

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health

Petition No. 2001-1211-011-035

vs.

Sandra Netto, LPN, Lic. No.028194
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 January 14, 2002. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Sandra Netto (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 February 20, 2002, scheduling a hearing for June 19, 2002. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. Department Exhibit 1 indicates that the Notice of Hearing and Statement of Charges were delivered by certified mail to respondent's address of record.

The hearing took place on June 19, 2002, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Respondent was present during the hearing and was represented by counsel. Transcript, June 19, 2002, p. 2.

Respondent submitted a written Answer to the Statement of Charges. Resp. Exh. A1-1.

During the hearing on June 19, 2002 the Department amended the Statement of Charges by adding "Roxicet" to paragraphs 3a and 5, and by changing "October" to "September" in paragraphs 3 and 4. Respondent orally amended her Answer to the Statement of Charges by admitting paragraph 3a as amended. Transcript, June 19, 2002, pp. 10-19.

On July 17, 2002, a Motion to Amend Statement of Charges and First Amended Statement of Charges were filed by the Department of Public Health. Respondent filed an Answer to First Amended Statement of Charges. Board Exhs. 1 and 2.

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 028194 on October 17, 2000. Respondent was the holder of said license at all times referenced in the First Amended Statement of Charges. Dept. Exh. 2-B; Board Exh. 2.
2. Beginning in November 2000, respondent was employed as a licensed practical nurse at Mediplex of Westport, Connecticut. Board Exhs. 1 and 2; Resp. Exh. A-2-1; Transcript, June 19, 2002, p. 39.
3. From September 2001 to November 2001, while working as a licensed practical nurse at Mediplex of Westport, respondent diverted the controlled substances Propoxyphene, Roxicodone, Percocet and/or Roxicet; failed to completely, properly and/or accurately document medical or hospital records; and falsified one or more Controlled Substance Receipt Records. Board Exhs. 1 and 2; Resp. Exh. A 2-2; Transcript, June 19, 2002, pp.18, 41.
4. On November 8, 2001, respondent diverted a 2:00 p.m. dose of medication prescribed for patient R.K; however, respondent charted that the medication had been given at 2:00 p.m. This resulted in an hour delay when patient R.K. later requested the medicine. Patient R.K. finally received the dose at 5:30 p.m., when other personnel administered it. Transcript, June 19, 2002, pp. 48, 53.
5. Respondent diverted the controlled substances from Mediplex of Westport to give to her husband who suffers from chronic pain. Resp. Exh. A-2-2; Transcript, June 19, 2002, pp. 41-42.
6. Respondent has been receiving individual therapy for depression, post-traumatic stress disorder, and anxiety disorder. Respondent's therapist indicates there is no evidence that respondent has abused controlled substances. Resp. Exh. A-3-1; Transcript, June 19, 2002, pp. 28-35.
7. Respondent's therapist is of the opinion that continued counseling would be beneficial for respondent. Resp. Exh. A-3-2; Transcript, June 19, 2002, p. 34.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered: Sandra Netto held a valid licensed practical nurse license in the State of Connecticut at all times referenced in both the Statement of Charges and the First Amended 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 between approximately September 2001 and November 2001, while working as a licensed practical nurse at Mediplex of Westport, respondent:

- a. diverted Propoxyphene, Roxicodone, Percocet and/or Roxicet;
- b. falsified controlled substance receipt records;
- c. failed to completely, properly and/or accurately document medical or hospital records;

Respondent admits these charges. Board Exh. 2; Transcript, June 19, 2002, pp. 18-19.

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 . . .

Based on its findings and respondent's admission, the Board concludes that respondent's conduct as alleged in Paragraph 3 of the First Amended 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.

PARAGRAPH 4 of the First Amended Statement of Charges alleges that between approximately September 2001 and November 2001, while working as a registered nurse at Mediplex of Westport, respondent abused or utilized to excess Propoxyphene, Roxicodone, Percocet and/or Roxicet.

PARAGRAPH 5 of the First Amended Statement of Charges alleges that respondent's abuse of Propoxyphene, Roxicodone, Percocet and/or Roxicet does, and/or may, affect her practice as a licensed practical nurse.

Respondent denies the charges in paragraphs 4 and 5. Board. Exh. 2.

Based on its findings, the Board concludes that respondent's conduct as alleged in paragraphs 4 and 5 of the First Amended Statement of Charges has not been proven by a preponderance of the evidence presented. Therefore, paragraphs 4 and 5 are dismissed.

Order

Pursuant to its authority under *Conn. Gen. Stat.* §19a-17 and §20-99(b)2, the Board of Examiners for Nursing hereby orders the following:

1. For Paragraph 3 of the First Amended Statement of Charges, respondent's licensed practical nurse license, number 028194 is placed on probation for a period of two (2) years.
2. For Paragraph 3 of the First Amended Statement of Charges, respondent is assessed a civil penalty in the amount of two hundred fifty dollars (\$250.00).
 - A. The \$250.00 civil penalty is payable within thirty days of the effective date of this Memorandum of Decision.
 - B. Payment of the civil penalty shall be made by certified check payable to "Treasurer, State of Connecticut" and shall be sent 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. 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 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 M 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 M below.
- G. At her expense, respondent shall engage in monthly therapy and counseling sessions to deal with the issues which led her to divert narcotics to her husband. Said sessions shall continue for the entire period of probation, with a licensed or certified therapist, who is approved by the Board and the Department.
- H. 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. Respondent shall cause monthly evaluation reports to be submitted to the Board by her therapist during the entire probationary period.
- J. The therapist reports cited in Paragraph I above shall include documentation of dates of treatment, and an evaluation of respondent's progress and ability to safely and competently practice nursing. Therapist reports shall be submitted directly to the Board at the address cited in Paragraph M below.
- K. The Board must be informed in writing prior to any change of employment
- L. The Board must be informed in writing prior to any change of address.
- M. 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
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4. 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).
5. This Memorandum of Decision becomes effective, and the 2 (two) year probation of licensed practical nurse license 028194 shall commence, on December 15, 2002.

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

Dated at Hartford, Connecticut this 4th day of December 2002.

BOARD OF EXAMINERS FOR NURSING

By 



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

December 14, 2004

Sandra Netto, LPN
4 Meadowview Terrace
Monroe, CT 06468

Re: Memorandum of Decision
Petition No. 2001-1211-011-035
License No. 028194
D.O.B. [REDACTED]

Dear Ms. Netto:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective December 15, 2004.

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.

Respectfully,

A handwritten signature in cursive script that reads "Olive Tronchin".

Olive Tronchin
Division of Health Systems Regulation

cc: J. Fillippone
J. Wojick



Phone: (860) 509-7400
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