



Paul R. LePage
GOVERNOR

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

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

IN RE: Brandon Walus

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DECISION AND ORDER
License Application

I. PROCEDURAL HISTORY

Pursuant to the authority found in 5 M.R.S. § 9051 et seq. and 10 M.R.S. § 8003 et seq., the Maine State Board of Nursing (“Board”) met in public session at the Board office in Augusta, Maine on August 22, 2013. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether Brandon Walus had met the requirements of licensure as a registered professional nurse.

A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Susan Baltrus, MSN, RN, CNE; Robin Brooks (public representative); Joanne Fortin, RN; Peggy Soneson, RN; and Chair Margaret Hourigan, RN, EdD. Mr. Walus was present. Lauren LaRochelle, Esq. represented the State. Rebekah J. Smith, Esq. served as Presiding Officer.

The Board took administrative notice of its statutes and rules and admitted into evidence, without objection, State Exhibits #1 - #7 and Applicant Exhibits #1 and #1-A. Both parties made opening statements. The Applicant testified on his own behalf. Both parties made closing statements. The Board then deliberated and made the following findings of fact and conclusions of law by a preponderance of the credible evidence regarding Mr. Walus’s satisfaction of the requirements of licensure.

II. FINDINGS OF FACT

1. Brandon Walus applied for licensure as a registered professional nurse on May 14, 2013. (State Exhibit #4.) In his application, Mr. Walus reported that he had shoplifted from a large chain store in December 2009 in an act of “guerilla shopping” intended to deny the store



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profit. (State Exhibit #4.) He indicated that he regretted his actions and had come to realize the immaturity and self-defeating nature of his actions. (State Exhibit #4.) At hearing, he elaborated that his action had been prompted by a sense of justice following a classroom conversation about the deterioration of the local community. (Testimony of Applicant Walus.) He reported significant growth in channeling his passion for justice. (Testimony of Applicant Walus.)

2. His application was preliminarily denied by the Board at its June 12 - 13, 2013 meeting on the basis of his February 2010 conviction for theft by unauthorized taking or transfer, a Class E crime. (State Exhibit #3.) Mr. Walus filed a timely notice of appeal and request for hearing. (State Exhibit #2.)
3. By certified letter sent on August 8, 2013, Mr. Walus was notified that the hearing would be held on August 22, 2013. (State Exhibit #1; Testimony of Applicant Walus.)
4. Mr. Walus has not had any charges or convictions since 2010. (Testimony of Applicant Walus.) He was employed from December 2011 to August 2013 as a domestic violence and sexual assault intake worker at the Penobscot Nation. (Applicant Exhibit #1; Testimony of Applicant Walus.) His first annual review, performed in April 2013, was very positive. (Applicant Exhibit #1.) His supervisor noted that he was respectful and kind to co-workers and showed flexibility, openmindedness, motivation, and commitment to the families with whom he worked. (Applicant Exhibit #1.)
5. Mr. Walus maintains a Maine EMT-Basic license. (Testimony of Applicant Walus; Applicant Exhibit #1-A.) He has never been disciplined with regard to his EMT-Basic license. (Testimony of Applicant Walus.)
6. Mr. Walus provided three letters of recommendation that attested to his high quality of patient care, collaboration with interdisciplinary teams, rapid development of various skill sets,

confidence, organization, commitment to patients and comforting bedside manner. (Applicant Exhibit #1-A.)

III. GOVERNING STATUTES AND RULES

1. The requirements for licensure as a registered professional nurse are found at 32 M.R.S. § 2201 et seq.
2. The Board may refuse to issue a license if an applicant has been convicted of a crime for which less than one year of incarceration may be imposed and which involves dishonesty or false statement or relates directly to the practice for which the licensee is seeking a license. 32 M.R.S. § 2015-A (2) (G); 5 M.R.S. § 5301(2). The Board may also consider a conviction for which no incarceration may be imposed, but which relates directly to the practice for which the licensee is seeking a license. 32 M.R.S. § 2105-A (2) (G); 5 M.R.S. § 5301(2).
3. Such convictions may be considered by the Board for up to ten years from the point of final discharge from a corrections system, although this limit does not apply if the applicant's conduct that gave rise to the conviction would otherwise have been grounds for a disciplinary action. 5 M.R.S. § 5303(2) (A).
4. If an applicant has a conviction that falls within 5 M.R.S. § 5301(2), a Board may deny him a license only if the Board determines that he has not been sufficiently rehabilitated to warrant the public trust. 5 M.R.S. § 5302(1). The applicant has the burden to prove that he has been sufficiently rehabilitated. 5 M.R.S. § 5302(1).

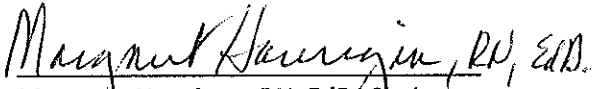
IV. CONCLUSIONS OF LAW

The Board, considering the above facts and those alluded to in the record but not referred to herein, by a vote of 5-0, found that Brandon Walus met the requirements for licensure as a registered

professional nurse and granted his application. The Board found that although Mr. Walus had been convicted of a crime involving dishonesty or false statement, he had proven that he was sufficiently rehabilitated to warrant the public trust.

So Ordered.

Dated: September 5, 2013


Margaret Hourigan, RN, EdD, Chair
Maine State Board of Nursing

V. APPEAL RIGHTS

Pursuant to the provisions of 10 M.R.S. § 8003(5) and 5 M.R.S. § 11002(3), any party that appeals this Decision and Order must file a Petition for Review in the Superior Court 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 State of Maine Board of Nursing, all parties to the agency proceedings, and the Attorney General.