



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: Krystal A. Murphy )  
 11 Rousseau Road )  
 Windham, Maine )  
 )  
 )  
 )

DECISION  
 AND  
 ORDER

**INTRODUCTION**

Pursuant to the authority found in 32 M.R.S.A. § 2105-A (1-A) (D), *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 (“Board”) met in public session at the Board office on September 2, 2010 at 1:00 P.M. to hold an adjudicatory hearing in the above referenced matter. The purpose of the hearing was to determine whether grounds exist to support the Board’s action to deny Krystal A. Murphy’s (“Ms. Murphy”) application for licensure as a registered professional nurse at its March 3-4, 2010 meeting. The Board’s action was based upon a number of alcohol related criminal convictions. Ms. Murphy filed a timely appeal. Pursuant to 5 M.R.S.A § 5301, *et seq.*, for the Board to grant Ms. Murphy’s application to practice as registered professional nurse, Ms. Murphy had the burden of proof to show that she is sufficiently rehabilitated to warrant public trust. Ms. Murphy was present and represented by Janet E. Michael, Esq. John H. Richards, Assistant Attorney General, advised the Board. Service of the Notice of Hearing was duly made on Ms. Murphy by first class and registered mail.

A quorum of the Board was present during all stages of the proceedings. Chairman, Dorothy Melanson, RN; Robin Brooks, Public Member; Carmen Christensen, RN; Susan C. Baltrus, MSN, RNBC, CNE; Bruce O’Donnell, CRNA; and Elaine A. Duguay, LPN participated and voted as Board members. Krystal A. Murphy testified and presented one witness on her behalf, Robin Webber.

Exhibits A and B were admitted into the Record without objection. The Board took the testimony of Krystal A. Murphy and Robin Webber and reviewed the submission of exhibits, after which it deliberated and made the following findings of fact by a preponderance of the credible evidence regarding Ms. Murphy’s Application for Examination and License as a Registered Professional Nurse in the State of Maine.

**FINDING OF FACT AND CONCLUSIONS OF LAW**

At the Board’s March 3-4, 2010 meeting, the Board denied Ms. Murphy’s Application for Licensure because of her alcohol-related criminal convictions from 2001-2008. Pursuant to 32 M.R.S.A. § 2105-A (2) the Board has the authority to refuse to issue a license to an applicant for the following grounds:

1. 32 MRSA § 2105-A (2) (B): “Habitual substance abuse that... is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients;” and
2. 32 MRSA § 2105-A(2)(G): “Subject to the limitations of Title 5, Chapter 341, conviction of a crime that... relates directly to the practice for which the licensee is licensed...” Krystal A. Murphy’s convictions are:
  - 1) 10-10-2001 Operating Under the Influence, Class D misdemeanor;
  - 2) 12-2-03 Operating After Suspension, Class E misdemeanor; and
  - 3) 11-25-08 Operating Under the Influence, Class D misdemeanor

Ms. Murphy completed the Baccalaureate Nursing Program at the University of Southern Maine, College of Nursing and Health Professions on December 18, 2009 with a Cumulative GPA of 3.761. The Board received Ms. Murphy’s Application for Examination and License as a Registered Professional Nurse on January 14, 2010.



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Ms. Murphy's first Criminal Conviction for Operating Under the Influence was at the age of 18; she is now 28 years old. The Board considered Ms. Murphy's testimony and the testimony of her mother, Robin Webber, regarding the positive life style changes that Ms. Murphy has made. She completed all the requirements of the Driver Education Evaluation Program offered through the Office of Substance Abuse associated with the Maine Department of Health and Human Services on May 4, 2010. She is currently employed at Maine Medical Center ("MMC") as a phlebotomist; her staff performance evaluations from MMC have been consistently positive. Ms. Murphy provided the Board with a number of personal references regarding her character and dependability, which gave a positive outlook for Ms. Murphy.

The Board determined that Krystal A. Murphy has met her burden that there exists sufficient rehabilitation to warrant the public trust. However, Ms. Murphy will be required to undergo a substance abuse evaluation within thirty (30) days from the date of this Decision and Order for the purpose of the Board's final determination whether any substance abuse issues need to be addressed before she is granted a license as a registered professional nurse. Ms. Murphy must provide a copy of the substance abuse evaluation to the Executive Director of the Board and provide a release to the Board for access to any and all medical records and all otherwise confidential or medically privileged information pertaining to her substance abuse evaluation that the Board deems necessary. Ms. Murphy shall provide such information, authorize the release of such records and information, and authorize any such discussions and communications with any and all persons involved in her evaluation as may be requested by the Board.

**WHEREFORE**, the Board, based on the above recited facts and its training and expertise, voted unanimously that if 1) the substance abuse evaluation results determine that Ms. Murphy is "clean and sober" and 2) she passes her NCLEX, she is approved for licensure as a registered professional nurse in Maine.

Dated: Sept. 29, 2010

  
Dorothy Melanson, RN, Chair  
Maine State Board of Nursing

#### **NOTICE OF APPEAL RIGHTS**

Any party to this proceeding may seek review of this Decision, to the extent such review is provided by law, by filing a petition for review in the Superior Court pursuant to 5 M.R.S.A. §§ 11001, *et seq.* within thirty (30) days after receipt of notice of this Decision. Any other person aggrieved by this Decision may seek judicial review in like manner by filing a petition for review in Superior Court within forty (40) days after the date of this Decision.