urine specimen obtained from L.M. was negative for the presence of Oxycodone. Dept. Exh. A-B7, B22-26.

8. During an interview with State of Connecticut Drug Control Agents on July 16, 2001, respondent gave a sworn written statement that she diverted the controlled substances Vicodin and Percocet for her own use and that she diverted Darvocet to give to a nurses aide. Dept. Exh. A-B8-10.

Conclusions of Law and Discussion

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

Phyllis Robinson held a valid licensed practical nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Summary Suspension Order, 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 Statement of Charges alleges that respondent fraudulently obtained Ambien, Darvocet-N, Oxycodone, Endocet, Vicodin, and/or Percocet and while working as a licensed practical nurse abused or utilized those substances to excess.

PARAGRAPH 3 of the Statement of Charges alleges that respondent's abuse of Ambien, Darvocet-N, Oxycodone, Endocet, Vicodin, and/or Percocet, does and/or may, affect her practice as a licensed practical nurse.

Respondent denies these charges. Transcript, February 6, 2002, pp. 8-9.

The Board finds that respondent's denial of the charges and her testimony are not credible.

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 . . .

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 2 and 3 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 (5) and 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 Paragraph 2 of the Statement of Charges, respondent's licensed practical nurse license, number 027827, is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

2. That for Paragraph 3 of the Statement of Charges, respondent's licensed practical nurse license, number 027827, 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, Phyllis Robinson, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 6th day of November, 2002.

BOARD OF EXAMINERS FOR NURSING

By Nancy L Bafunds

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