

MAINE STATE BOARD OF NURSING

IN RE: Jamie Mantz)
Application for Licensure)

**DECISION
AND 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 9:30 a.m. on June 6, 2013. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether to uphold the Board's preliminary decision to deny Jamie Mantz's license to practice as a Licensed Practical Nurse. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Chair Pro Tem Susan C. Baltrus, MSN, RN, CNE; Robin Brooks (public representative); Carmen Christensen, RN; Elaine Duguay, LPN; Joanne Fortin, RN; and Peggy Sonesen, RN. Jonathan Bolton, Assistant Attorney General, presented the State's case. Ms. Mantz was 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 that would disqualify them from participating in the hearing. The Board then took official notice of its statutes and rules, and subsequent to the State's opening statement, State's Exhibits 1-16 were admitted into the Record. The Board then 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 allegations in the Notice of Hearing.

II. FINDINGS OF FACT

Jamie Mantz, 48 years of age and a resident of Bridgton, Maine, completed her junior year at Bridgeport State College and is a Certified Nurse's Assistant (CNA). She had additional training as an Emergency Medical Technician (EMT) in Massachusetts. She was involved with medicine-related courses at Tufts University and worked with several physicians while preparing to pass her nursing boards. Ms. Mantz graduated from InterCoast Career Institute in South Portland, Maine on October 23, 2012 with a degree in practical nursing. She subsequently applied on November 7, 2012 to the Maine State Board of Nursing for Licensure by Examination as a Licensed Practical Nurse (LPN). The Maine Board preliminarily denied Ms. Mantz's application by letter dated March 20, 2013. The denial was based on two allegations, the first being Ms. Mantz's alleged substance abuse and the second her criminal history record. Appellant Mantz's criminal record is listed as follows:

A. October 16, 2007 - Operating Under the Influence (OUI)

B. May 12, 2008 – Operating Under the Influence (OUI)

Ms. Mantz testified that several factors contributed to her drinking problem. She married in 1988; the marriage produced four children. Appellant's husband lost his job as a golf professional in 2004. He did not obtain another job, so Ms. Mantz became the sole financial supporter of her family. Appellant's husband, beginning approximately in 2004, allegedly became both verbally and physically abusive to Appellant who was under stress due to her filling many roles. She worked 40 hours a week, mowed the lawn, did the shopping, mothered the children, etc.

Ms. Mantz testified that her life began to further deteriorate in 2006-2007 when she began drinking wine in the morning. She sought professional marriage counseling with her husband, but he quit soon after the sessions were held. Her house was in danger of being foreclosed and Ms. Mantz's drinking progressed to the point where she would black out once a week due to ingestion of alcohol. On October 16, 2007, Ms. Mantz apparently was physically abused by her husband and subsequently consumed alcohol. She then left home in her car, but was observed by a policeman to illegally change lanes and consequently was pulled over by the police, charged, and later convicted of OUI.

Ms. Mantz was hospitalized for overconsumption of alcohol on March 24, 2008 for four days and from April 29, 2008 until May 5 of that year. The pressures of home life and her husband's abusive nature resulted in increased drinking. On May 12, 2008, Ms. Mantz had been drinking and arguing with her husband. She left the house in her car to prevent further psychological damage to her children and subsequently struck a parked car. She was convicted of OUI on October 16, 2008, lost her driver's license for four years, and later paid a fine. An additional stress factor was that the Massachusetts Department of Health was involved with the family for a period of time until 2009.

Appellant Mantz was divorced in June 2010. Appellant's husband was awarded custody of their children. Appellant subsequently ended up in a homeless shelter for approximately six months after being intoxicated in public. Appellant went to AA meetings, but ceased attending since, in her view, many of the attendees lacked social awareness and education. Appellant's physician has advised her to stop drinking. However, she still consumes wine several times each month and denies that she is an alcoholic.

III.

CONCLUSIONS OF LAW

The Board by the vote of 6-0 concluded that Jamie Mantz violated the provisions of 32 M.R.S. Sec.2105-A (2) (B): "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" and 5 M.R.S. 5301(1) and (2)(B)) which authorize the Board to "...refuse to grant or renew any occupational license... on the basis of the criminal history record relating to convictions denominated in section 5301, subsection 2, but only if the licensing agency determines that the applicant ... so convicted has not been sufficiently

rehabilitated to warrant the public trust.” The convictions denominated in Section 5301, subsection 2 are those: 1) “which involve dishonesty or false statements; 2) ... for which incarceration for less than one year may be imposed and which directly relate to the trade or occupation for which the license or permit is sought; 3) ... for which no incarceration may be imposed and which directly relate to the trade or occupation for which the license or permit is sought; 4) ... for which incarceration for one year or more may be imposed....”

The Board concluded that Jamie Mantz has not satisfied the requirements for licensure that include having been sufficiently rehabilitated to warrant the public trust [5 M.R.S. Sec. 5302 (1)]. The Board also expressed its understanding that its actions are governed by the provisions of 5 M.R.S. Sec. 8008 which read as follows:

The sole purpose of an occupational and professional regulatory board is to protect the public health and welfare. A board carries out this purpose by ensuring that the public is served by competent and honest practitioners and by establishing minimum standards of proficiency in the regulated professions by examining, licensing, regulating and disciplining practitioners of those regulated professions. Other goals or objectives may not supersede this purpose.

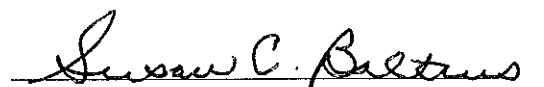
The Board remained concerned that Jamie Mantz has not admitted that she has a problem with alcohol and neither has she been recently evaluated to determine the extent of the problem. Due to her denial, Ms. Mantz apparently does not recognize the extent of her past abuse of alcohol that include two convictions for driving under the influence of alcohol, one hospitalization for ingestion of alcohol, and an incident of public intoxication. Moreover, her physician was of the opinion that Ms. Mantz needs to stop drinking alcohol.

The Board, in consideration of the above facts and conclusions, hereby suggests that Ms. Mantz participate in both an alcohol evaluation by an addictionologist and also enroll in a program such as the Medical Professionals Health Program to address her problems. The Board further expressed concern that Ms. Mantz needs to demonstrate sobriety for at least one year before seeking nursing licensure.

Wherefore, by the vote of 6-0, the Board ordered that Jamie Mantz’s Appeal from the Board’s Preliminary Denial of her Application for Licensure as a Licensed Practical Nurse is **HEREBY DENIED**.

SO ORDERED.

Dated: July 30, 2013


Chair Pro Tem Susan C. Baltrus, MSN, RN, CNE
Maine State Board of Nursing

V.

APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S. Sec. 11001, 2 & 3, and 10 M.R.S. Sec. (5)(G), any party that appeals this Decision and Order must file a Petition for Review in the Maine Superior Court having jurisdiction within 30 days of receipt of this Order. 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 Attorney General.