



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:) **DECISION**
Lynn D. Marus) **AND**
Licensure Disciplinary Action) **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. 8001, *et seq.*, the Maine State Board of Nursing (Board) met in public session at the Board's office located in Augusta, Maine on October 22, 2008, at 9:00 a.m. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether Lynn D. Marus violated Board statutes and rules as a registered professional nurse while licensed in Maine, as more specifically stated in the Notice of Hearing dated June 15, 2006. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Chairman Bruce O'Donnell, C.R.N.A.; Dorothy Melanson, R.N.; Robin Brooks (Public Representative); Susan C. Baltrus, M.S.N., R.N., C.; and Carmen Christensen, R.N. John H. Richards, Assistant Attorney General, presented the State's case. Lynn Marus was neither represented by legal counsel nor present, although had been served by first class mail with the Notice of Hearing on or about September 23, 2008. James E. Smith, Esq. served as Presiding Officer.

Following the determination that none of the Board members had conflicts of interest which would bar them from participating in the hearing, the taking of official notice of its statutes and rules, and subsequent to the opening statement by counsel, State's Exhibits 1 and 2 were admitted into the Record. The Board then heard the testimony, reviewed the submission of exhibits, and considered counsel's closing argument, after which it deliberated and made the following findings of fact by a preponderance of the credible evidence regarding the violations alleged in the complaint.



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II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Lynn D. Marus, date of birth October 18, 1961, has been licensed as a registered professional nurse since 1981. Her Maine license, which was first issued on December 9, 2004, lapsed on October 18, 2006. Ms. Marus was employed by Angel Care of Maine, Inc. (Angel Care), which contracted services to various health providers, including the Maine Veterans Home located in Bangor, Maine.

On January 17, 2005, Ms. Marus agreed to work the 7:00 a.m. - 3:00 p.m. shift on January 18 at the Maine Veterans Home. She did not appear at the facility at the appointed hour and told her supervisor that she had overslept and would be at work by 10:00 a.m. She arrived at the Veterans Home at 10:45 a.m., whereupon some of the staff related to the Director of Nurses that "she reeks of alcohol." The Director of Nurses did not smell the alcohol, but observed that Ms. Marus had difficulty grasping the concept of her responsibilities at the Home. The Director related to her that she was being sent home on suspicion of alcohol abuse; Ms. Marus did not contest that allegation, but rather left the premises.

On January 24, 2005, Ms. Marus returned the telephone call of the Vice-President of Angel Care, who apparently had requested her to attend a drug screening that day. Ms. Marus refused because she had already consumed a couple of beers and wouldn't drive to the appointment. She was then immediately terminated from Angel Care.

Ms. Marus has received several written communications from the Board related to the above incident. She has not responded to Board inquiries nor applied for renewal of her nursing license. As a result, the Board, based primarily on the uncontroverted evidence, unanimously concluded that Lynn Marus violated the provisions of 32 M.R.S. Sec. 2105-A(1-A) ("No response to the Board's complaint"), (2)(F) ("Unprofessional Conduct"¹), and (2)(H) ("Any Violation of Board Rules, Ch. 4, Sec. 1.A.6"²).

¹ 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."

² (2)(H). "A violation of this chapter or a rule adopted by the Board." Rules adopted by the Board contained in the "Rules and Regulations of the Maine State Board of Nursing", Chapter 4, Section 1.A.6. state that "Unprofessional Conduct" is a violation of those Rules. Chapter 4, Section 3 provides the following 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: O. Practicing nursing when physical or mental ability to practice is impaired by alcohol or drugs."

The Board, exercising its experience and training, and based on the above findings and conclusions, hereby orders the following disciplinary action by a unanimous vote:

Lynn D. Marus is hereby issued a **WARNING**. If Ms. Marus applies for renewal of her Maine license to practice registered professional nursing, she shall appear in person before this Board prior to any final action regarding that application.

SO ORDERED.

11/6/2008

Date



Bruce O'Donnell, C.R.N.A., Chairman
State of Maine Board of Nursing

IV.

APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S.A. 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 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 Maine Attorney General.