MAINE STATE BOARD OF NURSING

IN RE: Elizabeth B. Calder, R.N.)	DECISION AND ORDER
Licensure Disciplinary Action)	

PROCEDURAL HISTORY

Pursuant to the authority found in 32 M.R.S.A. Sec. 2105-A(1-A)(D), et seq., 5 M.R.S.A. Sec. 9051, et seq. and 10 M.R.S.A. Sec. 8001, et seq., the Maine State Board of Nursing (Board) met in public session at the Board's offices located in Augusta, Maine on March 28, 2002 for the purpose of determining whether Elizabeth B. Calder, R.N. engaged in unprofessional and or incompetent conduct as a registered nurse while employed by Eastport Memorial Nursing Home (Eastport Memorial). A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Chairman Richard L. Sheehan, M.S., R.N., Kathleen A. Dugas, L.P.N., Jody L. Deegan, M.S.N., R.N.C., Betty A. Kent-Conant, R.N. and Jeanne B. Delicata, R.N.C.

In accordance with Maine law, Ms. Calder was served with notice of the Hearing and allegations against her by regular mail posted February 15, 2002 and March 12, 2002 to her last known address. Board Rule Chapter 3, Section 1 requires all licensees to notify the Board of any change of address. Ms. Calder failed to appear either in person or by counsel. John H. Richards, Ass't. Attorney General, presented the State's case. James E. Smith, Esq. served as Presiding Officer.

Subsequent to the opening statement by counsel, State's Exhibits 1-6 were admitted into the Record. Following the taking of testimony, submission of exhibits, and closing argument, the Board deliberated and made the following findings of fact by a preponderance of the credible evidence regarding the violations alleged in the Complaint.

FINDINGS OF FACT

Elizabeth Calder received her nursing degree in 1979 in Canada. She has been a licensed registered nurse in the State of Maine since March 1998 and her license has since lapsed. On November 13, 2000, the Maine Department of Human Services, Licensing and Certification Division, received a complaint from the Eastport Memorial Administrator that certain drugs were unaccounted for on November 11, 2000. An investigation resulted in the finding that 30 drugs were missing. The licensee was the only licensed staff member with access during the time of their disappearance to these controlled substances which are required to be locked up. Additionally, there was no documentation to indicate that the drugs had been administered to patients, destroyed or otherwise properly dispensed or disposed of.

The licensee was subsequently questioned at her home on November 27, 2000 by a detective employed by the Attorney General's Department. At that time, she admitted taking the drugs for her own use both on and off duty and in the past stealing drugs from other facilities beginning around 1992. At some point, she became addicted to benzodiazepines. Nurse Calder further stated that she had wanted to receive counseling for her problem but did not have the funds.

CONCLUSIONS OF LAW

The relevant statutory and regulatory provisions regarding the above matter and as stated in the Complaint/Notice of Hearing are as follows:

- **32 M.R.S.A.** *Sec.* **2105-A.2. Grounds for discipline**. The board may suspend or revoke a license pursuant to Title 5 section 10004. The following are grounds for an action to issue, modify, suspend, revoke or refuse to renew the license of an individual licensed under this chapter:
- **E**. Incompetence in the practice for which the licensee is licensed. A licensee is considered incompetent in the practice if the licensee has:
- 1. Engaged in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public; or
- **F**. 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.
 - **H**. A violation of this chapter or a rule adopted by the board.

Rules and Regulations of the Maine State Board of Nursing, Chapter 4.

- **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.
- **K**. Inaccurate recording, falsifying or altering a patient or health care provider record.
- **O.** Practicing nursing when physical or mental ability to practice is impaired by alcohol or drugs.
 - **P.** Diverting drugs, supplies or property of patients or health care provider.
 - Q. Possessing, obtaining, furnishing or administering prescription drugs to any

drugs.

The Board, by a vote of 5-0, based on the above recited facts, its members' experience and training and the vulnerability of the patient population, concludes that Elizabeth B. Calder, R.N. violated the above statutory and regulatory standards of nursing and that her license to practice as a Registered Nurse is hereby Revoked.

SO ORDERED.

Dated: April 10, 2002

Richard L. Sheehan, Chairman Maine State Board of Nursing

Appeal Rights

Pursuant to the provisions of 5 M.R.S.A. Sec. 10051.3 and 10 M.R.S.A. Sec. 8003, any party that appeals this Decision and Order must file a Petition for Review in the Maine Superior Court within 30 days of receipt of this Order.

The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish 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 Attorney General.