

MAINE STATE BOARD OF NURSING

IN RE: Bonnie A. Barnes, R.N.)
) DECISION AND ORDER
Licensure Disciplinary Action)

I. **PROCEDURAL HISTORY**

Pursuant to the authority found in 32 M.R.S.A. Sec. 2105-A(1-A)(D), et seq., 5 M.R.S.A. Sec. 9051, et seq. and 10 M.R.S.A. Sec. 8001, et seq., the Maine State Board of Nursing (Board) met in public session at the Board's offices located in Augusta, Maine on September 29, 2005. The purpose of the meeting was to hold an adjudicatory hearing to determine whether grounds exist for the Board to take disciplinary action against Bonnie A. Barnes' license to practice as a registered nurse in Maine as more specifically stated in the Notice of Hearing dated August 17, 2005. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Chairwoman Therese B. Shipp, R.N., Betty Kent-Conant, R.N., Diane Dalton, R.N., Bruce O'Donnell, C.R.N.A., and Karen Tripp (public member). Richard Sheehan, R.N. and Dorothy Melanson, R.N. departed before the Board deliberated. Jack Richards, Ass't. Attorney General, presented the State's case. Ms. Barnes appeared and was represented by Michael Duddy, Esq. James E. Smith, Esq. served as Presiding Officer.

Following the determination that none of the Board 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 statements by counsel, State's Exhibits 1-9 were admitted into the Record. The Board then heard the testimony, reviewed the submission of exhibits and considered counsels' closing arguments 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.

II.

FINDINGS OF FACT

Bonnie Barnes, 58 years of age, is a resident of Hampton, New Hampshire. She was first licensed to practice nursing in Arkansas in 1973. She subsequently earned a degree in speech pathology and moved to Maine where she was awarded her Maine license to practice nursing on April 13, 2001. She then completed a registered nurse's refresher course in 2003 and renewed her license until it lapsed in March 2005.

Ms. Barnes began employment on December 31, 2003 as a registered nurse at Sentry Commons/Harbor Home (Harbor) in York, Maine. At the time of the alleged incidences, she was participating in an orientation program and was assigned a nurse at all times. On January 23, 2004, while dispensing medications to the patients, the licensee failed to administer a nebulizer to patient A at her scheduled time of 6:00 p.m. Patient A was a 72 year old woman who had a history of multiple hospital admissions for a host of medical problems including chronic obstructive lung disease, osteoporosis, and chronic degenerative arthritis. Due to these conditions, she was steroid and oxygen dependent. Patient A was also diagnosed as suffering from anxiety and, on occasion, if she coughed, would sustain fractures of her ribs. In the event that she did not receive her nebulizer treatment¹ which would control her coughing and enable her to breathe more easily, she would become anxious and short of breath. A was described by witnesses as a sweet, lovely, and kind individual.

At about 6:00 p.m. on January 23, A appeared in her doorway calling "Bonnie, Bonnie, Bonnie." Nurse Barnes responded by saying "Just a minute, just a minute" which became 10 minutes before the nebulizer was administered. Nurse Barnes did not assess patient A to decide whether she should receive priority care and was apparently unaware of her need to receive her nebulizer at 6:00 p.m. as ordered by her physician. By the time that the nebulizer was given, A was angry, visibly upset, and crying. The charge nurse, also on duty, had informed Nurse Barnes that A became anxious if she did not receive her drugs and treatment when scheduled. The charge nurse had further offered to provide the treatment to A but the licensee declined and stated that "residents have to get used to [her] way of doing things." Subsequently, A complained to the nursing home

¹ The nebulizer was described as a machine that transforms a saline solution into a mist which is then breathed in by the patient through a tube.

administrator and expressed fear that she would be dependent on Nurse Barnes in the future for her medication and nebulizer treatment.

Additional evidence revealed that the licensee failed to ensure the security of the mobile cart which contained both prescription and non-prescription medication, including narcotics. On approximately 4 occasions, Nurse Barnes had left the cart unlocked. The cart is easily locked by pushing a button. She had been reminded not to allow this to happen unless it was within her view. On one occasion, the cart was in the hallway out of the licensee's view for approximately one minute. On another, the narcotics drawer was pulled out while the cart was unattended. This is a violation of standard nursing practice. The concern of the facility was primarily that a disoriented patient could swipe and consume some of these drugs.

According to the Harbor disciplinary report, Nurse Barnes was terminated from employment on January 24, 2004 because "resident asked for neb and was told she had to wait. She also could not remember to lock med cart when not in her view." Harbor then notified the Board of the termination and reasons therefore by letter received on February 3, 2004.

On February 11, 2004, January 6, 2005, and August 7, 2005, the Board sent by certified mail correspondence notifying Nurse Barnes of certain allegations against her pursuant to a complaint by Harbor. Although she did not claim these letters, copies of the contents were also posted by first class mail which she received. She did not respond to the allegations in writing or otherwise within the statutory timeframe mandated by the provisions of 32 M.R.S.A. Sec. 2105-A.1-A, to wit: "The licensee shall respond within 30 days."

III.

CONCLUSIONS OF LAW

The Board, by a vote of 5-0, and utilizing its training and experience, found and concluded that Bonnie Barnes, R.N. violated the following provisions of Board statutes and Rules.

"32 M.R.S.A. Sec. 2105-A.2. Grounds for discipline. The board may suspend or revoke a license pursuant to Title 5 section 10004. The following are grounds for an action to issue, modify, suspend, revoke or refuse to renew the license of an individual licensed under this chapter:"

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

Nurse Barnes violated this section by not responding to the Board's complaint within 30 days.

“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 Maine State Board of Nursing Rules and Regulations, Chapter 4, Section 3. establishes those standards. Subsection F in Section 3 states that “Failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard the patient” constitutes unprofessional practice as does a violation of Subsection H, “Intentionally or negligently causing physical or emotional injury to a patient.”

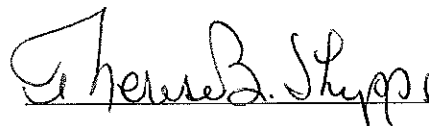
The facts found in this Decision support the conclusion that Ms. Barnes was unprofessional in her practice of nursing since she failed to attend to a patient within a reasonable amount of time and violated the medical cart security policy and procedures. Additionally, she negligently caused emotional injury to patient A.

Based on the above findings and conclusions, the Board voted 5-0 to:

1. Issue a **Letter of Warning** regarding the above violations. The Board was of the opinion that a more severe sanction was not merited due primarily to the fact of no significant patient harm and no missing drugs.
2. Nurse Barnes shall **pay the costs** related to the hearing not to exceed \$300² by **January 31, 2006**. The certified 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 in consideration that the hearing most likely could have been avoided had the licensee responded to the allegations in a timely manner.

SO ORDERED.

Dated: 10-31-05



Therese B. Shipps, R.N. Chairwoman
Maine State Board of Nursing

² The actual costs exceed \$300.

IV.

APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S.A. Sec. 11001.1-11008, any person who is aggrieved by 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 for the county where: One or more of the petitioners reside or have their principal place of business; the agency has its principal office; or the activity or property which is the subject of the proceeding is located. The Petition for Review shall specify the person(s) 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, which may be in the alternative. 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.