

**MAINE STATE BOARD OF NURSING**

<b>IN RE: Frances M. Bennatti, L.P.N.</b>	)	
	)	<b>DECISION AND ORDER</b>
<b>Licensure Disciplinary Action</b>	)	

**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 State of Maine Board of Nursing (Board) met in public session at the Board's offices located in Augusta, Maine on February 14, 2001 for the purpose of determining whether Frances Bennatti, L.P.N. engaged in unprofessional conduct as a licensed practical nurse while employed at Hawthorne House (Hawthorne) in Freeport, Maine. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Richard L. Sheehan, M.S., R.N., Chairman, Karen L. Tripp, (public member), Kimberly Boothby-Ballantyne, M.S., A.N.P., Kathleen A. Dugas, L.P.N., Monica M. Collins, Ed.D, M.S., R.N.C., Betty Kent-Conant, M.S.N., R.N., Jeanne Delicata, R.N.C. and Jody L. Deegan, M.S.N., R.N.C. John H. Richards, Ass't. Attorney General, presented the State's case. Ms. Bennatti did not appear either personally or by counsel. James E. Smith, Esq. served as Presiding Officer.

Subsequent to the opening statement by counsel, the following documents were admitted into the Record as exhibits: 1, 1A and 1B (Proof of service on Ms. Bennatti) 2-10. Following the taking of testimony, submission of exhibits, and closing argument, the Board deliberated and made the following findings of fact by a preponderance of the credible evidence regarding the violations alleged in the Notice of Complaint.

### FINDINGS OF FACT

Frances Bennatti, a Licensed Practical Nurse since 1994, was employed at Hawthorne from September 30, 1998 until her termination from that facility on April 1, 1999. On March 27, 1999, she was on duty as the charge nurse on the Alzheimer Unit from 3:00 p.m. until 11:00 p.m. At approximately 9:30 p.m. that evening, patient X, an individual with trauma related disabilities, asked Ms. Bennatti about when he could go to bed. According to Nurse Bennatti's written statement (exhibit 4), she suggested X discuss the matter with a CNA. This apparently angered X who stormed off to his room. 45 minutes later, X reappeared and requested the drug Tylox that had been prescribed for him. The Respondent informed him that she and another nurse would have to check the relevant records to ascertain whether the prescription order was still valid.

Within a matter of minutes, Nurse Bennatti slammed a chart down on the nursing desk in frustration since she had that day adopted a puppy that she was anxious to tend to but realized that she would not be leaving her shift as planned at 11:00 p.m. Mr. X returned to the nursing desk and offered an apology for his actions to which Ms. Bennatti responded: "I'm getting out of here late because of you and your stupid Tylox." X turned his wheelchair back down the hall and the Respondent gave him "the finger" behind his back. At the end of her shift, Ms. Bennatti used profanity when reporting to her shift successor. The preceding incidents were observed by several certified nurses aides who were supervised by Nurse Bennatti. These individuals were upset by her actions.

Corrine Beal, B.S.N., R.N.C., D.N.S., former Director of Nursing at Hawthorne during the complained of incidents, testified that Nurse Bennatti had received and reviewed Hawthorne's manual which included a section on residents' rights. These

rights include "the right to be treated with consideration, respect, and full recognition of dignity and individuality..." Additionally, the Respondent's Job Description at Hawthorne included the "ability to interact positively and effectively in a leadership position", demonstrate "emotional stability and maturity", be "familiar with and abide by the Federal and State Regulations." The Director stated that Nurse Bennatti was fired because she did not treat patient X with respect or dignity and additionally did not appear to understand the gravity of her actions. Moreover, this witness offered her opinion that the Respondent acted inappropriately by not giving X's need to be put to bed priority since it was a medical issue.

Kathleen Tappan, R.N., is currently the Training Coordinator and Long Term Care Compliance Officer of the Bureau of Medical Services, Maine Department of Human Services (DHS). On behalf of DHS, she investigated the complained of conduct and gave her opinion that Nurse Bennatti breached applicable State and Federal Regulations regarding standards of care by:

1. Failing to accommodate patient X's needs by neglecting to put him to bed in a timely manner.
2. Failing to accommodate patient X's needs by violating his right to be treated with respect and dignity.
3. Inappropriate behavior in front of staff.

### CONCLUSIONS OF LAW

The relevant statutory and regulatory provisions regarding the above matter and as stated in the Complaint/Notice of Hearing are as follows:

**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.

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

#### **Rules and Regulations of the Maine State Board of Nursing, Chapter 4.**

**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.**

**I. Failing to safeguard the patient's dignity and right to privacy in providing services regardless of race, color, creed and status.**

**The Board, by a vote of 8-0, finds and concludes that Frances Bennatti, L.P.N. violated the above standards of nursing practice by:**

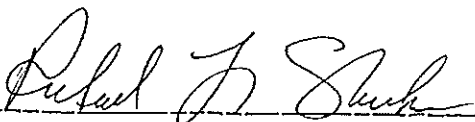
1. Failing to accommodate patient X's needs by neglecting to put him to bed in a timely manner.
2. Failing to accommodate patient X's needs by violating his right to be treated with respect and dignity by giving him the finger, raising her voice and blaming him for her not being able to leave her employment at 11:00 p.m.
3. Failing to administer patient X's medication in a timely fashion.
4. Inappropriate behavior in front of staff.
5. Failing to appreciate the gravity of her acts under the circumstances.

The Board, by a vote of 8-0, imposed the following sanctions:

1. Written Reprimand.
2. Probation for 2 years from the date of renewal of her L.P.N. license. The terms of probation are that Nurse Bennatti shall submit to the Board for its approval a list of the following courses prior to enrolling in same which she shall successfully complete to the Board's satisfaction within 1 year from the date of renewal of her L.P.N. license
  - a. A course in therapeutic communication.
  - b. A course in anger management.
  - c. A course in the legal implications of nursing practice.
3. Payment of a five hundred dollar (\$500) penalty payable to: Treasurer, State of Maine by June 5, 2001.

**SO ORDERED.**

Dated: March 1, 2001



Richard Sheehan, Chairman  
Maine State Board of Nursing

### Appeal Rights

Pursuant to the provisions of 5 M.R.S.A. Sec. 10051.3 and 10 M.R.S.A. Sec. 8003, any party that appeals this Decision and Order **before March 15, 2001** must file a Petition for Review in the Administrative Court, P.O. Box 7260, Portland, Maine 04112-7260 within 30 days of receipt of this Order. Any party that appeals this Decision and Order **after March 14, 2001** must file a Petition for Review in the Maine District Court within 30 days of receipt of this Order.

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 Licensure for Professional Land Surveyors, all parties to the agency proceedings and the Attorney General.