



JOHN ELIAS BALDACCI  
GOVERNOR

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MAINE STATE  
BOARD OF NURSING

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158 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0158

MYRA A. BROADWAY, J.D., M.S., R.N.  
EXECUTIVE DIRECTOR

IN RE: Michael F. Tetreault ) DECISION AND ORDER  
 ) License Application

**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 office located in Augusta, Maine at 10:30 a.m. on November 5, 2010. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether grounds exist to issue Michael Tetreault a license to practice registered professional nursing in the State of Maine. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Acting Chairman Margaret Hourigan, R.N., Ed. D.; Carmen Christensen, R.N.; Susan C. Baltrus, M.S.N., R.N.C.; Lynn F. Turnbull, R.N.; and Elaine A. Duguay, L.P.N. John Richards, Assistant Attorney General, presented the State's case. Michael Tetreault was present but not represented by legal counsel. James E. Smith, Esq. served as Presiding Officer.

The Board first found 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 opening statements by the parties, State's Exhibits 1-8 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 application for licensure.

**II. FINDINGS OF FACT**

**A. Prior Decision and Order**

Michael Tetreault, 44 years of age, was first licensed as a registered professional nurse in the State of Maine on June 13, 1996. His previous license, issued on November 8, 2007, was revoked by the Board effective June 4, 2009 pursuant to a Decision and Order signed on June 16,



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2009.<sup>1</sup> Mr. Tetreault had also been practicing as a registered professional nurse based on his privileges to practice through his Maine license in the State of New Hampshire. That privilege to practice in New Hampshire was based on the Multistate Nurse Licensure Compact, which has been entered into by the states of New Hampshire and Maine, as well as other jurisdictions, but not Massachusetts. The New Hampshire Board of Nursing issued a Cease and Desist Order<sup>2</sup> on May 27, 2009, following a hearing before its Board. The Maine Board, in its June 16, 2009 Decision, cited the New Hampshire proceedings as follows:

The New Hampshire Board conducted a hearing on May 21, 2009 and determined that on February 23, 2009, Portsmouth Regional Hospital re-filed its 2007 complaint with its allegations that the respondent committed a series of medication administration and documentation errors in January 2007, wasted an excessive amount of narcotics, failed to account for several doses of missing Percocet, and tested positive for Propoxyphine on February 1, 2007 without having a lawful prescription for it. In his response during a meeting at the hospital on February 9, 2007, the respondent stated that he was just too busy and therefore forgot to scan the missing medications, and the positive test result was not his. Following an audit of the respondent's medication practices by the hospital's pharmacy, the respondent's failure to credibly explain the above incidents and the positive drug test, Michael Tetreault's employment at the hospital was terminated on February 9, 2007.

The New Hampshire Board, based on the evidence of record, subsequently concluded that "Michael Tetreault deviated from MAR practice standards on numerous occasions in January 2007 when he excessively wasted narcotics without obtaining the required counter-signatures or documenting their administration or otherwise accounting for the medications." The Board further concluded that, "based on the evidence of record, the Board concludes that the respondent deviated from practice standards during that same period of time when he removed medications from the narcotics dispenser, failed to sign the narcotics book and failed to administer the withdrawn medications." As the third conclusion, the Board stated that, "the respondent, on or about February 9, 2007, tested positive for a controlled or illegal substance for which he had no lawful prescription." The Board's final conclusion was that "the respondent failed to cooperate with a Board investigation and provide information requested by the Board or its agents by not responding to telephone calls or correspondence from administrative staff."

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<sup>1</sup> The applicant, based on reciprocity, is currently licensed as of August 10, 2007 as a registered nurse in the Commonwealth of Massachusetts, pending investigation.

<sup>2</sup> The contents of the New Hampshire Board's Decision and Order reveal that a restriction is practically synonymous with a revocation of licensure.

The Maine Board, as above noted, revoked Michael Tetreault's license for primarily the reasons stated in the New Hampshire Decree. The Maine Board also ordered the licensee to pay the \$788.75 costs of hearing which he paid in a timely manner.

**B. November 5, 2010 Hearing**

At this hearing, the evidence demonstrated that Michael Tetreault reapplied for licensure in Maine on October 23, 2009. He passed the National Council Licensure Examination for Maine which he took on August 10, 2010. Prior thereto, he was informed by Massachusetts in a letter dated April 15, 2010 that he was under investigation for the above noted out-of-state violations which he had failed to voluntarily disclose to Massachusetts where he had been licensed by reciprocity. He was also alleged to have failed to reveal in his original Massachusetts licensure application that a complaint had been filed against him by the Maine Board. That application, sent to Massachusetts by the applicant dated July 26, 2007, post-dated the complaint that he had received from the Maine Board which had been responded to by him on July 25, 2007.<sup>3</sup>

Mr. Tetreault testified that he had "probably" been impaired at times while treating patients at the Portsmouth Regional Hospital before his termination there. He further stated that he has been sober for the past 16 months and has refrained from ingesting Percocet, his drug of choice, and alcohol. He successfully completed "The Cottage Program, Intensive Outpatient Program" at York Hospital in which he participated from July 20, 2009 until August 28, 2009 and then entered into Phase II (Aftercare) from September 1, 2009 until April 6, 2010. Additionally, Michael Tetreault received ten individual counseling sessions from David Barry, Licensed Alcohol and Drug Counselor, who also is a Licensed Clinical Professional Counselor. The applicant testified that he is at Step 4 of the 12-Step Alcohol Anonymous Program and faithfully attends meetings at least once a week. However, he has not participated in substance screening, such as urine testing, which would support his testimony.

Despite his progress towards reconstructing his reputation<sup>4</sup> and dealing with his abuse problems, Michael Tetreault continued to cause the Board to question whether he is, in fact, trustworthy. For example, he testified that he had been employed as a Clinical Support Manager for Carmel Pharma, Inc. beginning November 9, 2009. He was hired to provide training and ongoing support of the product PhaSeal. According to correspondence from Carmel Pharma, the training was on-site, mainly at hospitals and in both the nursing areas and pharmacy. Although the position did not require a Registered Professional Nurse, the job description stated that the

<sup>3</sup> This date is found in the Board's June 16, 2009 Decision and Order at p. 2, Para. 2.

<sup>4</sup> Mr. Tetreault also produced character references in support of his application.

position requires a "Current license as a Registered Nurse in good standing with the State Board in which he/she practices."

At the time of his hiring, Michael Tetreault stated to his employer that he was currently a licensed Registered Professional Nurse and his resume in November 2009 described him as a Nurse Educator. Mr. Tetreault approved his business cards at Carmel Pharma with the title "R.N." and his signature line also had the "R.N." designation. Of particular concern to the Board was that Michael Tetreault never disclosed to this employer that he was no longer a licensed Registered Professional Nurse in Maine as of June 4, 2009 and continued to hold himself out as such to the company and clinical staff whom he trained. As a result, Carmel Pharma terminated him on June 25, 2010 when it discovered the revocation.

Michael Tetreault did not consider the above to be deceitful since he was licensed in Massachusetts at the time of his hiring and felt the Maine revocation was in the past. He was employed in Massachusetts and reasoned that so far he had been in good standing with the Massachusetts Board. Furthermore, he testified that the economy was bad, he needed a job, and would probably not get a good paying one if he divulged the Maine and New Hampshire disciplinary sanctions.

### III.

#### CONCLUSIONS OF LAW

According to 10 M.R.S. Sec. 8008, "the sole purpose of an occupational and professional regulatory board is to protect the public health and welfare. A board carries out this purpose by ensuring that the public is served by competent and honest practitioners and by establishing minimum standards of proficiency in the regulated professions by examining, licensing, regulating and disciplining practitioners of those regulated professions. Other goals or objectives may not supersede this purpose."

The Board considered the above language in deciding whether Michael Tetreault had met his burden of proof to demonstrate by a preponderance of the evidence that he was competent, had earned the public trust, and did not pose a threat of harm to the public. Based on the above facts and those found in the record but not alluded to herein, and having observed the applicant's demeanor, the Maine Board, by a vote of 5-0, concluded that Michael Tetreault did not meet his burden of proof.

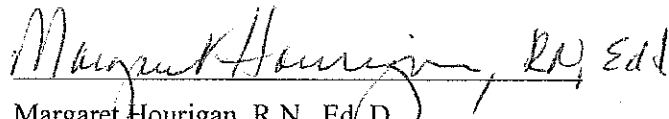
The Board reasoned, in part, that Michael Tetreault's lack of candor regarding his failure to divulge the Maine complaint on his Massachusetts license application, and subsequently during his employment at Carmel Pharma, is a cause for concern regarding trustworthiness. Moreover, as

a Registered Professional Nurse and Carmel Pharma representative, he was in a position whereby he could have had access to patients and their drugs in the event that he ended his sobriety, thereby posing a threat of harm to the public. Furthermore, he is only in early recovery and has not been evaluated by the Maine Professional Health Program (MPHP) to determine the necessity for substance screening, monitoring, and additional safeguards to protect the public. Additionally, Michael Tetreault has not practiced bedside nursing for several years. Lastly, Mr. Tetreault did not demonstrate an appropriate level of remorse for his violations.

The Board will not entertain an application for licensure until at least December 2, 2011. At that time, Michael Tetreault should be prepared to support his application with records from the MPHP and proof of successful completion of a Board pre-approved refresher course with an emphasis on direct patient nursing.

**SO ORDERED.**

Dated: November 20, 2010

  
Margaret Hourigan, R.N., Ed. D.  
Acting Chairman, Maine State Board of Nursing

**IV.**

**APPEAL RIGHTS**

Pursuant to the provisions of 5 M.R.S. Sec. 10051.3 and 10 M.R.S. Sec. 8003(5)(G) and (5-A)(G), any party that appeals this Decision and Order must file a Petition for Review in the Maine Superior Court having jurisdiction within 30 days of receipt of this Order.

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.