

MAINE STATE BOARD OF NURSING

In Re:

Janet N. Hart-Leclerc

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DECISION AND ORDER

INTRODUCTION

Pursuant to 32 M.R.S.A. § 2105(A)(1-A) *et seq.*, 5 M.R.S.A. § 9051 *et seq.*, and 10 M.R.S.A. § 8003(5), the Maine State Board of Nursing (“the Board”) met in public session at the Board’s offices located in Augusta Maine on July 9, 2007 for an adjudicatory hearing in the matter of Janet N. Hart-Leclerc. A quorum of the Board was in attendance during all stages of the proceeding. Participating and voting board members were Therese B. Shipps, D. N. Sc., R.N., Bruce R. O’Donnell, C. R.N. A., Carmen Christensen, R.N., Susan L. Brume, L.P.N., Karen Tripp, and Robin Brooks.

John Richards, Assistant Attorney General, appeared on behalf of the State. Janet N. Hart-Leclerc failed to appear at the proceeding. Susan Sparaco, Assistant Attorney General, served as the Board’s hearing officer.

The State called the following witnesses to testify: Myra A. Broadway, Executive Director of the Maine State Board of Nursing; Amy Langley, R.N., the former director of nursing services at Brewer Rehab and Living Center; Debra Nute, R.N., a nurse manager at Brewer Rehab at the time of the events at issue; Mary Wood, R.N, a nurse at Brewer Rehab; and Jayne Winters, an employee of the Board who monitors probation compliance. State’s Exhibits 1, 1-A, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16, were admitted into evidence.

The Board reviewed the admitted exhibits and considered the testimony of the witnesses. At the conclusion of the hearing, the Board deliberated and made the following findings of fact and conclusion of law based on the preponderance of evidence.

FINDINGS OF FACT

1. On May 2, 2007, Janet Hart-Leclerc, while working as a nurse at Brewer Rehab and Living Center, removed two percocet tablets from its packaging for a patient who did not request them.
2. Shortly after removing the percocet, Janet Hart-Leclerc asked Mary Wood, R.N., to witness the wasting of the percocet, stating that the patient did not want them.
3. Without allowing Ms. Wood an opportunity to view the pills in her hand, Janet Hart-Leclerc deposited the pills in a sharps container on the medication cart.
4. Placing medication in the sharps container is not the normal procedure for destroying medication at the facility.
5. A subsequent investigation of the incident revealed that the pills deposited in the sharps container by Ms. Hart-Leclerc were not percocet but were most likely over-the-counter vitamin C tablets.
6. Ms. Hart-Leclerc diverted the percocet while falsely claiming that she had wasted them.
7. Ms. Hart-Leclerc has a history of drug diversion which resulted in prior Board discipline pursuant to a consent agreement.

CONCLUSIONS OF LAW

1. Ms. Hart-Leclerc violated 32 M.R.S.A. § 2105-A(2)(A) and Chapter 4 §§ 1A(1), 3(K), 3(P), and 3(Q) of the Board's rules by diverting the percocet instead of wasting it as represented.

2. Ms. Hart-Leclerc engaged in conduct that evidences the lack of ability or fitness to discharge the duty owed to clients, patients, or the general public within the meaning of 32 M.R.S.A. § 2105-A(2)(E)(1) and Chapter 4 § 1A(5)(a) of the Board's rules;

3. Janet Hart-Leclerc suffers from habitual substance abuse that is foreseeable likely to result in her performing services in a manner that endangers the health or safety of patients within the meaning of 32 M.R.S.A. § 2105-A(2)(B) and Chapter 4 § 1A(2) of the Board's rules;

4. Ms. Hart-Leclerc has engaged in unprofessional conduct within the meaning of 32 M.R.S.A. § 2105-A(2)(F) and Chapter 4 § 1A(6) of the Boards rules;

5. Insofar as Ms. Hart-Leclerc's conduct violated the above provisions, 32 M.R.S.A. § 2105-A(2)(H) provides an additional ground for discipline.

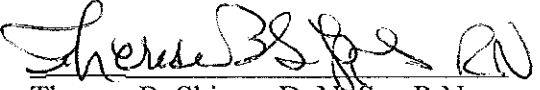
DISCIPLINARY SANCTION

Based on the above Findings of Fact and Conclusion of Law, the Board voted unanimously to **REVOKE** the professional registered nursing license of Janet N. Hart-Leclerc. In addition, pursuant to 10 M.R.S.A. § 8003-D, Ms. Hart-Leclerc is ordered to pay the actual expenses associated with the court reporter, the service of summons by the Sheriff's Office, the witness fees, and travel expenses. An itemized bill relating to these expenses shall be sent by the Board to Ms. Hart-Leclerc with payment due within 30 days

of the Board's mailing of the bill unless an alternative payment plan or longer time frame is agreed to by the Board's Executive Director.

SO ORDERED.

Dated: July 18, 2007


Therese B. Shipps, D. N. Sc., R.N.,
Chair, Maine State Board of Nursing

APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S.A. § 10051(3) and 10 M.R.S.A. § 8003(5)(F), any party may appeal this Decision and Order by filing a Petition for Review within thirty (30) days of the receipt of this order with the District Court having jurisdiction. The Petition shall specify the person seeking review, the manner in which they are aggrieved, and the final agency action in which they wish reviewed. It shall 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 agencies proceedings, and the Maine Attorney General.