



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: Colleen Longmuir

DECISION AND 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 8:30 a.m. on March 3, 2011. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether to take disciplinary action against Colleen Longmuir's license to practice registered professional 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 Longmuir was present and represented by Walter McKee, Esq. 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 parties' opening statements, State's Exhibits A-K and Respondent's Exhibits 1-3 were admitted into the Record. The Board next 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

Colleen Longmuir, 57 years of age, has been licensed in Maine as a registered professional nurse since July 7, 1995. Prior thereto, she was licensed as a practical nurse. Ms. Longmuir was also licensed as a registered professional nurse in Oregon, where she was the admissions nurse in a rehabilitation nursing home from 2003-2005. While in Oregon, she voluntarily entered into its Nurse Monitoring Program in February 2005 to resolve a concern related to chemical dependency issues as the result of an OUI conviction. After Ms. Longmuir returned to Maine, the monitoring remained under the authority of the



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State of Oregon, with the required urine screen testing done in Maine and resultant lab reports sent to Oregon. One of those reports revealed that Ms. Longmuir had a positive urine drug screen on January 15, 2009 and the respondent admitted to having consumed alcohol on a day off prior to the testing. She testified that she had not consumed any alcohol or illegal substances for a period of three years and three months prior thereto. From January 15, 2009 until January 6, 2010, no positive screens were identified.

Subsequent to her return to Maine in 2005, Nurse Longmuir became employed in a variety of nursing positions, including that of charge nurse from 2008-2010 with the supervision of six to seven mental health workers and two nurses at the Riverview Hospital in Augusta, Maine. She signed a Consent Agreement with the Maine Board and Attorney General's Office effective June 1, 2009. The Agreement placed her license as a registered professional nurse on probationary status with certain terms for five years, a condition of which included that she would "abstain completely from the use of alcohol or drugs, with the exception of substances used in accordance with a valid prescription from a treatment provider who is aware of her substance abuse history."

The Oregon State Board of Nursing notified the Maine Board by fax dated January 28, 2010 that Ms. Longmuir had a positive drug screen for marijuana pursuant to a specimen taken on January 6, 2010. The Maine Board notified Nurse Longmuir of this result and scheduled an informal conference with her on March 3, 2010, which resulted in the suspension on that date of her Maine registered professional nurse's license. The suspension, authorized by the Consent Agreement and Board statutes, has remained in effect for a number of procedural reasons until the date of this hearing.

Nurse Longmuir has consistently denied that she used any prescribed drug or alcohol subsequent to January 6, 2010. The respondent further testified that her positive test on January 6, 2010 was the result of smoking one marijuana cigarette for 5-7 days during the end of December 2009 and the beginning of January 2010. At that time, her sister was dealing with serious mental health issues and substance abuse, one son was in the Armed Services in Iraq, and another son with Asperger's Syndrome needed special attention. Nurse Longmuir continues to attend AA meetings seven times a week and one Caduceus meeting a month; her case manager at the Medical Professionals Health Program ("MPHP") has high praise both for her efforts in complying with the Maine Consent Agreement and her general honesty and commitment to sobriety.

The primary factual dispute in this case arose due to the test results after January 6, 2010 which appeared to indicate that levels of marijuana were present in Nurse Longmuir's system both 173 and 126 days after the above date. The state's expert rendered her opinion that, "it appears Ms. Longmuir did not use cannabis from June through August 2010. It does, however, appear likely that she did use cannabis after the first positive result on January 6, 2010 and probably after April 12, 2010 and May 3, 2010." The respondent's expert arrived at a different conclusion: that residue of cannabis was still present in the

respondent's system due to her history of Hepatitis C; the known pharmacokinetic characteristics of carboxy THC, including its rate of elimination; and Nurse Longmuir's significant weight loss during the relevant period of time. His opinion was that, "the results obtained from Ms. Longmuir's urine are consistent with no further ingestion of marijuana products following December 2009." The Board declined to adopt one expert's opinion over the other as its members concluded, based on the totality of the evidence, that Ms. Longmuir would qualify for a probationary license regardless of the Board's finding. The Board was also impressed with Ms. Longmuir's MPHP's case manager's attestation to her integrity.

III. CONCLUSIONS OF LAW

Based on the above facts and those found in the record, but not alluded to herein, and utilizing its experience and training, the Board, by a vote of 6-0, concluded that Colleen Longmuir violated the provisions of:

1. 10 M.R.S. Sec. 8003 (5) (C) (3) (Consent Agreement);
2. 32 M.R.S. Sec. 2105-A (2) (B) and Board Rules Chapter 4, Sec. 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);
3. 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).
4. 32 M.R.S. Sec. 2105-A (2) (H). (Any violation of this chapter or rule adopted by the Board).

The Board further concluded that Nurse Longmuir does not pose a threat of harm to the public and her license should be renewed on a probationary status as soon as she complies with Board statutes and Rules applicable to licensing requirements. She has used illegal substances occasionally during the past ten years. Furthermore, she has performed her duties as a nurse consistently in a professional manner.

IV. SANCTIONS

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

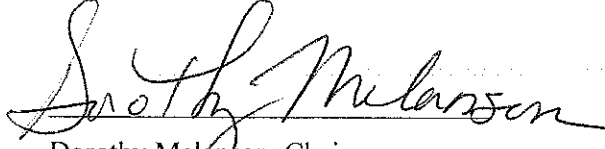
1. The provisions of the June 1, 2009 Consent Agreement remain in full force and effect, except where its provisions conflict with the sanctions contained herein, in which instance the sanctions herein control.

2. The substance screenings shall take place each week for a period of one year from the date of this Decision and Order. If there are no positive results after one year, then the Maine Professionals Health Program may determine the frequency of such testing at its discretion.

3. Colleen Longmuir shall pay the **COSTS** of this hearing **by December 31, 2011** which total **\$1489.15** (Hearing officer: 45 minutes for review of record + 3 hours and 30 minutes for attendance at hearing + 4 hours to write decision = 8 hours and 15 minutes @ \$115 per hour = \$948.75) + (Court reporter: \$220.40) + (Copying: 128 pp. x 10 copies @ \$.25 = \$320). The check or money order shall be made payable to: "Treasurer, State of Maine" and mailed to the Maine State Board of Nursing, 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 Colleen Longmuir 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. Ms. Longmuir is reminded to contact the Board in the event that she is unable to timely pay the costs. (6-0)

SO ORDERED.

3/30/11
Dated


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.