

MAINE STATE BOARD OF NURSING

IN RE: Mary C. Long, L.P.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 Mary Long L.P.N. engaged in unprofessional and or incompetent conduct as a licensed practical nurse while employed at Kennebunk Nursing and Rehab Center (Kennebunk Nursing). 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. Long was served with notice of the Hearing and allegations against her by regular mail posted February 15, 2002 which was not returned to the Board. Additionally, the same Notice was sent on that date by certified mail, and a return receipt was received by the Board on February 19, 2002 indicating that service had been duly made on the licensee. Nurse Long 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 1-2 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.

PRELIMINARY FINDINGS OF FACT

Mary Long graduated from nursing school in 1981. She became a licensed practical nurse (L.P.N.) in the State of Maine on January 12, 1999 and subsequently began employment at Kennebunk Nursing.

Patient X, a 78 year old woman, was admitted to Kennebunk Nursing on September 30, 1999 with a probable diagnosis of Jakob Creutzfeld disease. Her physician characterized her behavior as "bizarre" and, at times, uncontrollable which included spitting, yelling and striking out at the staff. Nurse Long was functioning as an L.P.N. at Kennebunk Nursing during the morning hours of October 5, 1999. At that time, it was necessary to administer medication by injection to patient X who was

described as "uncontrollable." Nurse Long secured the assistance of two Certified Nursing Assistants (C.N.A.) who proceeded to hold the patient down while Nurse Long injected her. However, the C.N.A.s observed Nurse Long place a pillow over patient X's face during this procedure. The pillow was thereafter removed, and the licensee explained to the C.N.A.s that she "did it for your protection, we don't know what she has." Nurse Long was also involved in a second similar incident regarding another patient. When interviewed about the above incidents by a representative of the Maine Department of Human Services, she denied them.

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
2. Engaged 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.

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.

H. Intentionally or negligently causing physical or emotional injury to a patient.

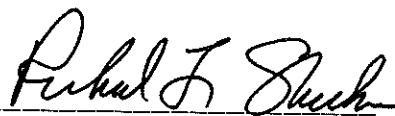
I. Failing to safeguard the patient's dignity and right to privacy in providing services regardless of race, color, creed and status.

The Board finds the following violations of the above statutes, rules and standards of care. There is no standard that justifies using a pillow in the manner described above. Protective clothing including gowns, face masks and gloves were available to the staff in the above situation. Nurse Long's unprofessional and incompetent actions failed to safeguard the patient while endangering her health.

The Board, by a vote of 5-0, based on the above recited facts and utilizing its members' experience and training while considering the vulnerability of the patient population, concludes that Mary C. Long, L.P.N. violated the above statutory and regulatory standards of nursing. **Mary Long is hereby placed on probation for one year from the time that she resumes practice in the State of Maine and her employer is to submit quarterly reports to the Board during that year. Additionally, Ms. Long shall provide a copy of this Decision to any of her employers in the health care field and notify this Board of any change in employment.**

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.