



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: **RACHAEL A. DAVIS, L.P.N.** ) **DECISION AND ORDER**  
of Grand Lake Stream, Maine ) **OF REVOCATION**  
License #P011874 )

**INTRODUCTION**

On September 28, 2005, the Maine State Board of Nursing ("Board") met at the Board's offices located at 161 Capitol Street, Augusta, Maine. The Board reviewed the Judgment and Commitment dated June 13, 2005 in the matter of State of Maine v. Rachael A. Davis, Washington County Superior Court, Machias Docket No. Cr 03-33. A copy of that Judgment and Commitment is attached hereto and marked as Exhibit 1.

**FACTS**

1. Rachael A. Davis has been licensed as a licensed practical nurse since 2000.
2. On June 13, 2005, Rachael A. Davis pled guilty to two Counts of Stealing Drugs, both Class D misdemeanors (17-A M.R.S.A. § 1109(1)). Ms. Davis was sentenced to six months imprisonment for each misdemeanor count; each of the sentences to be served consecutively. The sentence on one count was suspended and all but 10 days imprisonment was suspended on the second count. In addition, Ms. Davis was placed on probation for a period of one year. Exhibit 1.
3. Pursuant to 5 M.R.S.A. § 5302 the Board concludes, based upon the recent convictions and serious nature of the underlying criminal conduct and Ms. Davis's failure to respond to a complaint pending before the Board for the same underlying conduct, that Ms. Davis "has not been sufficiently rehabilitated to warrant the public trust."

**APPLICABLE LAW**

1. Pursuant to 32 M.R.S.A. § 2105-A (2), "The Board may suspend or revoke a license pursuant to Title 5, section 10004."
2. Pursuant to 32 M.R.S.A. § 2105-A (2)(G), the Board may suspend or revoke an individual's nurse license when the ground for discipline is a "conviction of a crime that involves dishonesty or false statement or that relates directly to the practice for which the licensee is licensed or conviction of a crime for which incarceration for one year or more may be imposed."



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

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3. Pursuant to 5 M.R.S.A. § 10004(1), "an agency may revoke, suspend or refuse to renew any license without proceedings in conformity with subchapters IV or VI, when the decision to take that action rests solely upon a finding or conviction in a court of any violation which by statute is expressly made grounds for revocation."

### CONCLUSIONS OF LAW

The Board has the authority to suspend or revoke Rachael A. Davis's practical nurse license Pursuant to 5 M.R.S.A. § 10004 (1) and 32 M.R.S.A. § 2105-A (2) (G). The criminal convictions described in the above-stated facts are grounds for discipline because Ms. Davis was convicted of a crime that involves dishonesty, and the crimes relate directly to the practice for which she is licensed. In addition, the two misdemeanor counts of "Stealing Drugs" are criminal convictions for which incarceration for one year or more could have been imposed.


### DECISION AND ORDER

A motion was made and seconded to immediately revoke Rachael A. Davis' practical nurse license. By a unanimous vote of the Board, Rachael A. Davis' practical nurse license is revoked effective immediately.

### RECORD VOTE

THERESE B. SHIPPS	Affirmative
RICHARD L. SHEEHAN	Affirmative
DIANE L. DALTON	Affirmative
KAREN L. TRIPP	Affirmative
BETTY A. KENT-CONANT	Affirmative
BRUCE R. O'DONNELL	Affirmative
DOROTHY MELANSON	Affirmative

DATED: 11/22/05



THERESE B. SHIPPS, Chair  
FOR THE MAINE STATE  
BOARD OF NURSING

### NOTICE OF APPEAL RIGHTS

Rachael A. Davis may appeal this Decision and Order summarily revoking her license by filing a petition for review of final agency action in the Superior Court pursuant to 5 M.R.S.A. §§ 11001, *et seq.* within thirty (30) days after receipt of notice of this Decision and Order. Any other person aggrieved by this Decision and Order may seek judicial review in like manner by filing a petition for review in Superior Court within forty (40) days after the date of this Decision and Order.

STATE OF MAINE

SUPERIOR COURT

DISTRICT COURT

JUDGMENT AND COMMITMENT

Docket No. Cr 03-33 County/Location Washington / Machias Date 6/13/05 DOB 9/9/68

State of Maine v. Defendant's Name Rachel A. Davis Residence Grand Lake Stream, ME

Offense(s) charged: Stealing Drugs (class C) T 17-A M.R.S.A. § 1109(1)  indictment  
Stealing Drugs (Class D) Count II  information Count III  
Stealing Drugs (Class D) Count III  complaint  
Plea(s):  Guilty  Not Guilty  Not Guilty Date of Violation(s): 10/16/02

Offense(s) convicted: Stealing Drugs (Class D) 17-A M.R.S.A. Sec. 1109(1) Count II  
Stealing Drugs (Class D) 17-A M.R.S.A. Sec. 1109(1) Count III  
Convicted on:  plea  jury verdict  court finding

IT IS ADJUDGED THAT THE DEFENDANT IS GUILTY OF THE OFFENSES AS SHOWN ABOVE AND CONVICTED.

IT IS ADJUDGED THAT THE DEFENDANT BE HEREBY COMMITTED TO THE SHERIFF OF THE WITHIN NAMED COUNTY OR HIS AUTHORIZED REPRESENTATIVE WHO SHALL WITHOUT NEEDLESS DELAY REMOVE THE DEFENDANT TO:

The custody of the Commissioner of the Department of Corrections, at a facility designated by the Commissioner, to be punished by imprisonment for a term of \_\_\_\_\_

The County jail to be punished by imprisonment for a term of 6 months Count II  
6 months Count III

This sentence to be served (consecutively to) (~~concurrently with~~) Count II

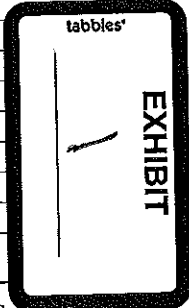
Execution stayed to on or before: \_\_\_\_\_ at \_\_\_\_\_ (a.m.) (p.m.)

IT IS ORDERED THAT ALL (BUT) 10 days Count II OF THE SENTENCE (AS IT RELATES TO CONFINEMENT) (AS IT RELATES TO THE All suspended as to Count III) BE SUSPENDED AND THE DEFENDANT BE PLACED ON A PERIOD OF PROBATION FOR A TERM OF one year Count II (YEAR(S) MONTH(S)) UPON CONDITIONS ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN. SAID PROBATION TO COMMENCE (\_\_\_\_\_) (UPON COMPLETION OF THE UNSUSPENDED TERM OF IMPRISONMENT). THE DEFENDANT SHALL SERVE THE INITIAL PORTION OF THE FOREGOING SENTENCE AT WCS

The final \_\_\_\_\_ month(s) of the unsuspended portion of the term of imprisonment is to be served with intensive supervision under conditions separately specified and incorporated herein.

IT IS ORDERED THAT THE DEFENDANT, HAVING BEEN CONVICTED AS A  SEX OFFENDER or  SEXUALLY VIOLENT PREDATOR, SATISFY ALL REQUIREMENTS IN THE SEX OFFENDER REGISTRATION & NOTIFICATION ACT. (34-A M.R.S.A. Ch. 15) THE DEFENDANT MUST SUBMIT TO THE TAKING OF FINGERPRINTS AND A PHOTOGRAPH AS SPECIFIED IN THE NOTICE OF DUTY TO REGISTER.

IT IS ORDERED THAT THE DEFENDANT FORFEIT AND PAY THE SUM OF \$ \_\_\_\_\_ AS A FINE TO THE CLERK OF THE COURT, PLUS APPLICABLE SURCHARGES AND ASSESSMENTS OF:  
 10%  12% (Eff. 7/4/96)  14% (Eff. 9/18/99)  15% SURCHARGE (Eff. 08/01/02) (4 M.R.S.A. § 1057)  
 \$30.00  \$125.00 SURCHARGE (29-A M.R.S.A. § 2411)  \$10. (7 M.R.S.A.)  10% (17 M.R.S.A.)  
 2 \$10 ASSESSMENT(S) plus  \$25 ASSESSMENT(S) totalling \$ 20.00 (5 M.R.S.A. § 3360-I)  
 All but \$ \_\_\_\_\_ suspended.  
 Execution/payment stayed to pay in full by \_\_\_\_\_ or warrant to issue.  
 To pay \$ \_\_\_\_\_ per week / month beginning \_\_\_\_\_ or warrant to issue.  
TOTAL DUE: \$ 20.00 (To be filled in by cashier).



STATE OF MAINE

CONDITIONS OF PROBATION

COURT: WASHINGTON (Superior) (District) Docket No. CR-03-33  
DEFENDANT Rachel A. Davis D.O.B. 9/9/68 SSN 010-58-3934  
You have been convicted of Stealing Drugs (Class D) - Count II and III consecutively  
which (is a) (are) Class D crime(s). You are placed on probation and committed to supervision by the Department,  
of Corrections for the term of One (months) (years) subject to the conditions listed below. Consecutively

THE CONDITIONS OF YOUR PROBATION ARE AS FOLLOWS: YOU SHALL

- 1. refrain from all criminal conduct and violation of federal, state and local laws.
- 2. report to the probation officer immediately and thereafter as directed and within 48 hours of your release from jail.
- 3. answer all questions by your probation officer and permit the officer to visit you at your home or elsewhere.
- 4. obtain permission from your probation officer before changing your address or employment.
- 5. not leave the State of Maine without written permission of your probation officer.
- 6. maintain employment and devote yourself to an approved employment or education program.
- 7. not possess or use any unlawful drugs and not possess or use alcohol (excessively).
- 8. identify yourself as a probationer to any law enforcement officer if you are arrested, detained or questioned for any reason and notify your probation officer of that contact within 24 hours.
- 9. waive extradition back to the State of Maine from any other place.
- 10. not own, possess or use any firearm or dangerous weapon if you have ever been convicted of a crime in any jurisdiction with a potential penalty of one year or more or any crime involving domestic violence or the use of a firearm or dangerous weapon.
- 11. pay to the Department of Corrections a supervision fee of \$ 25.00 per month.
  - 12a. provide a DNA sample as required.  12b. Fully comply with the Sex Offender Registration and Notification Act.
  - 13. pay to the Department of Corrections an (electronic monitoring fee) (substance testing fee) of \$ \_\_\_\_\_.
  - 14. not own, possess or use any firearm or dangerous weapons.
  - 15. submit to random search and testing for (alcohol) (drugs) (firearms) (dangerous weapons) (sexually-oriented material) \_\_\_\_\_ at the direction of a probation or law enforcement officer.
  - 16. complete (evaluation and) counselling and treatment as ~~an (out-patient / in-patient)~~ (at \_\_\_\_\_ or a similar facility) as directed by your probation officer for (substance abuse) (sexual offender) (psychological) (domestic abuse) (certified batterer's intervention) (anger management) (medical) \_\_\_\_\_ issues and sign any releases requested by your probation officer.
  - 17. pay restitution in the [maximum] amount of \$ \_\_\_\_\_ through the (Department of Corrections) (Office of District Attorney) by \_\_\_\_\_ on a schedule set by the court or your probation officer for the benefit of \_\_\_\_\_ (joint and several with \_\_\_\_\_).
  - 18. pay all fines, fees, surcharges and assessments in full (and counsel fees as ordered) to the clerk of this court not later than \_\_\_\_\_ (date), on a schedule set by the court or your probation officer.
  - 19. not operate or attempt to operate any motor vehicle (including ATV, snowmobile, motorboat, powerboat or aircraft) (until properly licensed by the Secretary of State).
  - 20. not associate with any other person who is on probation or parole without written permission of your probation officer.
  - 21. have no contact with (male) (female) children under the age of \_\_\_\_\_. Have no direct or indirect contact or enter the residence, place of work, or educational location of \_\_\_\_\_ (and their family) except with the written permission of your probation officer and pursuant to a court order.
  - 22. not be present in an establishment that serves liquor for on-premises consumption (after \_\_\_\_\_ AM / PM).
  - 23. support your dependents and meet family responsibilities.
  - 24. not view or possess any sexually oriented material or utilize access to the internet.
  - 25. not have any possessory interest in any bank account except as authorized in writing by your probation officer.
  - 26. appear for periodic judicial review as directed by the court or your probation officer.
  - 27. perform \_\_\_\_\_ hours of public service work within \_\_\_\_\_ months as directed by your probation officer.
  - 28. Other: One physician / one pharmacy  
Maintain Drug USE log  
Not to possess/use hypodermic needles

If you violate or fail to fulfill any of the above conditions you may be arrested, your probation may be revoked and you may be required to serve the rest of your sentence in jail or prison.

ORDERED: All conditions of probation are incorporated into the judgment and docket by reference.

Date: June 13, 2005 Justice / Judge \_\_\_\_\_

Acknowledge receipt of these conditions and accept them as written.

Witness: Marilyn E. Haley Probationer: Rachel Davis

Handwritten initials: ED, ED, ED

Clerk