



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

JOHN ELIAS BALDACCI
 GOVERNOR

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

In re: PAULA J. SAWTELLE, R.N.) DECISION AND ORDER

Pursuant to the authority found in 32 M.R.S.A. §§ 2105-A, *et seq.*, 5 M.R.S.A. §§ 9051, *et seq.* and 10 M.R.S.A. §§ 8001, *et seq.*, the Maine State Board of Nursing (the "Board") met in public session at the Board's offices located at 24 Stone Street, Augusta, Maine on June 30, 2004 to hold an adjudicatory hearing to determine whether grounds existed for the Board to take disciplinary action against Paula J. Sawtelle, R.N., for conduct alleged in the Notice of Hearing dated June 14, 2004. A quorum of the Board was present during all stages of the proceedings. Acting Chairman Richard L. Sheehan, M.S., R.N., Karen L. Tripp (Public Member), Bruce R. O'Donnell, C.R.N.A., Charyl Doughty, L.P.N., Hazel M. Rand (Public Member) and Diane L. Dalton, R.N.-C. participated and voted as Board members. John H. Richards, Assistant Attorney General, presented the State's case.

Paula Sawtelle, R.N., the licensee, was noticed both by certified mail and first-class mail sent to the most recent address provided to the Board by Ms. Sawtelle in April, 2004. The Board did not receive a return receipt signed by the addressee in response to the certified mail. However, the first-class mailing was not returned to the Board, indicating that Ms. Sawtelle received the notice. Ms. Sawtelle was not present at 3:00 p.m. when the hearing was scheduled to begin. The Board waited until 3:15 p.m. before commencing the hearing. Ms. Sawtelle failed to appear.

Following the determination that none of the Board members had conflicts of interest which would have prevented them from participating in the hearing, State's Exhibits 1 through 6 were admitted into the record as exhibits. As a preliminary matter and before calling witnesses, AAG Richards moved to amend the notice of hearing to dismiss allegations related to habitual substance abuse and incompetence. The Board then heard testimony from Myra Broadway, Executive Director of the Board, and reviewed the submitted exhibits. No evidence was offered by or on behalf of Ms. Sawtelle. After a closing argument by Assistant Attorney General Richards, the Board deliberated and made the following findings of fact by a preponderance of the credible evidence regarding the violations alleged in the amended Notice of Hearing.

FINDINGS OF FACT

1. Paula J. Sawtelle has been a licensed practical nurse (L.P.N.) in the State of Maine since 1991. In 1992, Ms. Sawtelle was also licensed as a registered professional nurse (R.N.) by the Board.



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2. On January 22, 2001, Ms. Sawtelle pled guilty to the Class D crime of Theft by Unauthorized Taking or Transfer in the Machias District Court of the State of Maine. She was sentenced to a jail term of nine months which was suspended and she was placed on probation for one year with conditions of community service and restitution.
3. On February 28, 2001, Ms. Sawtelle filed an application for renewal of her license as a practical nurse with the Board of Nursing. In response to question 1 which asked, "Have you ever been convicted of a crime, other than a minor traffic violation(s), since the last renewal of your Maine license?", Ms. Sawtelle answered "No."
4. On December 7, 2001, Ms. Sawtelle filed an "Application for Examination and License as a Registered or Professional Nurse" with the Board. In response to a question which asked, "Have you ever been convicted of a crime other than minor traffic violations?", Ms. Sawtelle answered "No." Ms. Sawtelle signed this application and swore before a notary that all of the statements contained in the application were true and correct in every respect.
5. Ms. Sawtelle's answers in both applications to questions which asked if she had been convicted of a crime were false.
6. At the time of the hearing, Ms. Sawtelle was licensed by the Board as a licensed practical nurse and as a professional registered nurse. Her application for renewal of her license as a professional registered nurse was pending before the Board and considered by it at the hearing.
7. On April 14, 2004, Ms. Sawtelle was notified in writing of supplemental information to a Notice of Complaint or Provider Report dated February 28, 2003. She was directed to respond to the additional information in writing within 30 days. Ms. Sawtelle signed the return receipt on April 29, 2004. She never responded to the additional information.

CONCLUSIONS OF LAW

Pursuant to 32 M.R.S.A. § 2105-A(2), the Board may suspend, revoke or refuse to renew the license of an individual licensed by the Board for the following conduct:

- A. The practice or fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of license issued;
- F. Unprofessional conduct. A license 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;

- G. Subject to the limitations of Title 5, Chapter 341, conviction of a crime that involves dishonesty or false statement or that relates directly to the practice for which the licensee is licensed or conviction of a crime for which incarceration for one year or more may be imposed;
- H. A violation of this chapter or a rule adopted by the Board;

Furthermore, 32 M.R.S.A. § 2105-A(1-A) and Chapter 4(1)(B)(3) direct a licensee to respond within 30 days to notification of the contents of a complaint.

Applying these relevant statutory and regulatory provisions to the above-stated findings of fact, the Board made the following conclusions of law:

1. Ms. Sawtelle practiced fraud and deceit when she filed her renewal application for her license as a practical nurse on February 23, 2001 and failed to disclose her criminal conviction on January 22, 2001 in violation of 32 M.R.S.A. § 2105-A(2)(A).
2. Ms. Sawtelle practiced fraud and deceit in applying for her license by examination as a registered professional nurse on December 7, 2001 (application received by Board December 7, 2001) by failing to disclose her criminal conviction on January 22, 2001 in violation of 32 M.R.S.A. § 2105-A(2)(A).
3. Ms. Sawtelle was convicted of a crime that involved dishonesty on January 22, 2001 in violation of 32 M.R.S.A. § 2105-A(2)(G).
4. Ms. Sawtelle violated a rule of the Board when she failed to respond to supplemental information to a complaint received by her on April 29, 2004. This conduct violates 32 M.R.S.A. § 2105-A(2)(H) and Chapter 4(1)(B)(3) of the rules and regulations of the Maine State Board of Nursing.

DISCIPLINARY SANCTIONS

Based on the above findings of fact and conclusions of law, the Board unanimously voted 6 to 0 to impose the following sanctions:

1. Ms. Sawtelle's license as a practical nurse in the State of Maine is hereby REVOKED.
2. Ms. Sawtelle's application for renewal of her license as a professional registered nurse is hereby DENIED.
3. The Board imposed fines of \$200.00 per violation. The Board found four violations for a total of \$800.00 in fines to be paid to the "Treasurer, State of Maine."

4. The Board ordered Ms. Sawtelle to pay the costs of approximately \$700.00 related to the hearing. These costs include travel expenses, per diem costs for Board members and court reporter services. The licensee has been working as a registered nurse and has the financial ability to pay these costs. A check or money order shall be made payable to the "Treasurer, State of Maine" and mailed to Myra Broadway, Executive Director, 158 State House Station, Augusta, Maine 04333-0158.

The Board imposed the sanctions of nonrenewal, revocation of license and fines because it considers the failure to disclose a criminal conviction on an application for licensure to be egregious. A criminal conviction for theft is very serious, and the Board has historically treated such violations with severe sanctions. The Board sees no reason to act differently in this case.

So ordered.

7/23/04
DATED


RICHARD L. SHEEHAN, M.S., R.N.
ACTING CHAIRPERSON

APPEAL RIGHTS

With respect to the sanctions of nonrenewal, fines and costs and pursuant to the provisions of 5 M.R.S.A. § 11001 and 10 M.R.S.A. § 8003(5), any party that appeals this Decision and Order must file a petition for review in the Superior Court within 30 days of receipt of this order. With respect to the sanction of revocation and pursuant to the provisions of 5 M.R.S.A. § 11001 and 10 M.R.S.A. § 8003(5), any party that appeals this action must file a petition for de novo judicial review in the District Court within 30 days of receipt of this order. The petition for review in the Superior Court 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 and the petition for de novo judicial 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 Attorney General.

REVISION

7/23/04