



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: John M. Morley)
)
 Disciplinary Action) 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 hearing room located in Augusta, Maine at 2:30 p.m. on April 6, 2011. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether to take disciplinary action against John Morley’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.; Susan C. Baltrus, M.S.N., R.N.B.C., C.N.E.; and Bruce O’Donnell, C.R.N.A. Dennis Smith, Assistant Attorney General, presented the State’s case. Nurse Morley 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 subsequent to the State’s opening statement, State’s Exhibits 1-6 were admitted into the Record. The Board next determined that service of the Notice of Hearing had been timely made on April 1, 2011 by certified mail and by first class mail on or about March 29, 2011. Additionally, Mr. Morley confirmed during a telephone conversation on March 26 or 27th, 2011 that he desired to have the matter heard on April 6, 2011.

The State then amended the Notice of Hearing in two instances. First, after the phrase “The specific issues to be decided are (1) whether you engaged in fraud or deceit” by adding the words “**obtaining a license.**” and **striking the rest of Issue #1.** Second, a fifth factual allegation was added which states: “On or about March 31, 2011, you were convicted in Arizona of two counts of criminal conduct - to wit: indecent exposure in August 2010.”



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The Board then heard the testimony, reviewed the submission of exhibits, and considered the State's closing argument, 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

Respondent John Morley, 56 years of age, was first licensed as a Registered Professional Nurse on August 1, 1997 in the State of New Hampshire. He was subsequently licensed by endorsement (reciprocity) in Maine as a Registered Professional Nurse on October 15, 1997. His Maine license was last renewed on November 19, 2008, but lapsed on November 21, 2010. No renewal application has been filed with the Board as of the date of this hearing.

Nurse Morley moved to Arizona where he was employed as a registered professional nurse by Banner Behavioral Health Hospital beginning May 6, 2007 for a 39-week temporary assignment which then evolved into full-time employment. He was practicing his nursing profession in Arizona pursuant to his Maine nurse's license which was recognized in Arizona since both Maine and Arizona are signatories to "The Nurse Licensure Compact" (Compact) enacted into Maine Rule, effective July 1, 2001. The Compact provides in part that, "A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state." Maine qualifies in this case as the home state which the Compact defines as "the party state which is the nurse's primary state of residence." Therefore, in the event that Maine primary residency is not established, Respondent Morley would be required to obtain an Arizona nursing license in order to practice in that state.

In his November 19, 2008 on-line application for renewal of his Maine nurse's license, John Morley at first gave his address as Scottsdale, Arizona. The Maine on-line process denied the application, so the Respondent amended the application to reflect Maine as his residency. The application was then granted due to reliance on the residency falsehood which enabled John Morley to continue practicing in Arizona pursuant to his Maine license.

The deception was discovered during an investigation which revealed that Mr. Morley was not a resident of Maine since he no longer physically resided in Maine as of May 6, 2007 and had little indicia of residency. Although he continued to list his residency for licensure purposes as 52 North High Street, Bridgton, Maine, he apparently has not lived there since at least September 2007. Additionally, he received an Arizona driver's license on November 15, 2007 and listed his residence at that time, and currently, as Scottsdale, Arizona.

The Board informed the Respondent of its findings by correspondence dated September 21, 2010. John Morley responded by letter dated October 19, 2010, which contained a positive evaluation and praise from both his employer and a patient regarding his competency and demeanor as a nurse. An award from his peers was also enclosed. On December 14, 2010, the Board's executive director sent Respondent Morley a copy of the Board investigator's report documenting that John Morley had not been a Maine resident for years. He responded in writing on January 10, 2011 and stated that "I may no longer be eligible for a Maine license" and that "I am now aware that I might have had to apply for an Arizona license after I decided to remain, at least for a while, in Arizona." In the same letter, Respondent Morley disclosed that he would not be renewing his Maine license and was "vigorously fighting" some misdemeanor charges in Arizona.

The Maine Board had been informed by the Arizona State Board of Nursing in September 2010 of charges against John Morley for indecent exposure, which allegedly occurred in August 2010. However, unbeknownst to the Maine Board until September 2010, Respondent Morley had previously voluntarily surrendered his New Hampshire Registered Nursing License effective December 16, 2002. The facts supporting that surrender were contained in a document captioned "Voluntary Surrender of License." John Morley stated therein that: "I admit to having a romantic sexual relationship with a psychiatric patient who had been under my care while an inpatient, said relationship beginning after the patient was discharged on May 30, 2001." The surrendered license was the one pursuant to which Maine granted reciprocity in 1997.

The Board, on March 3, 2011, suspended John Morley's registered professional nurse's license due to alleged fraud by John Morley in past renewals of his Maine license and the Respondent's recent arrest in Arizona for indecent exposure. In fact, he was convicted in Arizona of that crime on or about March 31, 2011. The conviction is viewed with more gravity by the Board since it is in the same general category as the New Hampshire improprieties.

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 5-0, concluded that John Morley violated the provisions of:

1. 32 M.R.S. Sec. 2105-A (2) (A) and Board Rule Chapter 4, Secs. 1(A) (1) by engaging in the practice of fraud or deceit in obtaining a license under this chapter.

2. 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).

3. 32 M.R.S. Sec. 2105-A (2) (H) and Board Rule Chapter 4, Secs. 1(A) (8). Any violation of this chapter or rule.

IV.

SANCTIONS

The Board voted 5-0 to **REVOKE** John Morley's Maine Registered Professional Nurse's license based primarily on his fraudulent and deceitful conduct in regards to the renewal of his nurse's license and his conviction for indecent exposure, which is more serious due to his admission of a past sexual relationship with a former psychiatric patient who had been in his care.

SO ORDERED.

Dated:

May 21, 2011



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 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.