



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

PAUL R. LEPAGE
 GOVERNOR

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

IN RE: Wendy E. Chamberlain)
 Disciplinary Action)

DECISION & ORDER
Re: Post-hearing Request

I. PROCEDURAL HISTORY AND DECISION

Pursuant to the authority found in 32 M.R.S. Sec. 2105-A(1-A), *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 hearing room located in Augusta, Maine at 9:00 a.m. on January 11, 2012. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether grounds existed for the Board to take disciplinary action against Nurse Chamberlain’s license to practice as a Registered Professional Nurse. At the hearing, the Board received and considered the evidence and reached its decision during deliberations on January 11, 2012. That decision, reduced to writing and issued on February 8, 2012, revoked Nurse Chamberlain’s Registered Professional Nurse’s license and assessed her the costs of the hearing.

Ms. Chamberlain, shortly after she received the Board’s decision, made a telephone call on February 13, 2012 to Jayne Winters, the Board’s Probation Compliance Officer. Ms. Chamberlain asserted that she had voluntarily surrendered her license on January 10, 2012, the day before the hearing. Therefore, she presumably reasoned that the Board’s Decision and Order should be rescinded, including the costs of the hearing.

The Board held an adjudicatory hearing on February 29, 2012 to resolve the issue. Participating and voting were Chair Dorothy Melanson, RN; Carmen Christensen, RN; Margaret Hourigan, RN, Ed.D; Robin Brooks (public representative); Elaine A. Duguay, LPN; Valerie Fuller, APRN; and Joanne Fortin, RN. Dennis Smith, Assistant Attorney General, represented the State. Ms. Chamberlain was not present, although she had been informed of the hearing. She was not represented by an attorney. James E. Smith, Esq. served as Presiding Officer. State’s Exhibit A (February 13, 2012 email) was admitted into the record.

At this hearing, Jayne Winters testified that Ms. Chamberlain had not mentioned prior to January 11, 2012 any intention to surrender her license. Moreover, Ms. Winters could not locate any evidence from Ms. Chamberlain documenting that she had surrendered her license, and accordingly had requested proof of the surrender during her February 13, 2012 conversation with Ms. Chamberlain. Ms. Chamberlain then responded that day by sending an email which contained a “Forwarded Message” dated January 10, 2012 which reads, in part, that: “i [*sic*] am voluntarily surrendering my license not out of guilt but for the following reasons: ...”

The email was delivered to Ms. Winters’ “spam” email box which Ms. Winters seldom opens. Past emails from Ms. Chamberlain had been delivered to Ms. Winters’ regular email box. More importantly, the email was purported to be the original by Ms. Chamberlain since the “Subject” stated “Fw: this is the original email...as you



RECYCLED PAPER

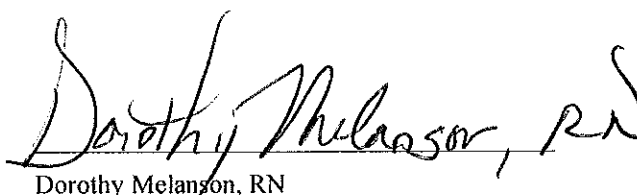
can see the original [sic] date and time." However, the Board suspected that the email was not the original, if indeed there was an original, since it was contained in a forwarded message and could have easily been manufactured and/or altered to contain the surrender and date information.

Other evidence was produced which also served to help convince the Board that the surrender had not been sent prior to the Board's original hearing on January 11, 2012. For example, Ms. Chamberlain and Ms. Winters had communicated by voice and email in the recent past. Ms. Winters had always responded to Ms. Chamberlain's communications in a timely manner. Therefore, the Board reasoned that had Ms. Chamberlain surrendered her license, she most likely would have made personal contact with Ms. Winters to confirm that her surrender had been received, especially when a response was not forthcoming from Ms. Winters verifying that fact.

WHEREFORE, Wendy Chamberlain's Motion to Rescind and Accept Surrender is hereby DENIED.

SO ORDERED

Date: March 20, 2012



Dorothy Melanson, RN
Chair, State Board of Nursing

II.

APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S. 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 District Court having jurisdiction. 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.