



STATE OF MAINE
 BOARD OF NURSING
 158 STATE HOUSE STATION
 AUGUSTA, MAINE
 04333-0158

PAUL R. LePAGE
 GOVERNOR

MYRA A. BROADWAY, J.D., M.S., R.N.
 EXECUTIVE DIRECTOR

IN RE: Sonia Milcendeau)
Disciplinary Action) **DECISION & ORDER**

I. PROCEDURAL HISTORY

Pursuant to the authority found in 32 M.R.S. Sec. 2105-A(1-A)(D), *et seq.*, 5 M.R.S. Sec. 9051, *et seq.* and 10 M.R.S. Sec. 8003, *et seq.*, the Maine State Board of Nursing (Board) met in public session at the Board’s office located in Augusta, Maine at 3:00 p.m. on March 2, 2011. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether to take disciplinary action against Sonia Milcendeau’s license to practice registered professional nursing. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Chairman Dorothy Melanson, R.N.; Robin Brooks (public representative); Margaret Hourigan, R.N., Ed.D.; Lynn F. Turnbull, R.N.; Susan C. Baltrus, M.S.N., R.N.B.C., C.N.E.; and Elaine A. Duguay, L.P.N. John Richards, Assistant Attorney General, presented the State’s case. Nurse Milcendeau was not present and not represented by an attorney. James E. Smith, Esq. served as Presiding Officer.

The Board first determined that none of the Board members had conflicts of interest which would bar them from participating in the hearing. The Board then took official notice of its statutes and Rules, and subsequent to the State’s opening statement, State’s Exhibits 1-4 and Board’s Exhibit I were admitted into the Record. The Board next determined that service of the Notice of Hearing had been timely made on February 8, 2011 by certified mail and by first class mail, which were not returned to the Board. The Board then heard the testimony, reviewed the submission of exhibits, and considered the State’s closing argument, after which it deliberated and made the following findings of fact by a preponderance of the credible evidence and conclusions of law regarding the alleged violations.

II. FINDINGS OF FACT

Respondent Sonia Milcendeau, 31 years of age, has been licensed in Maine as a registered professional nurse since July 10, 2003. Her license expired on January 16, 2011 and no renewal application has been filed with the Board as of the date of this hearing. The following findings of fact and



conclusions of law result from a complaint filed with the Board on July 7, 2009 by Mount St. Joseph Nursing Home.

Registered Nurse Milcendeau was employed in the capacity as charge nurse at Mount St. Joseph on June 28, 2009. On that date at approximately 11:30 a.m., she was in the process of assisting several Certified Nurses' Aides with an elderly patient who suffered from dementia. The patient was on the floor, calling the staff names and kicking at them. Ms. Milcendeau became frustrated and was heard by several CNAs to say words to the effect of, "Well, you can stay on the floor and die right there." The patient was eventually quieted by other staff.

Nurse Milcendeau was interviewed by the hospital's unit director on June 29, 2009. At that time, the Respondent said she couldn't remember what had happened regarding the above incident. When asked if she said anything that might have been in any way inappropriate, she said, "Well, if I did, I was only joking." Mount St. Joseph suspended and subsequently terminated Nurse Milcendeau's employment on June 30, 2009 as a result of her "inappropriate language and tone of voice" towards the subject patient.

The Board, following receipt of the notice of termination from the nursing home and the December 11, 2009 complaint from the Maine Department of Health and Human Services, which had investigated the incident, scheduled two informal conferences with Ms. Milcendeau on July 7, 2010 and December 1, 2010 to discuss the incident. The Respondent did not attend either. She did, however, respond to the Board in writing received on October 14, 2009. In that letter, she recited her version of the incident and stated therein that she had hurt her back a couple of days before and was attempting to move some chairs away from the patient when her back pain caused her to say: "My back is killing me, I feel like I [*sic*] going to die." Nurse Milcendeau then wrote that she asked the patient if she "wanted to stay on the floor...you do [*sic*] want to stay there, the floor is cold and hard, let's get you up." The Respondent in her October 14 letter then wrote that she did not intend to verbally abuse the patient and that "if my words were miss [*sic*] interpreted I am sorry...I am sorry for this miss [*sic*] interpretation. My words probably ran together, I'm not sure other than that." She then apologized to the patient and her family and anyone else this may have affected.

III.

CONCLUSIONS OF LAW

Based on the above facts and those found in the record, but not alluded to herein, and utilizing its experience and training, the Board, by a vote of 6-0, concluded that Sonia Milcendeau violated the provisions of:

1. 32 M.R.S. Sec. 2105-A (2) (E) (1 and 2) (Incompetent Conduct... by engaging in conduct that evidences a lack of ability or fitness to discharge the duty owed by a licensee to a client or patient or the

general public and by engaging in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed).

2. 32 M.R.S. Sec. 2105-A (2) (F) and Board Rules Chapter 4, Sec. 1.A. (6) (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).

3. Board Rule Chapter 4, Sec. 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.)

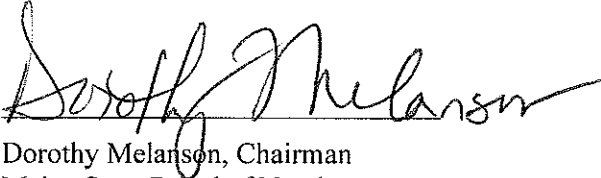
IV. SANCTIONS

The Board voted 6-0 to order the following sanctions for the above violation:

1. Sonia Milcendeau is hereby **CENSURED** for the above violation.
2. Sonia Milcendeau shall pay the maximum **fine of \$1500** for the above violation, which is deemed serious due to the language used, the situation in which it was used towards an elderly patient with dementia, and the lack of credibility and responsibility regarding the Respondent's actions and her various explanations for the incident. The check or money order shall be made payable to: "Treasurer, State of Maine" and mailed **by July 6, 2011** to the Maine State Board of Nursing, Myra Broadway, J.D., M.S., R.N., Executive Director, 158 State House Station, Augusta, Maine 04333-0158.
3. Sonia Milcendeau shall pay the **COSTS** of this hearing which total **\$552.50** (Hearing officer: 30 minutes review of record + 30 minutes attendance at hearing + 1 hour and 30 minutes to write decision = 2 hours and 30 minutes @ \$115 per hour = \$287.50) + (Court reporter: \$75.00) + (Copying: 76 pp. x 10 copies @ \$0.25 = (\$190.00)). The check or money order shall be made payable to: "Treasurer, State of Maine" and mailed **by July 6, 2011** to the Maine State Board of Nursing, Myra Broadway, J.D., M.S., R.N., Executive Director, 158 State House Station, Augusta, Maine 04333-0158. Additional costs may be assessed in the event that Sonia Milcendeau requests a transcript of the hearing. The costs are in keeping with the Board's practice of assessing the costs to those who violate Board statutes and Rules as opposed to sharing the costs with those licensees who obey same. Moreover, the need for a hearing may have been avoided had Sonia Milcendeau responded to the Board's correspondence.
4. Sonia Milcendeau shall appear before the Board prior to any renewal of her registered professional nurse's license.

SO ORDERED.

3/30/11
Dated


Dorothy Melanson, Chairman
Maine State Board of Nursing

V.

APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S. 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 s/he is aggrieved and the final agency action which s/he wishes 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.