

## MAINE STATE BOARD OF NURSING

IN RE: Katelyn Hickey )  
Application for Licensure by Endorsement )

**DECISION  
AND ORDER**

### **I. PROCEDURAL HISTORY**

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 8:30 a.m. on June 6, 2013. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether to uphold the Board's preliminary decision to deny Katelyn Hickey's license to practice as a Licensed Practical Nurse. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Chair Pro Tem Susan C. Baltrus, MSN, RN, CNE; Robin Brooks (public representative); Carmen Christensen, RN; Elaine Duguay, LPN; Joanne Fortin, RN; and Peggy Sonesen, RN. Dennis Smith, Assistant Attorney General, presented the State's case. Appellant Hickey was present and represented by Attorney Gregory J. Orso, Esq. James E. Smith, Esq. served as Presiding Officer.

The Board first determined that none of the Board members had conflicts of interest that would disqualify them from participating in the hearing. The Board then took official notice of its statutes and rules, and subsequent to the parties' opening statements, State's Exhibits 1-11 and Appellant's Exhibit 1 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 and conclusions of law regarding the allegations in the Notice of Hearing.

### **II. FINDINGS OF FACT**

1. Katelyn Hickey, 30 years of age and a resident of Kittery, Maine, applied on October 16, 2012 to the Maine State Board of Nursing for Licensure by Endorsement as a Licensed Practical Nurse (LPN).
2. Ms. Hickey graduated from the Salter School of Nursing and Allied Health on July 12, 2012 and consequently became licensed as an LPN in New Hampshire on September 20, 2012.
3. The Maine Board preliminarily denied Ms. Hickey's application by letter dated December 10, 2012.
4. The denial was based on two allegations, the first being Ms. Hickey's alleged substance abuse. "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." The second being her criminal history record (32 M.R.S. Sec.2105-A (2) (B)) and 5 M.R.S. 5301(1) and (2)(B)) which authorize the Board to "...refuse to grant or renew any occupational license... on the basis of the criminal history

record relating to convictions denominated in section 5301, subsection 2, but only if the licensing agency determines that the applicant ... so convicted has not been sufficiently rehabilitated to warrant the public trust." The convictions denominated in Section 5301, subsection 2 are those: 1) "which involve dishonesty or false statements; 2) ... for which incarceration for less than one year may be imposed and which directly relate to the trade or occupation for which the license or permit is sought; 3) ... for which no incarceration may be imposed and which directly relate to the trade or occupation for which the license or permit is sought; 4) ... for which incarceration for one year or more may be imposed...."

5. Appellant Hickey's criminal record is listed as follows:
  - a. August 17, 1999 - Possession of tobacco products by a minor; pled guilty and paid a \$100 fine
  - b. March 12, 2003 - Possession of drug paraphernalia (marijuana pipe); paid a \$100 fine
  - c. March 31, 2006 - Operation of a vehicle without a license; dismissed as clerical error by the Maine Division of Motor Vehicles
  - d. October 5, 2006 - Operating Under the Influence (.09 BAC); charge was reduced to Driving to Endanger. Ms. Hickey explained that her mother had recently passed away, which led her to drink to excess. Ms. Hickey attended the Driver Education and Evaluation Course and met all the requirements of that course. In addition, she paid a \$600 fine and her motor vehicle license was suspended for 30 days. She was not required to be evaluated to determine the extent of her use of alcohol.
  - e. December 8, 2006 - Operating while license suspended or revoked (reduced to unlawful use of a license). Ms. Hickey testified that she was employed at the time her driver's license was suspended. She needed to drive to work and was caught doing so by a law enforcement officer.
6. Ms. Hickey has not been charged with violating the law since December 8, 2006. On her own initiative, she was treated by a professional counselor for her drinking and grief issues.
7. Ms. Hickey testified that she may have a drink containing alcohol two times a month on special occasions.
8. Appellant Hickey presented several letters of recommendation to the Board which attested to her character as dependable, honest, trustworthy, and competent in nursing.

### III. CONCLUSIONS OF LAW

The Board concluded that Katelyn Hickey has satisfied the requirements for licensure that include having been sufficiently rehabilitated to warrant the public trust [5 M.R.S. Sec. 5302 (1)]. The Board also expressed its understanding that its actions are governed by the provisions of 5 M.R.S. Sec. 8008 which read as follows:

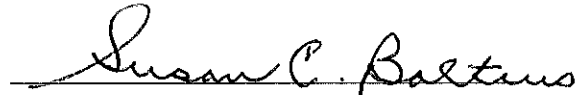
The sole purpose of an occupational and professional regulatory board is to protect the public health and welfare. A board carries out this purpose by ensuring that the

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.

Wherefore, by the vote of 6-0, the Board ordered that Katelyn Hickey's Application for Licensure as a Licensed Practical Nurse be and **HEREBY** is **GRANTED**.

**SO ORDERED.**

Dated: July 30, 2013



Chair Pro Tem Susan C. Baltrus, MSN, RN, CNE

Maine State Board of Nursing

**IV.**

**APPEAL RIGHTS**

Pursuant to the provisions of 5 M.R.S. Sec. 11002.3 and 10 M.R.S. Sec. (5)(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 Attorney General.