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GOVERNOR

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

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

IN RE: Suzanne Torrey

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**DECISION AND ORDER**  
**License Application**

**I. PROCEDURAL HISTORY**

Pursuant to the authority found in 5 M.R.S. § 9051 et seq., 10 M.R.S. § 8003 et seq., and 32 M.R.S. § 2015-A, the Maine State Board of Nursing ("Board") met in public session at the Board office in Augusta, Maine, on August 22, 2013. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether Suzanne Torrey had met the requirements of licensure as a registered professional nurse.

A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Susan Baltrus, MSN, RN, CNE; Robin Brooks (public representative); Joanne Fortin, RN; Peggy Soneson, RN; and Chair Margaret Hourigan, RN, EdD. Ms. Torrey was present. Robert Perkins, Esq. represented the State. Rebekah J. Smith, Esq. served as Presiding Officer.

The Board took administrative notice of its statutes and rules and admitted into evidence, without objection, State Exhibits #1 - #12 and Applicant Exhibits #1 - #3. Both parties made opening statements. The State called Jayne Winters, Probation Officer for the Board of Nursing, as a witness. The Applicant testified on her own behalf and called Dr. Fred Risser as a witness, who testified by phone. Both parties made closing statements. The Board then deliberated and made the following findings of fact and conclusions of law by a preponderance of the credible evidence regarding Ms. Torrey's satisfaction of the requirements of licensure.

**II. FINDINGS OF FACT**

1. Suzanne Torrey applied for licensure as a registered professional nurse on August 24, 2012 (State Exhibit #5). In her application, Ms. Torrey disclosed that she had been convicted of felony operating under the influence while under the influence of prescribed methadone and while in possession of one (1) Percocet pill (State Exhibit #5).



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OFFICES LOCATED AT: 161 CAPITOL ST., AUGUSTA, ME  
<http://www.maine.gov/boardofnursing/>

2. Ms. Torrey was previously licensed as a registered professional nurse in Maine (State Exhibit #2). On April 4, 2006, the Board revoked Ms. Torrey's license on the basis that she had admitted to a history of substance abuse dating back to before 1994 and had identified cocaine as the primary substance that she abused in 2002 (State Exhibit #2). The Board noted that Ms. Torrey admitted relapsing into substance abuse in 2002, at which time she identified oxycodone as her drug of choice during this period of substance abuse (State Exhibit #2). The Board reported that Ms. Torrey testified that she had stopped using substances upon discovering she was pregnant, but began abusing substances almost immediately after the birth of her child in September 2003 (State Exhibit #2). The Board noted that Ms. Torrey admitted to recently abusing prescription drugs and concluded that she suffered from habitual substance abuse that was reasonably likely to result in her performing services in a manner that endangered the health and safety of her patients (State Exhibit #2). The Board concluded that Ms. Torrey's behavior failed to conform to accepted standards of the nursing profession and constituted unprofessional conduct (State Exhibit #2).
3. Ms. Torrey's criminal record as generated by the Maine State Bureau of Identification indicates that she has been convicted of the following crimes:
  - a. Misdemeanor operating under the influence on April 17, 2007 (for an offense committed on December 12, 2005).
  - b. Felony unlawful possession of oxycodone on April 17, 2007 (for an offense committed on December 12, 2005).
  - c. Misdemeanor operating under the influence on February 15, 2008 (for an offense committed on June 11, 2007).
  - d. Felony operating under the influence on August 9, 2011 (for an offense committed on May 12, 2010).
  - e. Three counts of misdemeanor violating a condition of release on August 9, 2011 (for offenses committed on June 30, 2010; July 6, 2010; and September 10, 2010).
  - f. Two counts of misdemeanor unlawful possession of a scheduled drug on August 9, 2011 (for offenses committed on June 30, 2010, and July 6, 2010).

(State Exhibit #1; Testimony of Winters)

4. Ms. Torrey testified that she last used unprescribed substances on June 30, 2010 (Testimony of Applicant). She reported that she had not taken a drink of alcohol since December 31, 2009 (Testimony of Applicant). She explained to the Board that in 2006, after 18 months of sobriety, she had relapsed because she had been unable to keep taking her normal dose of Suboxone due to the loss of MaineCare health insurance (Testimony of Applicant). At that time, she took Vicodin that she had been prescribed several months earlier by a dentist (Testimony of Applicant). Her substance abuse treatment provider discharged her from his practice because she was taking prescription medication inappropriately (Testimony of Applicant). Because she then had no access to Suboxone, Ms. Torrey returned to a methadone clinic for an alternative method of treatment (Testimony of Applicant). Methadone treatment was not successful for her and she began to abuse drugs again, which led to the subsequent period of abuse and related criminal charges, which ended in mid-2010 (Testimony of Applicant).
5. Ms. Torrey testified that she does not plan to discontinue taking Suboxone in the future without a plan for maintenance of her sobriety (Testimony of Applicant). She stated that she is very involved in AA and NA, has reunited with her significant other, and been more involved with her children (Testimony of Applicant). She reported that she had also maintained steady employment as a waitress (Testimony of Applicant). Ms. Torrey explained that she believed all her convictions fell under the charges of operating under the influence that she reported on her application (Testimony of Applicant).
6. Fred Risser, MD, testified that he had been providing Ms. Torrey with substance abuse medication management services since July 2010, generally for a half an hour monthly (Testimony of Risser). Dr. Risser reported that he felt Ms. Torrey was psychologically balanced over the prior six months (Testimony of Risser). Dr. Risser stated that if Ms. Torrey was required to come off Suboxone for any reason, he would help her put a plan in place to maintain sobriety (Testimony of Risser). Dr. Risser recommended that Ms. Torrey continue to submit to urine screen testing for the indefinite future (Testimony of Risser). Dr. Risser opined that for Ms. Torrey's recovery to continue, she would need to continue taking Suboxone and attend monthly medication management treatment (Testimony of Risser). Dr. Risser's progress notes, spanning the period from November 2011 to August 2013, showed

regular visit attendance by Ms. Torrey and ongoing sobriety (Applicant Exhibit #3). Throughout Dr. Risser's treatment, Ms. Torrey has been prescribed Navane and Suboxone, to which Ritalin was added in June 2013 as a replacement for Concerta (Applicant Exhibit #3).

7. On November 13, 2012, Ms. Torrey passed the National Council Licensure Examination for Registered Nurses (State Exhibit #5; Testimony of Winters).
8. On December 10, 2012, the Board preliminarily denied Ms. Torrey's application for license (State Exhibit #8). Ms. Torrey filed a timely notice of appeal (State Exhibit #9).
9. By certified letter dated August 8, 2013, the Board notified Ms. Torrey that the hearing regarding her appeal would be held on August 22, 2013 (State Exhibit #1).
10. By letter dated August 19, 2013, Samuel Payson, Probation Officer with the State of Maine, reported to the Board that he supervised Ms. Torrey's probation from August 9, 2011 to August 8, 2012, based upon a conviction for operating under the influence (Applicant Exhibit #1). Mr. Payson noted that Ms. Torrey was mostly compliant with all conditions (Applicant Exhibit #1). He reported that the only violation of note was an arrest due to her failure to report as directed, although this was attributable to a misunderstanding (Applicant Exhibit #1). Mr. Payson reported that he observed Ms. Torrey had refocused her life and demonstrated a sincere commitment to a sober and law-abiding lifestyle during the period of her probation (Applicant Exhibit #1).
11. By letter dated August 21, 2013, Rosamond McLean, RN-BC, LADC, reported to the Board that Ms. Torrey had taken part in an intensive outpatient program at Open Door Recovery Center in Ellsworth from October 19, 2011 to December 28, 2011 (Applicant Exhibit #1). Ms. McLean reported that during that time, Ms. Torrey attended three sessions a week for three hours each, plus an individual session each week (Applicant Exhibit #1). During the intensive outpatient treatment, Ms. Torrey was also required to attend at least four AA or NA meetings per week and make four telephone calls to group members (Applicant Exhibit #1). Ms. McLean noted that urine screens were conducted randomly at least two times a week during the treatment (Applicant Exhibit #1). She observed that Ms. Torrey appeared motivated and particularly concerned about her children and family, with the intent to work towards

obtaining her nursing license again (Applicant Exhibit #1). Ms. McLean recommended that Ms. Torrey be granted a license (Applicant Exhibit #1).

12. In addition, three members of AA or NA groups attended by Ms. Torrey submitted letters of support indicating that Ms. Torrey regularly took part in such meetings, actively contributed and spoke at meetings, and had a good understanding of the twelve-step recovery program (Applicant Exhibit #1).

### **III. GOVERNING STATUTES AND RULES**

1. Requirements for licensure as a registered professional nurse are found at 32 M.R.S. § 2201 et seq.
2. The Board may refuse to issue a license or may issue a modified license if an applicant has committed the practice of fraud or deceit in obtaining a license or in connection with service rendered within the scope of the license issued. 32 M.R.S. § 2105-A(2)(A).
3. The Board may refuse to issue a license or may issue a modified license if an applicant has shown habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients. 32 M.R.S. § 2105-A(2)(B).
4. The Board may refuse to issue a license or may issue a modified license if an applicant has been convicted of a crime that involves dishonesty or false statement or relates directly to the practice for which the licensee is seeking a license. 32 M.R.S. § 2015-A(2)(G); see also 5 M.R.S. § 5301(2). The Board may also consider a conviction that relates directly to the practice for which the licensee is seeking a license. 32 M.R.S. § 2105-A(2)(G); see also 5 M.R.S. § 5301(2). Such convictions may be considered by the Board for up to ten years from the point of final discharge from a corrections system, although this limit does not apply if the applicant's conduct that gave rise to the conviction would otherwise have been grounds for a disciplinary action. 5 M.R.S. § 5303(2)(A) and (C). If an applicant has a conviction that falls within 5 M.R.S. § 5301(2), a Board may deny a license only if the Board determines that s/he has not been sufficiently rehabilitated to warrant the public trust. 5 M.R.S. § 5302(1). The applicant has the burden to prove that s/he has been sufficiently rehabilitated. 5 M.R.S. § 5302(1).
5. The Board may impose conditions of licensure upon an applicant. Such conditions may run for such time period as the Board deems appropriate. 5 M.R.S. § 8003(5)(A-1)(4).

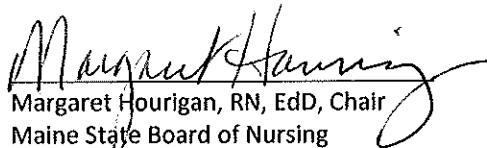
#### IV. CONCLUSIONS OF LAW

The Board, considering the above facts and those alluded to in the record but not referred to herein, by a vote of 5-0, found that Suzanne Torrey met the requirements for licensure as a registered professional nurse and was sufficiently rehabilitated to warrant the public trust. As a result, the Board granted Ms. Torrey's application under the following conditions of probation:

1. The applicant will undertake a refresher course pre-approved by the Board's Executive Director and provide proof of passage.
2. The applicant will remain free of substances. Failure to do so will result in an automatic and immediate suspension of her license pending further review by the Board.
3. The applicant will advise all health care providers of her substance abuse history.
4. The applicant will continue with her current treatment regimen, including attendance at AA or NA meetings. In addition, the applicant will be referred to the Medical Professionals Health Program ("MPHP") of the Maine Medical Association and will take part in any treatment plan recommended by the MPHP. If the applicant's medication regime for treatment of substance abuse changes, she is required to notify the Board within 72 hours.
5. The applicant will provide quarterly treatment reports to the Board from her treatment providers.
6. The applicant's employment is restricted to structured settings only with on-site nursing supervision. The applicant may not work under her license in temporary staffing agencies, school nursing, home health care, travel nurse assignments, within corrections, or anywhere else where she would be practicing alone. In addition, the applicant may not administer controlled substances.
7. The applicant must share this Decision and Order with her nursing employers and ensure that quarterly reports addressing nursing practice are submitted by nursing employers to the Board.
8. The applicant is not granted multi-state privilege unless she obtains the written agreement of this Board and the Board in the party state in which she wishes to practice.
9. The applicant must notify the Board in writing within 10 days regarding any change in: 1) address; 2) nursing employment; and/or 3) entry into an educational program in the field of nursing. The notification shall include the place and position of employment or educational program and the same notification shall apply to any subsequent change in employment or change in educational program.
10. The applicant must notify the Board in writing within 72 hours of any new criminal charges that are filed against her.
11. These conditions of licensure will continue for at least five years. After that time, the applicant may petition the Board to end the conditions.

So Ordered.

Dated: October 9, 2013

  
Margaret Hourigan, RN, EdD, Chair  
Maine State Board of Nursing

**V. APPEAL RIGHTS**

Pursuant to the provisions of 10 M.R.S. § 8003(5) and 5 M.R.S. § 11002(3), 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. 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 State of Maine Board of Nursing, all parties to the agency proceedings, and the Attorney General.