

**MAINE STATE BOARD OF NURSING**

IN RE: Susan E. Fisher, R.N. )  
 ) DECISION AND ORDER  
Licensure Disciplinary Action )

**I. PROCEDURAL HISTORY**

Pursuant to the authority found in 32 M.R.S.A. Sec. 2105-A(1-A)(D), et seq., 5 M.R.S.A. Sec. 9051, et seq. and 10 M.R.S.A. Sec. 8001, et seq., the Maine State Board of Nursing (Board) met in public session at the Board's offices located in Augusta, Maine on July 27, 2004 for the purpose of determining whether grounds exist for the Board to take disciplinary action against Susan Fisher's license to practice as a registered nurse in Maine as more specifically stated in the Notice of Hearing dated June 25, 2004. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Acting Chairman Richard L. Sheehan, M.S., R.N., Hazel Rand, (public member), Charyl Doughty, L.P.N., Bruce O'Donnell, C.R.N.A. and Karen Tripp (public member). Jack Richards, Ass't. Attorney General, presented the State's case. Ms. Fisher did not appear and neither was she represented by counsel. James E. Smith, Esq. served as Presiding Officer. The Board first found that timely service had been made on the Respondent by certified mail on July 1, 2004 and by first class mail on July 1, 2004.

Following the determination that none of the Board had conflicts of interest which would bar them from participating in the hearing, the taking of official notice of its statutes and rules, and subsequent to the opening statement by counsel, State's Exhibits 1,2 were admitted into the Record. The Board then heard the testimony, reviewed the submission of exhibits and considered counsel's closing argument after which it deliberated and made the following findings of fact by a preponderance of the credible evidence regarding the violations alleged in the Complaint.

**II. FINDINGS OF FACT**

Susan Fisher is a resident of East Wakefield, New Hampshire. She was first licensed to practice nursing in the State of Maine in 1975. Her current license expires on October 31, 2004. Ms. Fisher began her employment at Greenwood Center (Greenwood), Sanford, Maine on December 19, 2002. This facility cares for a mixture of patients including those who need skilled nursing services and those who suffer from dementia.

On February 9, 2003, Greenwood's patient populace totaled 86 individuals with 39-42 patients on the Respondent's floor. The sole registered nurse on duty was Ms. Fisher who was responsible for the direct care of the patients. Seven certified nurse assistants were also on duty on that floor. According to the testimony of Roger Caron, R.N., who is the Director of Nursing Services at Greenwood, Nurse Fisher left the facility without permission to do some errands for a period of 40-45 minutes while on duty that day. She did not tell anyone before she left. Her departure resulted in no supervision of the certified nurse assistants by a registered nurse during

that time and reduced the nursing care ratio of the residents below the federal standard of 1 nurse or certified nurse assistant to 5 patients in need of skilled care. There was no harm found to any patient as a result of Nurse Fisher's absense.

Nurse Fisher's employment at Greenwood was terminated on February 12, 2003. Her performance as a nurse was adequate and without significant errors with the above noted exception. She did not respond in writing to the allegations noted in the complaint.

### III. CONCLUSIONS OF LAW

The Board, by a vote of 5-0, found and concluded that Susan Fisher violated the following provisions of Board statutes and Rules.

1. 32 M.R.S.A. Sec. 2105-A.2. Grounds for discipline. The board may suspend or revoke a license pursuant to Title 5 section 10004. The following are grounds for an action to issue, modify, suspend, revoke or refuse to renew the license of an individual licensed under this chapter:

F. Unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior that has been established in the practice for which the licensee is licensed.

The facts found in this Decision support the conclusion that Ms. Fisher failed to supervise her patients and certified nurse assistants for a period of 40-45 minutes on February 9, 2003.

H. A violation of this chapter or a rule adopted by the board.

The facts found in this Decision support the conclusion that Ms. Fisher's actions resulted in a violation of federal nursing/patient ratios when she left the facility for 40-45 minutes on February 9, 2003. Moreover, Ms. Fisher failed to respond to the complaint in writing.

2. "Rules and Regulations of the Maine State Board of Nursing, Chapter 4."

1. Disciplinary Action.

A. Grounds for Discipline

6. Unprofessional conduct. A licensee shall be deemed to have engaged in unprofessional conduct if he violates any standard of professional behavior which has been established in the practice for which he is licensed.

3. Definition of Unprofessional Conduct. Nursing behavior which fails to conform to legal standards and accepted standards of the nursing profession, and which could reflect adversely on the health and welfare of the public shall constitute unprofessional conduct and shall include, but not be limited to, the following:

F. Failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard the patient.

Nurse Fisher violated this provision when she left the facility for 40-45 minutes on February 9, 2003.

The Board voted 5-0 to:

1. Issue a **Reprimand** to Nurse Fisher pursuant to 10 M.R.S.A. Sec. 8003 due to the seriousness of the violation.
2. Order Nurse Fisher to **pay the costs** related to the hearing not to exceed \$800 by November 30, 2004. Those costs **total \$370**. (Hearing officer – 2 hours and 30 minutes @ \$100 per hour = \$250; Court reporter services = \$120). The check or money order shall be made payable to: Maine Board of Nursing and mailed to Myra Broadway, Exec. Director, 158 State House Station, Augusta, Maine 04333-0158. The costs are in keeping with past Board practices and considering that no response was filed to the complaint which failure resulted in the instant hearing which could have been avoided.
3. Order Nurse Fisher to **pay a fine of \$500** by November 30, 2004. The check or money order shall be made payable to: Treasurer, State of Maine, and mailed to Myra Broadway, Exec. Director, 158 State House Station, Augusta, Maine 04333-0158. The fine is in keeping with past Board practices and is less than the maximum allowable \$1500 per violation.
4. Place Nurse Fisher on **probation** until she pays the above fine and costs of the hearing.

**SO ORDERED.**

Dated: August 14, 2004



Richard L. Sheehan, M.S., R.N. Acting Chairman  
Maine State Board of Nursing

#### IV.

#### APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S.A. Sec. 10051.3, any party that decides to appeal this Decision and Order must file a Petition for Review within 30 days of the date of receipt of this Order with the Superior Court having jurisdiction. The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by Certified Mail, Return Receipt Requested upon the Maine State Board of Nursing, all parties to the agency proceedings, and the Maine Attorney General.