



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: Timothy C. Heinzman)
 Disciplinary Action)**

**DECISION &
 ORDER**

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 9:00 a.m. on August 15, 2011. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether grounds exist for the Board to take disciplinary action against Nurse Heinzman’s license to practice as a Registered Professional Nurse. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting were Chair Pro Tem Margaret Hourigan, R.N., Ed. D.; Robin Brooks (public representative); Susan C. Baltrus, M.S.N., R.N.B.C., C.N.E.; Carmen Christensen, R.N.; and Valerie Fuller, A.P.R.N. John Richards, Assistant Attorney General, presented the State’s case. Mr. Heinzman was not 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 State’s Exhibits 1-3 were entered into evidence. The Board then found that Mr. Heinzman had been duly served with the Notice of Hearing in this matter on June 27, 2011 and again on July 18, 2011. The Board heard the testimony, reviewed the submission of exhibits, and considered the State’s opening and 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

Timothy Heinzman, 51 years of age, was first licensed in Maine as a Registered Professional Nurse by endorsement on September 2, 2009. His license was suspended on June 1, 2011. Mr. Heinzman was hired in his professional capacity by The Aroostook Medical Center in June 2009. His nursing practice skills were competent, but over time, staff members at the hospital were concerned that the licensee had a significant pattern of absenteeism and was abusing alcohol.



Christine Quirion has been licensed as a registered professional nurse since 1994 and is the Senior Manager of the Emergency Room. She noticed alcohol on Mr. Heinzman's breath while he was working at the hospital. This witness spoke with the licensee about the subject, but he denied being under the influence while on duty. Nurse Quirion suggested that Nurse Heinzman contact the Occupational Health Services for help, but he did not follow through.

Nurse Quirion continued to try to have Mr. Heinzman get medical treatment for his alcohol problem, but to no avail. He stated that his kidney stones were the problem that caused him to miss work. In mid-August 2010, Nurse Heinzman came into Nurse Quirion's office and expressed his fear to her that he was going to die. He then left and she attempted to contact him without success, until later in the day when he said during several telephone conversations that he was dying and made other statements to her which made no sense.

On November 23, 2010, Nurse Heinzman did not appear at work and departed from his usual routine by not calling in and stating the reason for his absence. As a result, several employees went to the licensee's home to check on his condition, whereupon a male nurse approached the home and observed Mr. Heinzman up and about. The licensee appeared at work between 8:00 p.m. and 8:30 p.m. that evening, smelling of alcohol.

Scott Rossignol was a CNA at The Aroostook Medical Center during Mr. Heinzman's employment. He testified that on the evening of November 23, 2010, the licensee was out of character in that he was chatty, his face was droopy, his eyes were glazed, he mis-stepped while walking, and ingested many breath mints. This witness, who worked with the licensee on a regular basis, believed Nurse Heinzman was intoxicated that evening. Libby Goggin, R.N. also testified. She was on duty at the beginning of Nurse Heinzman's November 23, 2010 shift and noticed an odor of alcohol on his breath. She further stated that his excuses for missing work "didn't make any sense." Another registered professional nurse noted that the licensee was talking to himself that evening.

On November 29, 2010, Nurse Quirion discovered that Nurse Heinzman's nursing license had been suspended in Montana in April 2010. According to an April 10, 2010 Montana Board Decision, the suspension was to remain in full force and effect until Nurse Heinzman "...submits proof to the Montana Board of Nursing of successful involvement with the Montana Assistance Program/Nurses' Assistance Program (NAP) for a period of at least one (1) year prior to practicing in Montana." The Board's disciplinary action was based in part on the licensee's self-report to the Montana Board of an OUI in June 2008 and a relapse with alcohol in March 2009. Nurse Heinzman stopped all drug testing and counseling on April 28, 2009 and was unsuccessfully discharged from the Montana NAP on May 22, 2009. Nurse Quirion had been led to believe by the licensee that he had fulfilled all the requirements of the Montana Board Decision and that he possessed an unencumbered nursing license.

On November 30, 2010, Nurse Heinzman appeared at work one hour late, at 8:00 p.m. He blamed his tardiness on car problems, but was loud and hospital staff kept him from attending to patients. The hospital terminated Nurse Heinzman's employment shortly thereafter due to his refusal to get help for his addiction to alcohol and his failure to truthfully disclose the facts surrounding his alcohol-related problems in Montana.

III. CONCLUSIONS OF LAW

The Board concluded by a vote of 5-0, based on the above facts and those contained in the record but not cited above, that Timothy C. Heinzman violated the following Board statutes and Rules:

1. 32 M.R.S. Section 2105-A (2) (B) - Habitual substance abuse that has resulted or is foreseeably likely to result in performing services in a manner that endangers the health and safety of patients.
2. 32 M.R.S. Section 2105-A (2) (F) - A standard of professional behavior that has been established in the practice for which the licensee is licensed.
3. 32 M.R.S. Section 2105-A (2) (H) - A rule adopted by the board.
4. Board Rule Chapter 4, Disciplinary Action and Violations of Law Section 1.A.(2) - 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.
5. Board Rule Chapter 4, Disciplinary Action and Violations of Law Section 1.A. (8) - A violation of this chapter or a rule adopted by the board.
6. Board Rule Chapter 4, Disciplinary Action and Violations of Law Section 3(B) - Assumption of duties and responsibilities within the practice of nursing without adequate preparation or when competency has not been maintained.
7. Board Rule Chapter 4, Section 3(F) - Failure to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard patients.
8. Board Rule Chapter 4, Disciplinary Action and Violations of Law Section 3(N) - Practicing nursing when unfit to perform procedures and make decisions in accordance with the license held because of physical, psychological or mental impediment.
9. Board Rule Chapter 4 Disciplinary Action and Violations of Law Section 3(O) - Practicing nursing when physical or mental ability to practice is impaired by alcohol or drugs.

IV.

SANCTIONS

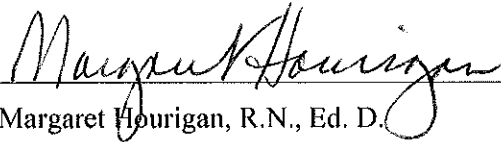
The Board voted 5-0 to order the following sanctions for the above violations:

1. Timothy Heinzman's Registered Professional Registered Nurse's license is hereby **REVOKED**.
2. Timothy Heinzman shall pay the **COSTS** of this hearing **by December 31, 2011**. The costs total **\$825** (Hearing Officer: 15 minutes' review record pre-hearing + 1 hour 30 minutes at hearing + 3.15 hours to write decision = 5 hours @ \$115 = \$575; Copying: 80 pp. x 10 copies @.25 =\$200; Court Reporter: \$50). The bank check or money order shall be made payable to: "Treasurer, State of Maine" and mailed to Myra Broadway, J.D., M.S., R.N., Executive Director, 158 State House Station, Augusta, Maine 04333-0158. Additional costs may be assessed in the event that Timothy Heinzman requests a transcript of the hearing.

The costs are in keeping with the Board's practice of assessing the costs to those who violate Board statutes and Rules as opposed to sharing the costs with those licensees who obey same. Additionally, Mr. Heinzman may have resolved this action without a hearing had he responded to the complaint.

SO ORDERED.

Dated: 9/18/11


 Margaret Hourigan, R.N., Ed. D.
 Chair Pro Tem, 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 District 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.