



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: )  
 Jane M. Clayton )  
 )  
 ) DECISION AND ORDER

**INTRODUCTION**

Pursuant to 32 M.R.S.A. § 2105-A, (1-A) *et seq.*, 5 M.R.S.A. § 9051 *et seq.*, and 10 M.R.S.A. § 8003(5), the Maine State Board of Nursing (“the Board”) met in public session at the Board’s offices located in Augusta, Maine on January 16, 2008 for an adjudicatory hearing in the matter of Jane M. Clayton. A quorum of the Board was in attendance during all stages of the proceeding. Participating and voting board members were Board Chair Therese B. Shipps, D.N.Sc., R.N., Dorothy Melanson, R.N., Susan Brume, L.P.N., Susan Baltrus, R.N., and Robin Brooks.

John H. Richards, Assistant Attorney General, presented the State’s case. Jane M. Clayton was present and was represented by Karen Kingsley, Esq. Prior to the taking of testimony, Ms. Kingsley stated her objections to the Notice of Hearing because the first paragraph of the notice refers to Ms. Clayton, who is an L.P.N., as having a license to practice registered professional nursing. The State argued that this error resulted in no prejudice to Ms. Clayton and moved to amend the notice accordingly. The Hearing Officer, Susan Sparaco, Assistant Attorney General, overruled the objection and granted the motion to amend the notice.<sup>1</sup>

<sup>1</sup> Attorney Kingsley also had sought a continuance of the hearing because she had an 11:00 a.m. argument before the Law Court in Portland that same day. (The Board hearing was scheduled for 2:00 p.m. in Augusta). The State objected to continuing the matter. The hearing officer heard arguments on the request for continuance during a conference call on January 14, 2008. The hearing officer concluded that Ms. Kingsley would have sufficient time to travel to the 2:00 p.m. hearing following her scheduled appearance before the Law Court. The request for continuance was denied in light of the fact that the matter had been pending for several months, that it had been continued at least once at Ms. Kingsley’s request, that there

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The State called as witnesses Jayne Winters, the staff member at the Board who tracks probationary licensees' compliance with probation conditions, Susan Hoyt-Russell, the Director of Nursing for Cedar Ridge Center for Healthcare and Rehabilitation ("Cedar Ridge"), and Myra Broadway, Executive Director of the Maine State Board of Nursing. Jane M. Clayton testified in her own defense but presented no other witnesses. Admitted into evidence without objection were State's Exhibits 1, 2, 3, 4, 5, 5A, 6, 7, 8 and 9.

The Board reviewed the admitted exhibits and considered the testimony of Jane M. Clayton and the State's witnesses. At the conclusion of the hearing, the Board deliberated and made the following findings of fact and conclusions of law based upon the preponderance of evidence.

#### FINDING OF FACT

1. On August 2, 2000, Jane M. Clayton entered into a Consent Agreement for probation with conditions as a result of multiple medication errors consisting of failing to document the administration of medications in patients' files, omitting the administration of certain medications, administering wrong medications and failing to timely administer medications.

2. The August, 2000 Consent Agreement required Ms. Clayton to, among other things, enroll and successfully complete continuing education course in Pharmacology and the legalities of nursing practice, to inform any nursing employer of the conditions of her license, to notify the Board of any changes of employment, and to arrange for any nursing employer to submit quarterly reports to the Board.

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was no guarantee that it could be rescheduled in February and because Ms. Clayton continued to work as an L.P.N. with questions regarding her competency left unresolved.

3. In 2000 the Board received two (2) quarterly reports from Pleasant Heights Rehabilitation and Living Center ("Pleasant Heights").

4. In November, 2001 Ms. Clayton became employed at Maine General Rehabilitation and Nursing Center ("Maine General") but did not inform the Board of this change in employment or Maine General of the existence and terms of her Consent Agreement.

5. In October, 2005 Jayne Winters, who had recently been hired by the Board to, among other things, track licensees' compliance with probation conditions, noticed that the Board had received no quarterly reports from Ms. Clayton other than those received in 2000 from Pleasant Heights. Ms. Winters sent Ms. Clayton a letter reminding her of the quarterly reporting requirement.

6. In November, 2005, the Board learned that Ms. Clayton had changed employment when it received a letter from Maine General indicating that Ms. Clayton was working on CEU credits. The Board never received documentation that any CEU credits were completed.

7. In June 2006, Jayne Winters sent another letter again reminding Ms. Clayton of her responsibility to submit quarterly reports and to complete a course in Pharmacology as agreed to in the Consent Agreement.

8. On November 1, 2006 the Board learned that Ms. Clayton had changed employers again without properly notifying the Board when it received a letter from Susan Hoyt-Russell, Director of Nursing at Cedar Ridge Healthcare and Rehabilitation Center, informing the Board that Ms. Clayton had been terminated from employment at that facility on October, 25, 2006 due to multiple medication errors.

11. Ms. Clayton was hired to work at Cedar Ridge on August 21, 2006.

12. Ms. Clayton did not inform Cedar Ridge about her consent agreement when she was hired.

13. Ms. Clayton made multiple medication errors while employed at Cedar Ridge consisting of failing to complete documentation of the administration of medication to patients, omitting the administration of medication, administering wrong doses of medications, and failing to timely administer medications. In one incident involving a Clonidine patch Ms. Clayton signed for the patch and applied a patch cover three (3) days in a row. She later circled her initials on the medication record with no explanation.

13. Although Cedar Ridge offered Ms. Clayton an opportunity for further orientation in the passing of medication, she declined.

14. By letter dated December 28, 2006, the Board sent Ms. Clayton a notice of possible violations of the Board's laws and rules based on the information that the Board had received from Cedar Ridge. The Board directed Ms. Clayton to respond within thirty (30) days.

15. In March, 2007, while the "Cedar Ridge" complaint was pending, the Board sent Ms. Clayton another letter inquiring about her employment status. Ms. Clayton did not respond.

16. In May, 2007, Ms. Clayton met with the Board for an informal conference regarding the information submitted to the Board from Cedar Ridge.

17. At that conference, Ms. Clayton revealed for the first time that she was employed at Woodlawn Rehabilitation in Skowhegan.

18. In October, 2007, the Board sent Ms. Clayton another letter reminding her of her obligation to inform the Board of any changes in her employment status and her need to submit quarterly reports and complete her course in Pharmacology.

19. At the hearing on January 16, 2008, Ms. Clayton testified that she had been employed at Woodlawn after being terminated by Cedar Ridge but left after two (2) months for personal reasons. She testified that after leaving Woodlawn, she went to work for Lakewood.

20. Ms. Clayton did not notify the Board when she was hired at Woodlawn or at Lakewood. Ms. Clayton testified at hearing that she also worked for a period of time in Rhode Island, although the Board never received notice of this employment at the time.

21. Ms. Clayton has made little to no effort to comply with the terms of the 2000 consent agreement. Although Ms. Clayton appears to suggest that the Board should share some responsibility for her noncompliance because the Board did not send reminders to her before 2005, this ignores the fact that it has always been Ms. Clayton's responsibility to comply with the conditions of the agreement (or to seek a modification, clarification or a release of them). Ms. Clayton offers no good explanation for her almost complete failure to comply with the notice, reporting, and course requirements even though she has received several letters from the Board reminding her of her obligations.

22. Moreover, Ms. Clayton demonstrates a lack of concern and/or insight regarding the seriousness of her medication errors.

23. Jane M. Clayton assumed duties and responsibilities within the practice of nursing when competency had not been maintained regarding medication administration and documentation.

24. Jane M. Clayton failed to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard patients.

25. Jane M. Clayton inaccurately recorded a patient or healthcare provider record on at least one (1) occasion involving the administration of a Clonidine patch.

#### CONCLUSIONS OF LAW

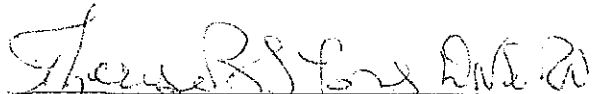
Jane M. Clayton's conduct violates 32 M.R.S.A. § 2105-A(2)(A), (E), (F), and (H) and the Rules and Regulation of the Maine State Board of Nursing, Chapter 4 Section 1A(1), (5), (6), and (8) and Chapter 4, Section 3(B), (F), and (K).

#### DISCIPLINARY SANCTION

Based upon the above Findings of Fact and Conclusion of Law, the Board voted unanimously to **REVOKE** the practical nursing license of Jane M. Clayton.

**SO ORDERED.**

Dated: 1/26/2008

  
Therese B. Shipps, D.N.Sc., RN,  
Chair, Maine State Board of Nursing

### APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S.A. § 10051(3) and 10 M.R.S.A. § 8003(5)(F), any party to this proceeding may appeal this Decision and Order by filing a petition for review within thirty (30) days of the receipt of this order with the District Court having jurisdiction. Any other person aggrieved shall have forty (40) days from the date the decision was rendered to petition for review. The petition shall specify the person seeking review, the manner in which he/she is aggrieved and the final agency action in which review is sought. It shall 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's proceedings, and the Maine Attorney General.