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: Sharon Allard	)	**DECISION &**
Disciplinary Action	)	**ORDER**

I. PROCEDURAL HISTORY

Pursuant to the authority found in 32 M.R.S. Sec. 2105-A(1-A)(D), *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 office located in Augusta, Maine at 3:30 p.m. on March 2, 2011. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether to take disciplinary action against Sharon Allard's license to practice practical nursing. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Chairman Dorothy Melanson, R.N.; Robin Brooks (public representative); Margaret Hourigan, R.N., Ed.D.; Lynn F. Turnbull, R.N.; Susan C. Baltrus, M.S.N., R.N.B.C., C.N.E.; and Elaine A. Duguay, L.P.N. John Richards, Assistant Attorney General, presented the State's case. Nurse Allard 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, and subsequent to the State's opening statement, State's Exhibits 1-3 and Respondent's Exhibits 1-2 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 alleged violations.

II. FINDINGS OF FACT

Respondent Sharon Allard, 65 years of age, was initially licensed as a practical nurse in another state in 1969. She was then licensed by endorsement in Maine as a practical nurse on February 24, 1982. Her Maine license expired on January 3, 2010 and no renewal application has been filed with the Board as of the date of this hearing. The following findings of fact and conclusions of law result from a complaint filed with the Board on February 1, 2008 by Pine Point Center (Pine Point).

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Practical Nurse Allard was employed in her licensed capacity at Pine Point for ten years until November 26, 2007 when she was terminated for a history of poor performance. Prior to that time, the facility's records reveal that she had been counseled for medication errors on eight occasions from January 1999 through April 2001. Subsequently, she was counseled for "unfinished treatment and causing resident stress in August 2002; inappropriate behavior/time management in January 2003; leaving work early in August 2003; not providing appropriate/timely nursing care to a resident with a nephrostomy tube in April 2004; failure to initiate screening for physical therapy in April 2004; medication error/documentation of a medication scheduled for another shift in December 2004; documented that a medication had been given four times when medication had not yet been sent by the pharmacy in January 2006; medication errors in August 2006."

The incidents that triggered the termination were two-fold. The first occurred on November 6, 2007 when Respondent Allard failed to follow her charge nurse's instruction to get approval from the patient's physician before she gave a 100mg dose of Dilantin rather than the prescribed 130mg; the additional 30mg had not yet arrived. Nurse Allard was put on a three-day suspension for that error in judgment. On November 20, 2007, Nurse Allard, within 24 hours of her return from the suspension, gave a resident 2.5mg of Lisinopril instead of the ordered dose of 7.5mg. As above noted, she was released from employment on November 26, 2007.

Following receipt of the January 29, 2008 notice of termination and supplement thereto received by the Board in April 2008, the Board made several attempts to contact the Respondent in order to discuss the related licensure issues. These efforts were unsuccessful in securing her attendance and resulted in this hearing.

In her behalf, Ms. Allard wrote and testified that she worked conscientiously with her patients and co-workers and blamed her release from employment on the downsizing of the owner's expenses. Nurse Allard denied a history of poor performance and multiple coaching sessions and offered positive performance appraisals for the Board's consideration. She previously has been employed as a practical nurse in Alaska, but has not worked there or anywhere else as a nurse since her release from Pine Point in November 2007. She hoped to perform private duty care if afforded the opportunity, although acknowledged that she would need some nursing courses prior to her resumption of practice.

Respondent Allard at this hearing further testified that she had responded to the Board's multiple correspondence as best she could, which was basically no response. She demonstrated her knowledge that Dilantin is given to help prevent seizures, but was unaware of other uses. She also appeared to blame the charge nurse rather than herself for not calling the physician prior to administering the dosage of Dilantin. Significantly, Ms. Allard appeared to the Board to have difficulty with cognitive issues. She could not recall why she asked for a continuance on December 1, 2010 of the scheduled December 2, 2010 Board

hearing and repeatedly testified that she has not been practicing as a nurse for a period of two years, even after being corrected that from November 2007 to March 2, 2011 is more than three years.

III. CONCLUSIONS OF LAW

The Board deliberated and voiced its collective assessment that the Respondent has made repeated and progressive errors in her practice. She avoided accountability for her acts and omissions relating to her professional practice and her lack of responses to the Board's correspondence. The Board expressed further concerns that the nursing practice has changed over the past few years and Nurse Allard may be challenged to comport with those changes. Based on the above facts and those found in the record, but not alluded to herein, and utilizing its experience and training and observing the Respondent's demeanor, the Board, by a vote of 6-0, concluded that Sharon Allard violated the provisions of:

1. 32 M.R.S. Sec. 2105-A (2) (E) (1 and 2) (Incompetent Conduct... by engaging in conduct that evidences a lack of ability or fitness to discharge the duty owed by a licensee to a client or patient or the general public and by engaging in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed).

2. 32 M.R.S. Sec. 2105-A (2) (F) and Board Rules Chapter 4, Sec. 1.A. (6) (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).

3. Board Rule Chapter 4, Sec. 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.)

IV. SANCTIONS

The Board voted 6-0 to order the following sanctions for the above violations:

1. Sharon Allard is hereby **REPRIMANDED** for the above violations.

2. The Board would most likely deny any renewal application by Sharon Allard for licensure as a practical nurse based on the above findings and conclusions.

SO ORDERED.

3/30/11
Date

Dorothy Melanson
Dorothy Melanson, Chairman
Maine State Board of Nursing

V. APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S. Sec. 10051.3, any party that decides to appeal this Decision and Order must file a Petition for Review within 30 days of the date of receipt of this Order with the Superior Court having jurisdiction. 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.