



**MAINE STATE BOARD OF NURSING**

IN RE: John Miller, C.R.N.A. )  
 ) 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 July 27, 2004 for two reasons. First, to determine whether to renew John Miller's license to practice as a registered nurse in Maine and second, whether grounds exist for the Board to take disciplinary action against John Miller's license to practice as a registered nurse in Maine as more specifically stated in the Notice of Hearing dated June 25, 2004. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Acting Chairman Richard L. Sheehan, M.S., R.N., Hazel Rand, (public member), Charyl Doughty, L.P.N., Bruce O'Donnell, C.R.N.A. and Karen Tripp (public member). Jack Richards, Ass't. Attorney General, presented the State's case. Mr. Miller appeared and testified by telephone. James E. Smith, Esq. served as Presiding Officer. The Board first found that timely service had been made on the Respondent by certified mail on July 3, 2004 and by first class mail on the same date.

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 the parties, State's Exhibits 1-4 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 regarding the violations alleged in the Complaint.

**II. FINDINGS OF FACT**

John Miller is a resident of Tampa, Florida. He was first licensed as a nurse in the State of Maine on November 17, 1980 and holds an approval to practice as an advanced practice registered nurse with a specialty in nurse anesthesia which he practices on a Locum Tenens basis. Nurse Miller applied for a renewal of his Maine license on July 7, 2003. The Board preliminarily denied him relicensure based on the ground that he failed to reveal in his application pending or prior disciplinary actions taken against his license in other states.

The basis of the disciplinary actions had its genesis in the State of Florida. In 1996, Nurse Miller was reprimanded and fined by that State's Board of Nursing for stating that he had adequate malpractice insurance which he did not have. This disciplinary action, in turn, triggered disciplinary action in some states where he held a license but no action was taken in other states where he was also licensed. In two of the former states, Kentucky (March 1, 2000) and South Carolina (June 12, 2001), he was disciplined for failing to report licensing Board disciplinary

action on his renewal application. However, no action was taken in any state which resulted in a limiting of his license to practice either as an R.N. or a C.R.N.A.

### III. CONCLUSIONS OF LAW

The Board, by a vote of 5-0, found and concluded that John Miller violated the following provisions of Board statutes and Rules.

1. 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:

A. The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued.

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

1. Disciplinary Action.

A. Grounds for Discipline

1. The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued.

The Board found that Nurse Miller knew of his prior disciplinary action and knowingly failed to disclose same in order to have his license renewed.

The Board then voted 5-0 to:

1. **Renew John Miller's C.R.N.A. license.**

2. Issue a **letter of Censure** to Nurse Miller pursuant to 10 M.R.S.A. Sec. 8003. The Board was of the opinion that disciplinary action was appropriate since the violation was willful but that a more severe sanction was not merited due to the fact of no patient harm or practice deficiencies.

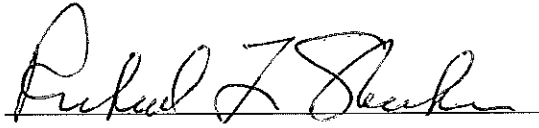
3. Order Nurse Miller to **pay the costs** related to the hearing not to exceed \$800 by **November 30, 2004**. Those costs **total \$370**. (Hearing officer – 2.5 hours @ \$100 per hour = \$250; Court reporter services = \$120). The check or money order shall be made payable to: Maine Board of Nursing 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 the hearing was occasioned by an intentional act.

4. Order Nurse Miller to **pay a fine of \$200** which is in keeping with past Board practices for similar violations. The check or money order shall be made payable to: Treasurer, State of Maine, and mailed to Myra Broadway, Exec. Director, 158 State House Station, Augusta, Maine 04333-0158. The fine is in keeping with past Board practices and is less than the maximum allowable \$1500 per violation.

5. Place Nurse Miller on **probation** until he pays the above fine and costs of the hearing.

**SO ORDERED.**

Dated: August 14, 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.