

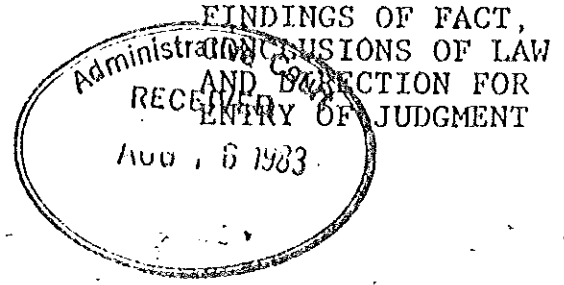
STATE OF MAINE and
MAINE STATE BOARD of
NURSING,

Plaintiffs

vs.

PERLEY B. TRACEY,

Defendant



This is a proceeding brought pursuant to 32 M.R.S.A. §2105 by the Plaintiff Maine State Board of Nursing seeking the revocation or suspension of the license of the Defendant Perley B. Tracey to practice as a licensed practical nurse. The case was heard in Portland, Maine on July 12, 1983 and the Court, having received and considered the evidence and the arguments of counsel, now makes its findings of fact and conclusions of law, and directs entry of its judgment, as follows:

FINDINGS OF FACT

1. After completion of an appropriate training program at the Central Maine Vocational Technical Institute, the Defendant Perley B. Tracey was licensed by the Plaintiff Board as a licensed practical nurse in 1970. By stipulation of the parties, it is found that the Defendant has performed competently in his subsequent periodic employment as a licensed practical nurse.

2. Defendant's personal life has been rather dramatically marked by periods of emotional instability dating back at least to his high school years. The instability has primarily manifested

itself in periods of depression following difficult or failed adaptations in school, the U.S. Army and various employment situations. Defendant was hospitalized in the psychiatric unit of the Maine Medical Center in 1978 or 1979 following a drug overdose, and, after a ten day period of hospitalization, Defendant declined outpatient follow-up.

3. Defendant was married in 1970 and a son, Aaron, was born on December 29, 1975. Defendant and his wife were divorced in August of 1976 and his wife received sole custody of the child.

4. Following the divorce, Defendant and his ex-wife had many disputes with respect to the custody and visitation arrangements, with the general result that Defendant was unable to achieve his desire of a regular and significant relationship with his son. In the summer of 1981 this situation was exacerbated by Defendant's ex-wife's remarriage and Defendant was overwhelmed with the pain that he felt for himself and that he perceived his son to be enduring.

5. On or about July 19, 1981, Defendant decided to eliminate the pain by drowning his son and then himself. He took his son to Peaks Island and dosed his ice cream with a quantity of Flurazepam (brand name Dalmane) in preparation for his act. Flurazepam is a controlled substance used as a sleeping enhancer and is not itself toxic. When his son became drowsy Defendant realized the enormity of his actions and returned with his son to the mainland.

On the next day Defendant admitted himself to the psychiatric unit of the Maine Medical Center for treatment.

6. On September 11, 1981 Defendant was indicted for the

aggravated furnishing of an unlawful drug, assault, and attempted murder. On September 24, 1982 Defendant plead guilty to the aggravated furnishing of an unlawful drug and remaining charges were dismissed. Defendant was sentenced to two years all of which was suspended and he was placed on probation.

CONCLUSIONS OF LAW

1. This Court has jurisdiction of this proceeding and of the parties thereto.
2. Defendant has been guilty of a crime within the meaning of 32 M.R.S.A. §2105(1) (B);
3. Defendant has been guilty of unprofessional conduct within the meaning of 32 M.R.S.A. §2105(1) (F).

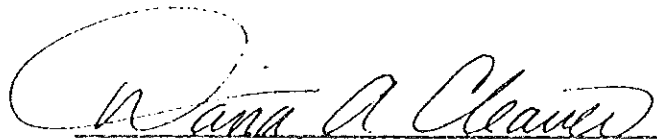
DIRECTION FOR ENTRY OF JUDGMENT

In accordance with the foregoing findings of fact and conclusions of law it is

ORDERED that Defendant Perley B. Tracey's license to practice as a licensed practical nurse in the State of Maine is hereby revoked and Defendant shall return the certificate evidencing said license to the Maine State Board of Nursing forthwith. The Clerk of this Court is hereby directed to make entry of such decision forthwith.

Rule 73 of the Maine Administrative Court Rules provides that an aggrieved party may appeal from a decision of the Administrative Court to the Superior Court by filing a notice of such appeal within ten (10) days of the entry of the decision.

Dated: August 16, 1983


Associate Administrative Court Judge