

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.

The facts found in this Decision support the conclusion that Ms. Whitmore failed to follow the policy of her employer regarding assessment protocol. She further was unprofessional when she failed to reveal that she used oxycontin. Nurse Whitmore also violated the national nursing standard by pre-pouring and prelabeling medications.

H. A violation of this chapter or a rule adopted by the board.

Nurse Whitmore violated the national nursing standard by pre-pouring and prelabeling medications.

2. "Rules and Regulations of the Maine State Board of Nursing, Chapter 4."

1. Disciplinary Action.

A. Grounds for Discipline

1. The practice of ... deceit in ... connection with service rendered within the scope of the license issued.

Nurse Whitmore failed to disclose to her employer her use of oxycontin.

6. Unprofessional conduct. A licensee shall be deemed to have engaged in unprofessional conduct if he violates any standard of professional behavior which has been established in the practice for which he is licensed.

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.

Nurse Whitmore failed to disclose to her employer her use of oxycontin. She additionally failed to follow the policy of her employer regarding assessment protocol and violated the national nursing standard by pre-pouring and prelabeling medications. Nurse Whitmore inaccurately recorded the administration of morphine to a patient.

K. Inaccurate recording, falsifying or altering a patient or health care provider record.

Nurse Whitmore inaccurately recorded the administration of morphine to a patient.

As a result of the above violations, the Board voted 5-0 to:

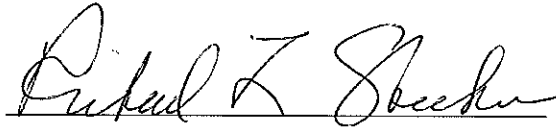
1. Issue a **Letter of Warning** to Nurse Whitmore pursuant to 10 M.R.S.A. Sec. 8003. The seriousness of the violations merit disciplinary action by the Board.

2. Order Nurse Whitmore to **pay the costs** related to the hearing not to exceed \$800 by November 30, 2004. Those costs **total \$470.** (Hearing officer – 3 hours and 30 minutes @ \$100 per hour = \$350; Court reporter services = \$120). The check or money order shall be made payable to: Maine Board of Nursing and mailed to Myra Broadway, Exec. Director, 158 State House Station, Augusta, Maine 04333-0158. The costs are in keeping with past Board practices and considering that no response was filed to the complaint which failure resulted in the instant hearing which may have been avoided.

3. Place Nurse Whitmore on **probation** until she pays the above costs of the hearing.

SO ORDERED.

Dated: August 17, 2004



Richard L. Sheehan, M.S., R.N. Acting Chairman
Maine State 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.