



STATE OF MAINE  
 BOARD OF NURSING  
 158 STATE HOUSE STATION  
 AUGUSTA, MAINE  
 04333-0158

JOHN ELIAS BALDACCI  
 GOVERNOR

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

**IN RE: Michael F. Tetreault ) DECISION**  
**Licensure Disciplinary Action ) 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 office located in Augusta, Maine at 1:00 p.m. on June 4, 2009. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether Michael Tetreault, R.N., violated Board statutes and rules as a registered professional nurse while practicing in New Hampshire and licensed in Maine. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Chairman Bruce O’Donnell, C.R.N.A.; Robin Brooks (public representative); Susan Brume, L.P.N.; Carmen Christensen, R.N.; Dorothy Melanson, R.N.; Susan Baltrus, M.S.N., R.N., C.; and Margaret Hourigan, R.N., Ed. D., CNAAB, BC. John Richards, Assistant Attorney General, presented the State’s case. Michael Tetreault was neither present nor represented by legal counsel. James E. Smith, Esq. served as Presiding Officer.

The Board first found that Michael Tetreault had been duly served with the Notice of Hearing by certified and regular mail on or about May 13, 2009. The Board subsequently 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 statement by the State, State’s Exhibits 1 and 2 were admitted into the Record. 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 regarding the alleged violations.



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OFFICES LOCATED AT: 161 CAPITOL ST., AUGUSTA, ME  
<http://www.maine.gov/boardofnursing/>

PHONE: (207) 287-1133

FAX: (207) 287-1149

## II.

### FINDINGS OF FACT

Michael Tetreault, 42 years of age, was first licensed as a registered professional nurse in the State of Maine on June 13, 1996. His current license, issued November 8, 2007, expires November 12, 2009. Most recently, he has been practicing as a registered professional nurse with multi-state privileges in the State of New Hampshire granted pursuant to the Nurse Licensure Compact, which has been entered into by the States of New Hampshire and Maine, as well as other jurisdictions.

On May 24, 2007, the Board received a FAX from Jackie Brayton, Vice President of Human Resources at the Portsmouth Regional Hospital, Portsmouth, New Hampshire. The FAX contained information of possible violations of various statutes and rules enacted by the State of Maine. Accordingly, the Board's Executive Director forwarded the complaint to Mr. Tetreault and requested that he respond in writing within 30 days. On July 25, 2007, Mr. Tetreault responded to the allegations. He denied that there were missing medications while he was on duty at the Portsmouth Regional Hospital and wrote that he had informed hospital management that the scanning system was flawed. The licensee also offered other excuses and comments regarding the allegations.

Subsequently, the Maine Board scheduled three informal conferences with Mr. Tetreault in order to give him the opportunity to further explain the circumstances surrounding the allegations and to reach a possible resolution with the Maine Board. However, the respondent did not appear at any of the three scheduled conferences. He failed to show up or explain his absence regarding one conference, and left a message that "he was on his way" regarding each of the other two, but failed to attend.

The New Hampshire Board of Nursing intended that the Maine State Board of Nursing conduct a hearing regarding any possible disciplinary action relating to the charges from Portsmouth Regional Hospital. However, due to a variety of reasons, the Maine Board had not acted by April of 2009 and the New Hampshire Board therefore conducted a hearing regarding the complaint on May 21, 2009. Preliminarily, the New Hampshire Board noted that Mr. Tetreault had been served with the Notice of Hearing by certified mail and by first class mail on or about April 25, 2009. Despite service being made, Mr. Tetreault did not attend the disciplinary hearing.

The New Hampshire Board 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, 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 "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."

As sanctions for the above violations, the New Hampshire Board restricted the respondent's privileges to practice in New Hampshire on a compact license. The contents of the remainder of the New Hampshire Board's Decision and Order reveal that a restriction is practically synonymous with a revocation in that if Michael Tetreault applied for any New Hampshire license pursuant to the Nurse Practice Act in New Hampshire, he would have to demonstrate that he possessed sufficient knowledge,

judgment, skills, abilities and character qualifications to be licensed in any such future licensing proceeding.

The New Hampshire Board, in its May 27, 2009 decision, stated as its rationale:

1. Respondent's failure to appear for Hearing;
2. Witnesses provided convincing testimony regarding:
  - a) Alleged drug diversion;
  - b) Respondent's testing position [sic] for controlled substances;
  - c) Multiple medication administration errors;
  - d) Failed to comply with professional medication administration standards;
  - e) Failed to record medication administration or otherwise account for waste;  
and
  - f) Unprofessional conduct.

### III.

### CONCLUSIONS OF LAW

Based on the above facts and those found in the record but not alluded to herein, the Maine Board, by a vote of 7-0, concluded that Michael F. Tetreault violated the provisions of:

1. 32 M.R.S. Sec. 2105-A (2) (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. 32 M.R.S. Sec. 2105-A (2) (B) (Habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients.)
3. 32 M.R.S. Sec. 2105-A (2) (E) (Incompetent Conduct... by engaging in conduct that evidences a lack of ability or fitness to discharge the duty owed by a licensee to a client or patient or the general public and by engaging in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed.)

4. 32 M.R.S. Sec. 2105-A (2) (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.)

5. 32 M.R.S. Sec. 2105-A (2) (H). (Any violation of this chapter or rule adopted by the Board.)

6. Board Rule Chapter 4, Sec. 1.A.(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.)

7. Board Rule Chapter 4, Sec. 1.A.(2) (Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients.)

8. Board Rule Chapter 4, Sec. 1.A. (5) (Incompetency in the practice for which he is licensed. A licensee shall be deemed incompetent in the practice if the licensee has:

- a. Engaged in conduct which evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public; or
- b. Engaged in conduct which evidences a lack of knowledge, or inability to apply principles or skills to carry out the practice for which he is licensed);

9. Board Rule Chapter 4, Sec. 1.A. (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 the licensee is licensed);

10. Board Rule Chapter 4, Sec. 3: (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):

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

(O). (Practicing nursing when physical or mental ability to practice is impaired by alcohol or drugs.)

(P). (Diverting drugs, supplies or property of patients or health care provider.)

(Q). (Possessing, obtaining, furnishing or administering prescription drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs.)

#### IV. SANCTIONS

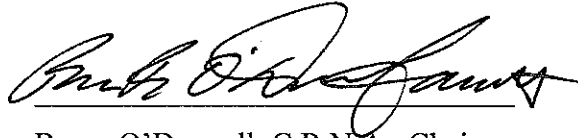
The Board, exercising its experience and training, and based on the above findings and conclusions, voted 7-0 that:

1. Michael F. Tetreault's Registered Professional Nurse license is hereby **REVOKED effective June 4, 2009**. The Board reasoned that Mr. Tetreault's nursing practices constitute a serious threat of harm to the public and therefore the revocation is warranted. The Board further based its decision on the fact that Mr. Tetreault did not appear at any informal conferences or adjudicatory hearings, which absences serve to demonstrate a total lack of interest in matters affecting the public health and welfare as well as his license.
2. Michael Tetreault shall pay the **COSTS** of this hearing **by September 16, 2009**. The costs total **\$788.75** (Hearing Officer: 1.15 hours attendance at hearing + 3.0 hours to write decision @\$115 per hour = \$488.75; Court Reporter: \$150; copying: 60 pp. x 10 copies @\$0.25 = \$150). The bank check or money order shall be made payable to "Treasurer, State of Maine" and mailed to Myra Broadway, J.D., M.S., R.N., Executive Director, Maine State Board of Nursing, #158 State House Station, Augusta, Maine 04333-0158. Additional costs may be assessed in the event that Michael Tetreault requests a transcript of the hearing. Costs shall be paid before the Board entertains any request by Michael Tetreault for relicensure.

The costs are ordered since this hearing may have been avoided had the licensee attended the informal conferences and/or this hearing to attempt to resolve the issues prior to the hearing. The costs are also in keeping with the Board's practice of assessing the costs to those who violate Board statutes and rules as opposed to sharing the costs with those licensees who obey same.

**SO ORDERED.**

Dated: June 16, 2009

A handwritten signature in black ink, appearing to read "Bruce O'Donnell", written over a horizontal line.

Bruce O'Donnell, C.R.N.A., Chairman  
Maine State Board of Nursing

**V.**

**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 District 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.