STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

PUBLIC HEALTH HEARING OFFICE

March 7, 2013

Lisa Czarnecke
90 Marconi Avenue, Bristol CT 06010

CMRRR# 91 7108 2133 3936 6422 4213
First Class

187 Old Zoar Road, Monroe CT 06468

First Class

Matthew Antonetti, Principal Attorney
Department of Public Health
410 Capitol Avenue, MS #12LEG
PO Box 340308
Hartford, CT 06134-0308

E-mail

RE: Lisa Czarnecke, LPN **Petition Nos. 2012-174, 2012-598**

Dear Ms. Czarnecke and Attorney Antonetti:

Enclosed please find a copy of the Memorandum of Decision issued by the **Board of Examiners for Nursing** in the above-referenced matter.

Sincerely,

Janice E. Wojick

Janice E. Wojick, Administrative Assistant/Board Liaison
Public Health Hearing Office

c: Lynn A. Rioux, Paralegal Specialist II, Office of the Attorney General
Wendy H. Furniss, Branch Chief, Healthcare Quality and Safety, DPH
Jennifer Filippone, Section Chief, Practitioner Licensing and Investigations, DPH
Bonnie Pinkerton, RN, Nurse Consultant, Department of Public Health, DPH

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Lisa Czarnecke, L.P.N.
License No. 033042

Petition No. 2012-174, 2012-598

MEMORANDUM OF DECISION

Procedural Background

On September 20, 2012, the Department of Public Health (the "Department") filed a Motion for Summary Suspension (the "Motion") and a Statement of Charges (the "Charges") with the Board of Examiners for Nursing ("the Board"). Board Exhs. 1 and 2. The Charges allege violations of Chapter 378 of the Connecticut General Statutes (the "Statutes") by Lisa Czarnecke, L.P.N. ("Respondent") which would subject Respondent's licensed practical nurse license to disciplinary action pursuant to §§ 19a-17 and 20-99(b) of the Statutes.

Based on the allegations in the Charges and the affidavits and reports attached to the Motion, the Board found that Respondent's continued licensed practical nursing practice presented a clear and immediate danger to public health and safety and ordered, on October 3, 2012, pursuant to §§ 4-182(c) and 19a-17(c) of the Statutes, that Respondent's licensed practical nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Charges (the "Order"). Board Exh. 2.

On October 3, 2012, the Charges, the Order, and a Notice of Hearing (the "Notice") were sent to Respondent by certified and first class mail to both the Bristol, CT and Monroe, CT addresses. Board Exhs. 3 and 4. On October 10, 2012, a State Marshal made service of the Charges, the Order, and the Notice at both addresses for Respondent. Respondent did not file a written Answer to the allegations. The hearing was held on October 17, 2012. At the hearing, Respondent failed to appear; the Department was represented by Attorney Joelle Newton. Transcript ("Tr.") p. 2. Following the close of the record on October 17, 2012, the Board conducted fact finding.

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.

Allegations

Count One

1. In paragraph one of the Charges, the Department alleges that Respondent of Bristol, Connecticut is, and has been at all times referenced in the Charges, the holder of Connecticut licensed practical nursing license number 033042.

2. In paragraph two of the Charges, the Department alleges that at all relevant times, Respondent was employed as a nurse at Hoffman Summer Wood, West Hartford, Connecticut.

3. In paragraph three of the Charges, the Department alleges that in or around May and/or June 2012, Respondent:
   a. diverted patient #1's narcotic pain medication and replaced it with other medication;
   b. failed to completely, properly and/or accurately document patient #1's medical records; and/or,
   c. falsified one or more Controlled Substance Receipt Records.

4. In paragraph four of the Charges, the Department alleges that in May and/or June 2012, Respondent abused and/or utilized to excess controlled substances, including Percocet.

5. In paragraph five of the Charges, the Department alleges that Respondent's abuse and/or excessive use of controlled substance, does and/or may, affect her practice as a nurse.

6. In paragraph six of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to Connecticut General Statutes § 20-99(b) including, but not limited to:
   a. § 20-99(b)(2);
   b. § 20-99(b)(5);
   c. § 20-99(b)(6); and/or
   d. § 20-99(b)(7).

Count Two

7. In paragraph seven of the Charges, the Department alleges that paragraphs one and two are incorporated herein by reference as if set forth in full.

8. In paragraph eight of the Charges, the Department alleges that in or around May and/or June 2012, Respondent inappropriately diverted the medication metformin from patient #2.

9. In paragraph nine of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to Connecticut General Statutes § 20-99(b) including, but not limited to, § 20-99(b)(2).

Count Three

10. In paragraph ten of the Charges, the Department alleges that paragraph one is incorporated herein by reference as if set forth in full.

11. In paragraph eleven of the Charges, the Department alleges that at all relevant times, Respondent was employed as a nurse at Abbott Terrance Health Care, Waterbury, Connecticut.

12. In paragraph twelve of the Charges, the Department alleges that in or around August 2011, Respondent failed to administer resident # 1's medications as required.

13. In paragraph thirteen of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to Connecticut General Statutes § 20-99(b) including, but not limited to, § 20-99(b)(2).

Findings of Fact

1. The Department provided Respondent with reasonable and adequate written notice of the hearing and the allegations contained in the Charges. Board Exhs. 2, 3, and 4.

2. Respondent did not file an Answer.

3. The factual allegations contained in Count One, paragraphs 1 through 6 of the Charges, are deemed admitted and true. Tr. pp. 8-9.

4. The factual allegations contained in in Count Two, paragraphs 7 through 9 of the Charges, are deemed admitted and true. Tr. pp. 8-9.

5. The factual allegations contained in in Count Three, paragraphs 10 through 13 of the Charges, are deemed admitted and true. Tr. pp. 8-9.

Discussion and Conclusions of Law

The Department bears the burden of proof by a preponderance of the evidence in this matter. Goldstar Medical Services, Inc., et al. v. Department of Social Services, 288 Conn. 790 (2008). The Department sustained its burden of proof regarding the substantive allegations in the Charges.[1]

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[1] The Board is aware that the Connecticut Supreme Court is reviewing the issue of whether the standard of proof in cases before the medical examining board involving physicians should be the preponderance of evidence standard or the clear and convincing standard (Charles Ray Jones, M.D., v. Connecticut Medical Examining Board, S.C. 18843). In the present case, the Board

Section 20-99 of the Statutes 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; (6) fraud or material deception in the course of professional services or activities; (7) willful falsification of entries in any hospital, patient or other record pertaining to drugs, the results of which are detrimental to the health of a patient; . . . .

The Notice, 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 § 4-182(c) of the Statutes. Respondent did not submit an Answer to the Charges. Pursuant to § 19a-9-20 of the Regulations of Connecticut State Agencies, the Board deemed the allegations in the Charges admitted.

The Board concludes that Respondent's conduct as alleged in Count One, Count Two, and Count Three of the Charges and deemed to be admitted and true, constitutes grounds for disciplinary action pursuant to §§ 20-99(b) and 19a-17 of the Statutes.

Order

Based on the record in this case and the findings of fact and conclusions of law set forth herein, the Board hereby orders that Respondent's license number 033042 to practice as a licensed practical nurse in the State of Connecticut is hereby **REVOKED**.

The Board of Examiners for Nursing hereby informs Respondent, Lisa Czarnecke, and the Department of this decision, which becomes effective on the date signed by the Board of Examiners for Nursing.

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finds that even if the standard of proof was clear and convincing evidence, the Department met its burden with respect to all of the allegations contained in the Charges, as set forth herein.

Dated at Hartford, Connecticut this 6th day of March, 2013.

BOARD OF EXAMINERS FOR NURSING

By Patricia C Bouffard RN.
Patricia C. Bouffard, RN, Chairperson

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 7th day of March 2013, to the address of record by certified mail return receipt requested mail and first class mail to:

Lisa Czarnecke, LPN
90 Marconi Avenue
Bristol CT 06010

and by first class mail to:

Lisa Czarnecke, LPN
187 Old Zoar Road
Monroe CT 06468

and E-Mail to:

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

Janice E. Wojick, Administrative Assistant/Board Liaison