

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

Alicia Doucette, L.P.N.
License No. 031888

Petition No. 2012-38

MEMORANDUM OF DECISION

I

Procedural Background

On April 15, 2013, the Department of Public Health ("Department") filed a Statement of Charges ("Charges") with the Board of Examiners for Nursing ("Board"). Board ("Bd.") Exhibit ("Ex.") 1. The Charges allege violations of Chapter 378 of the General Statutes of Connecticut ("Statutes") by Alicia Doucette, L.P.N. ("Respondent") which would subject Respondent's licensed practical nurse license to disciplinary action pursuant to Conn. Gen. Stat. §§ 19a-17 and 20-99(b).

Respondent's address of record is 15 Highland Avenue, Meriden, Connecticut 06451. Department ("Dept.") Ex. 1, p. 1; Transcript ("Tr.") p. 3.

On April 17, 2013, the Charges and a Notice of Hearing ("Notice") were sent to Respondent's address of record by certified and first class mail. Bd. Exh. 2. On April 20, 2013, the mail was delivered to Respondent's address of record and Harold Musler signed for the delivery. Bd. Ex. 2, p. 4; Tr. p. 3.

The hearing was held on June 19, 2013. Respondent was neither present nor represented by counsel during the hearing. Tr. pp. 2-4. Attorney Leslie Scoville represented the Department.

Respondent did not file an Answer to Charges. Tr. p. 4.

During the hearing, the Department orally moved to deem the allegations admitted ("Motion"). Tr. p. 4.

After the Board determined that the Department had made all reasonable efforts to provide Respondent with written notice of the hearing, the Board granted the Department's Motion. Tr. p. 4. Following the close of the record, the Board conducted fact finding.

Each member of the Board involved in this decision attests that 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. *Pet v. Department of Health Services*, 228 Conn. 651 (1994).¹

II

Allegations

1. In paragraph 1 of the Charges, the Department alleges that Alicia Doucette of Meriden, Connecticut is, and has been at all times, as referenced in the Charges, the holder of Connecticut licensed practical nurse license number 031888. Respondent's licensed practical nurse license lapsed on July 31, 2012.
2. In paragraph 2 of the Charges, the Department alleges that at all relevant times, Respondent was employed as a licensed practical nurse at Regency House, in Wallingford, Connecticut ("facility").
3. In paragraph 3 of the Charges, the Department alleges that during January 2012, while working as a licensed practical nurse at the facility, Respondent:
 - a. diverted hydrocodone;
 - b. failed to completely, properly and/or accurately document medical or hospital records; and/or,
 - c. falsified one or more Controlled Substance Receipt Records.
4. In paragraph 4 of the Charges, the Department alleges that during January 2012, Respondent abused or utilized to excess hydrocodone.
5. In paragraph 5 of the Charges, the Department alleges that Respondent's abuse of hydrocodone, does, and/or may affect her practice as a licensed practical nurse.
6. In paragraph 6 of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to Conn. Gen. Stat. § 20-99(b), including, but not limited to:
 - a. § 20-99(b)(2); and/or,
 - b. § 20-99(b)(5).

¹ The Board's jurisdiction to adjudicate this case is established by Conn. Gen. Stat. § 19a-14a which provides that for the purposes of an investigation or imposition of disciplinary action, an expired license is considered valid if the investigation or the disciplinary action is commenced within 18 months of the person's having held a valid license. In the instant case, Respondent's license expired on July 31, 2012. Eighteen months from the license's expiration date is January 31, 2014. On June 21, 2012, the Department began its investigation of Respondent's alleged misconduct. The Charges were filed on April 15, 2013. Thus, both actions occurred within 18 months of the date Respondent's license expired.

III

Findings of Fact

1. The Department provided Respondent with reasonable and adequate written notice of the hearing and the allegations contained in the Charges. Bd. Ex. 1-2; Tr. pp. 3-4.
2. Respondent did not file an Answer and did not appear at the hearing. Tr. pp. 2-4.
3. Respondent of Meriden, Connecticut is, and has been at all times, as referenced in the Charges, the holder of Connecticut licensed practical nurse license number 031888. Respondent's licensed practical nurse license lapsed on July 31, 2012. Dept. Ex. 1, p. 1.
4. Respondent was employed as a licensed practical nurse at Regency House, in Wallingford, Connecticut ("facility"). Dept. Ex. 1, p. 1.
5. During January 2012, while working as a licensed practical nurse at the facility, Respondent:
 - a. diverted hydrocodone;
 - b. failed to completely, properly and/or accurately document medical or hospital records; and
 - c. falsified one or more Controlled Substance Receipt Records.Dept. Ex. 1, pp. 35, 36-37, 42-52, 54-80.
6. During January 2012, Respondent abused or utilized hydrocodone to excess. *Id.*
7. Respondent's abuse of hydrocodone, does affect her practice as a licensed practical nurse. *Id.*

IV

Discussion and Conclusions of Law

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Jones v. Connecticut Medical Examining Board*, 309 Conn. 727 (2013). The Department sustained its burden of proof with regard to all of the allegations contained in the Charges.

Conn. Gen. Stat. § 20-99 provides, in pertinent part, that:

- (a) The Board . . . 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; . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; . . .

The Department did not offer any testimonial evidence to prove its case. However, in addition to its Motion, the Department entered into the record its investigative report which was marked and entered into the record as Dept. Ex. 1. The investigative report was entered into the record as a business record exception to the hearsay rule and was found to have sufficient indicia of reliability to be given substantial weight. *Dolgner v. Jon M. Alander, Commissioner of Human Resources*, 237 Conn. 272, 676 A.2d 865 (1996).

Under the rules of practice, allegations in the Charges that are not properly answered *shall* be deemed admitted. Conn. Agencies Regs. §§ 19a-9-19(c), 19a-9-20. Emphasis added. In addition, the Notice sets forth the obligations to file an Answer and appear at the Hearing and the consequences of failing to do so. Bd. Ex. 2, p. 1. In this case, although reasonable efforts were made to effectuate notice in compliance with Conn. Agencies Regs. § 19a-9-18, Respondent did not file an Answer responding to the Charges or appear at the hearing. Findings of Fact (“FF”) 1-3. As such, during the hearing, the Hearing Officer granted the Department’s Motion. Tr. p. 4. Thus, Respondent has been deemed to have admitted each and every allegation contained in the Charges.

The admitted conduct renders Respondent’s license subject to sanctions, including among others, revocation. Where a party has been deemed to have impliedly admitted the allegations of the complaint, the pleader is entitled to judgment or relief if the allegations of the complaint are sufficient to support a claim for judgment or relief. *See, Comm’r of Social Services v. Smith*, 265 Conn. 723, 737 (2003). Under Conn. Gen. Stat. §§ 20-99(b) (2) and (5), the Board can discipline the license of a nurse who “fails to conform to the accepted standards of practice of the nursing profession, including, but not limited to, the following: . . . illegal conduct, incompetence or negligence in carrying out usual nursing functions [and] abuse or excessive use of drugs, including alcohol, narcotics or chemicals.”

Based on the foregoing, the Board finds that the Department has established that Respondent, while working as a licensed practical nurse at the facility, diverted hydrocodone

from two of its residents, failed to completely, properly and/or accurately document medical or hospital records, and falsified numerous Controlled Substance Receipt Records. FF 5. The Board further finds that Respondent has abused hydrocodone to excess and Respondent's abuse of hydrocodone does affect her practice as a licensed practical nurse.

Thus, the Board concludes that Respondent's conduct constitutes grounds for disciplinary action pursuant to Conn. Gen. Stat. §§ 20-99(b) (2), (5) and 19a-17.² In light of the nature of Respondent's misconduct, revocation of her license is an appropriate remedy.

V

Order

Based on the record in this case, the above findings of fact and conclusions of law, the Board hereby orders, that license number 031888 held by Alicia Doucette to practice as a licensed practical nurse in the State of Connecticut is hereby REVOKED.

This Memorandum of Decision becomes effective on the date signed by the Board.

The Board hereby informs Respondent, Alicia Doucette, and the Department of this decision.

Dated at Hartford, Connecticut this 18th day of September 2013.

BOARD OF EXAMINERS FOR NURSING

By Patricia C. Bouffard, D.N.Sc.
Patricia C. Bouffard, D.N.Sc., Chair

² Pursuant to Conn. Gen. Stat. § 19a-17, the Board may impose disciplinary action, as set forth in the Statute, upon the finding of a good cause.

CERTIFICATION

I hereby certify that, pursuant to Connecticut General Statutes Section 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 18th day of September 2013, certified mail return receipt requested and first class mail to:

Alicia Doucette
15 Highland Avenue
Meriden CT 06451-5324

and E-Mail to:

Matthew Antonetti, Principal Attorney
Licensure Regulation and Compliance
Department of Public Health – MS#12LEG
410 Capitol Avenue
P. O. Box 340308
Hartford CT 061343-0308


Janice E. Wojick, Hearings Liaison