



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

PAUL R. LePAGE
 GOVERNOR

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

IN RE: Kathleen C. Zurzolo) DECISION AND ORDER/APPEAL

I. PROCEDURAL HISTORY

Pursuant to the authority found in 32 M.R.S. Sec. 2105-A(1-A), *et seq.*, 5 M.R.S. Sec. 9051, *et seq.* and 10 M.R.S. Sec. 8003, *et seq.*, the Maine State Board of Nursing (Board) met in public session at the Board’s hearing room located in Augusta, Maine at 9:30 a.m. on September 22, 2011. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether grounds exist to support the Board’s initial denial of Kathleen Zurzolo’s Application for License As a Registered Professional Nurse by Endorsement. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Chairman Pro Tem Margaret Hourigan, R.N., Ed. D.; public member Robin Brooks; Elaine Duguay, L.P.N.; Carmen Christensen, R.N.; and Joanne Fortin, R.N. John Richards, Assistant Attorney General, presented the State’s case. Nurse Zurzolo was present and not represented by an attorney. James E. Smith, Esq. served as Presiding Officer.

The Board first determined that none of the Board members had conflicts of interest which would bar them from participating in the hearing. The Board then took official notice of its statutes and Rules. Subsequent to the State’s opening statement, State’s Exhibits A-D and Appellant’s Exhibit 1 were admitted into the Record. The Board then heard the testimony, reviewed the submission of exhibits, and considered the parties’ closing arguments, after which it deliberated and made the following findings of fact by a preponderance of the credible evidence and conclusions of law regarding the appeal.

II. FINDINGS OF FACT

Kathleen Zurzolo first applied for a Maine Registered Professional Nurse’s License by Endorsement on December 21, 2010. The application was denied by the Board by letter dated March 8, 2011. Nurse Zurzolo responded by filing a timely appeal.

Kathleen Zurzolo was initially licensed as a R.N. in Pennsylvania in 1985 and thereafter by reciprocity in New Jersey the following year. From 1985 until 1991, she worked as a nurse in a variety of



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settings including nursing homes and hospitals and nursed a diversity of patients. In May 2001, Nurse Zurzolo was employed at Cooper Hospital in Camden, New Jersey when she was found to be deficient by the New Jersey Board of Nursing due to a lack of documentation of verbal orders and removing controlled substances without a written physician's order. She was charged with documentation deficiencies; although she denied drug use at the time, she later admitted to diverting Demerol and Percocet to help her cope with her mother's cancer diagnosis. Nurse Zurzolo was placed on a stayed suspension with probation for one year and was required to pay \$1660.46 in administrative costs, successfully complete a Board-approved remediation course to include the administration and documentation of medications, submit quarterly written reports provided by her supervisor, and continue counseling with a qualified mental health therapist.

From July 2004 until June 2010, Nurse Zurzolo worked as a float nurse at Methodist Hospital in Philadelphia, Pennsylvania. In January of 2007, she was confronted with the allegation of the excessive removal of opiates. Appellant Zurzolo admitted that in 2006, she had turned to opiate use to self-medicate because her son was deployed to Baghdad, Iraq. She then was reassured that her job would be waiting for her if she sought treatment for her addiction.

In January 2007, Appellant Zurzolo was placed in an Intensive Outpatient Program for addiction. She was thereafter accepted into the Marworth facility in Waverly, Pennsylvania for intensive inpatient treatment from February 21, 2007 until she completed the program on March 19, 2007. The program at Marworth, which apparently is known for having programs particularly designed to treat health care professionals, follows the AA 12 Step-Program.

In September 2007, Nurse Zurzolo was accepted back at Methodist Hospital, but was restricted from administering narcotics until at least December 7, 2007. She was active in her recovery from September 2007 until October 2010, during which time she was supervised by the Pennsylvania Professional Health Monitoring Program (PHMP) under the Voluntary Recovery Program (VRP). She attended several AA/NA meetings each week, participated in random urine screening, received monthly reports from her supervisors, and attended weekly nurse meetings with Dr. Amy Wells and Joseph Garbely, D.O., Chief Medical Officer and Medical Director of the Center for Professional Development at Friends Hospital, Philadelphia, Pennsylvania.

Nurse Zurzolo still treats with Dr. Wells by telephone at regularly scheduled intervals for intensive individual therapy and healthy alternatives to drugs. Dr. Wells, a R.N. and psychologist, wrote a clinical letter of support to the Board dated January 24, 2011. The report was a glowing recommendation for licensure in this state and contained her opinion that if Nurse Zurzolo remained active in recovery, "she can safely practice nursing in the State if Maine..." This therapist was particularly impressed that the Appellant was discharged early from group therapy since she no longer required monitoring to safely

practice as a nurse. Even though not required to attend treatment, Dr. Wells found it rare that a patient, specifically the Appellant, would continue in individual therapy after the requirements of treatment had been met and the patient discharged from the VRP, which occurred on October 5, 2010.

The Board received telephone testimony at this hearing from Dr. Garbely. He testified that in his opinion, Kathleen Zurzolo should receive a Maine R.N. license without the usual restrictions since she had already complied with them during her treatment in Pennsylvania. Dr. Garbely had been personally involved with her treatment in both group and individual therapy and testified that Nurse Zurzolo's predicted success rate for not returning to drug use was 88-90%. This was primarily due to her willingness to succeed, recognize her illness, and participate in a 12-Step program. The Appellant has also assisted in helping Dr. Garbely with nurses newly admitted to the treatment program.

III. CONCLUSIONS OF LAW

Based on the above facts and those found in the record but not alluded to herein, and utilizing its experience and training, the Board, by a vote of 5-0, concluded that Kathleen Zurzolo has met the requirements for licensure by endorsement as a Registered Professional Nurse in the State of Maine. The license shall be granted with the condition that Kathleen Zurzolo is hereby placed on probation for a period of three (3) years until September 21, 2014, during which period she shall:

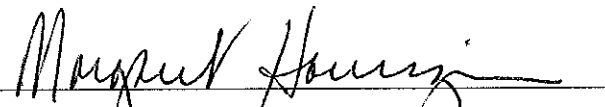
1. Remain substance-free. Failure to do so will result in an automatic and immediate suspension of Ms. Zurzolo's license pending further review by the Board.
2. Advise all health care providers of her substance abuse history.
3. Continue in aftercare with AA/NA, support groups, and/or counseling and be responsible to ensure that quarterly reports are provided to the Board's Probation Compliance Officer.
4. Share this Decision and Order with her nursing employer and ensure that quarterly reports addressing her nursing practice are submitted by her nursing employer to the Board's Probation Compliance Officer.
5. Employment restricted to structured settings ONLY with ON-SITE nursing supervision. No agencies, no school nursing, no jails, no home health care, travel nursing assignments or anywhere else where she is alone.
6. No Multi-state Privilege without written agreement by this Board and the Board in the state in which she wishes to practice.
7. Notify the Board in writing regarding any change in address and nursing employment or entry into educational program in the field of nursing. 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.

Wherefore, the APPEAL is GRANTED.

So Ordered.

Dated: October 24, 2011


Chairman Pro Tem Margaret Hourigan, R.N., Ed. D.

IV. APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S. Sec. 10051.3 and 10 M.R.S. Sec. 8003(5)(G) and (5-A)(G), any party that appeals this Decision and Order must file a Petition for Review in the Maine Superior Court having jurisdiction 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 Maine State Board of Nursing, all parties to the agency proceedings, and the Maine Attorney General.