



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: **HEATHER L. BAKER**)
 of Turner, Maine)
 License #R048734) **CONSENT AGREEMENT FOR**
LICENSE REINSTATEMENT &
PROBATION WITH CONDITIONS

INTRODUCTION

This document is a Consent Agreement (“Agreement”) regarding Heather L. Baker’s license to practice registered professional nursing in the State of Maine. The parties to this Agreement are Heather L. Baker (“Licensee” or “Ms. Baker”), Maine State Board of Nursing (“Board”) and the Office of the Attorney General, State of Maine. The Board met with Ms. Baker on March 4, 2010 regarding her request for reinstatement of her nursing license. The parties enter into this Agreement pursuant to 32 M.R.S.A. § 2105-A (1-A) (B) and 10 M.R.S.A. § 8003(5) (B).

FACTS

1. License History: Ms. Baker was originally licensed to practice registered professional nursing in Maine in June, 2003. On December 5, 2007, the Board summarily suspended Ms. Baker’s nursing license for drug diversion and substance abuse. The resulting Decision and Order dated December 18, 2007 is incorporated herein and attached hereto [Exhibit 1].
2. Heather L. Baker was convicted of and sentenced on four counts of Unlawful Possession of Scheduled Drugs (Class D). She was sentenced to 364 days of imprisonment, all suspended; one year probation; and a \$1600 fine with \$1475.50 restitution. In December 2009, she successfully completed the Androscoggin County Adult Drug Treatment Court Program. She states that she has been sober for 2½ years. She currently attends NA, has a sponsor, is engaged in individual counseling, and underwent counseling pursuant to an Employee Assistance Program. In a letter dated February 16, 2010, Ms. Baker describes more fully her treatment and recovery plan [Exhibit 2].
3. The Board has determined that Ms. Baker has made significant progress in her recovery, warranting reinstatement of her registered professional nurse license.

AGREEMENT WITH CONDITIONS OF PROBATION

4. Heather L. Baker’s license as a registered professional nurse is reinstated on probationary status with conditions. The period of probation will commence upon her return to nursing practice and will be for a period of five years, effective only while she is employed in nursing practice or enrolled in a nursing education program. For purposes of this Agreement, nursing employment is any employment during which Ms. Baker performs nursing services. Her probationary license will be subject to the following conditions:
 - a. Heather L. Baker will abstain completely from the use of alcohol or drugs, with the exception of substances used in accordance with a valid prescription from her health care providers who are aware of her substance abuse history.



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- b. Heather L. Baker will continue in her treatment program to such an extent and for as long as her treatment provider(s) recommend and will arrange for and ensure the submission of quarterly reports to the Board by her treatment provider(s) until her probation is terminated. If Ms. Baker's treatment is terminated during her probation, she shall notify the Board and provide written documentation.
- c. Heather L. Baker shall fully cooperate with the representatives of the Board in its monitoring and investigation of her compliance with probation. She shall inform the Board in writing within 15 days of any address change.
- d. Heather L. Baker will notify the Board in writing within five business days after she obtains any nursing employment and/or enters an educational program in the field of nursing. Notice under this section shall include the place and position of employment or the nursing educational program. If during the period of probation, Ms. Baker's employment as a nurse or her educational program in the field of nursing terminates, she shall notify the Board in writing within five business days after she is terminated or separated, regardless of cause, with a full explanation of the circumstances.
- e. Heather L. Baker will notify any and all of her nursing employers and faculty involved in any clinical studies of the terms of this Consent Agreement and provide them with a copy of it.
- f. Heather L. Baker will arrange for and ensure the submission to the Board of quarterly reports from her nursing employer and/or clinical faculty regarding her general nursing practice, which are to address clinical competency, ability to follow policies and procedures relative to standards of practice, and clinical documentation.
- g. Heather L. Baker understands and agrees that her license will remain on probationary status and subject to the terms of this Agreement beyond the five-year probationary period until and unless the Board, at her written request, votes to terminate her probation. When considering whether to terminate the probation, the Board will consider the extent to which Ms. Baker has complied with the provisions of this Agreement.
- h. Heather L. Baker's employment is restricted during the period of probation to structured settings with on-site supervision by a registered professional nurse. Structured settings shall not include assignments from temporary employment agencies, home health, school nursing, work as a travel nurse, or within the correctional system.
- i. Heather L. Baker understands and agrees that the Board and the Office of the Attorney General shall have access to any and all medical records and all otherwise confidential or medically privileged information pertaining to her treatment for substance abuse which the Board deems necessary to evaluate her compliance with the Agreement and her continued recovery. Ms. Baker shall provide such information, authorize the release of such records and information, and authorize any such discussions and communications with any and all persons involved in her care, counseling and employment as may be requested by the Board.
5. If Ms. Baker violates the conditions of her probation, the Board will give written notice to the Licensee regarding her failure to comply. Notice will be sent by certified mail, return receipt requested, to the last known address of the Licensee that is on file with the Board. The Licensee has 30 days from receipt of this notification to respond to the Board, in writing, regarding the alleged violation. The Board will review the Licensee's timely response to determine what action, if any, it determines to take. If the Licensee fails to timely respond to the Board's notification

regarding her failure to comply, her license will be immediately suspended pending a hearing at the next regularly scheduled Board meeting. If after notice and a hearing, the Board finds that the Licensee has failed to meet the conditions of probation, the Board may take any disciplinary action which it deems appropriate and impose any of the sanctions including, but not limited to, that found in Title 10 M.R.S.A. § 8003 and Title 32 M.R.S.A. § 2105-A.

6. Heather L. Baker understands and agrees that if any member of the Board or the Board's Executive Director receives reasonably reliable information suggesting that she has not remained substance-free in accordance with this Agreement, her license will be immediately and automatically suspended pending further review by the Board. In the event any member of the Board or its Executive Director receives such information, the information will be immediately forwarded to Ms. Baker for response. Ms. Baker understands and agrees that in such an event, her license shall remain suspended pending a hearing. The Board shall hold a hearing at its next regularly scheduled Board meeting unless both the Licensee and the Board agree to hold the hearing later, or the Executive Director and/or the Office of the Attorney General earlier determine that such information is without merit. If the information received is proven to be inaccurate or incorrect, either through hearing or determination by the Executive Director and/or the Office of the Attorney General, Ms. Baker's license will be immediately reinstated retroactive to the date of suspension.
7. The State of Maine is a "party state" that has adopted the Nurse Licensure Compact ("Compact"), which is set out in Chapter 11 of the Rules and Regulations of the Maine State Board of Nursing. The State of Maine is Ms. Baker's "home state" of licensure and primary state of residence, which means she has declared the State of Maine as her fixed permanent and principle home for legal purposes; her domicile. Other party states in the Compact are referred to as "remote states," which means party states other than the home state that have adopted the Compact. Ms. Baker understands this Agreement is subject to the Compact. She agrees that during the pendency of this Agreement, her nursing practice will be limited to the State of Maine as it pertains to the Compact. If Ms. Baker wishes to practice in any other party state within the Compact, she shall arrange to have the party state in which she intends to practice provide the Board with written authorization that she has been approved to practice in that state.
8. This Agreement is a public record within the meaning of 1 M.R.S.A. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S.A. § 408.
9. Heather L. Baker understands that she does not have to execute this Agreement and has the right to consult with an attorney before entering into the Agreement.
10. Heather L. Baker affirms that she executes this Agreement of her own free will.
11. Modification of this Agreement must be in writing and signed by all parties.
12. This Agreement is not subject to review or appeal by the Licensee, but may be enforced by an action in the Superior Court.
13. This Agreement becomes effective upon the date of the last necessary signature below.

I, HEATHER L. BAKER, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THE EFFECT IT WILL HAVE ON MY REGISTERED PROFESSIONAL NURSE LICENSE. I UNDERSTAND THAT BY SIGNING IT, I WAIVE

CERTAIN RIGHTS. I SIGN IT VOLUNTARILY, KNOWINGLY, AND INTELLIGENTLY AND AGREE TO BE BOUND BY THIS AGREEMENT. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND.

DATED: 5/21/10


HEATHER L. BAKER

DATED: 5/18/10


JANET E. MICHAEL, ESQ.
Attorney for Heather L. Baker

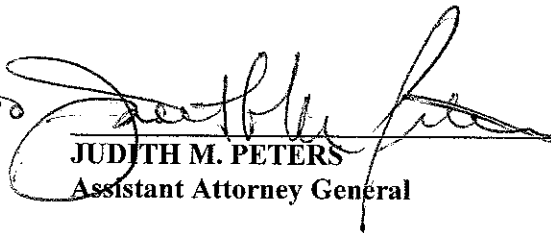
FOR THE MAINE STATE
BOARD OF NURSING

DATED: 5/24/10


MYRA A. BROADWAY, J.D., M.S., R.N.
Executive Director

FOR THE OFFICE OF THE
ATTORNEY GENERAL

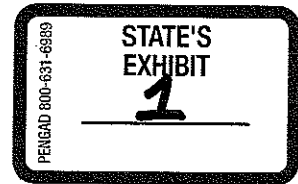
DATED: 5/25/10


JUDITH M. PETERS
Assistant Attorney General



JOHN ELIAS BALDACC
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: **HEATHER L. BAKER**) **DECISION AND ORDER**
of Turner, Maine) **OF SUSPENSION**
License No. R048734)

INTRODUCTION

On December 5, 2007, Maine State Board of Nursing ("Board") met at the Board's offices located at 161 Capitol Street, Augusta, Maine to consider the above captioned matter. The Board reviewed a Complaint and Provider Report dated October 12, 2006, with information from St. Mary's Regional Medical Center ("St. Mary's") dated September 19, 2006 and Ms. Baker's response to the Provider Report from St. Mary's, which is attached and incorporated herein, and Marked as Exhibit A. The Board also heard testimony from Detective Jeffrey J. Wrigley ("Det. Wrigley") with the Attorney General's Office regarding his interview with Ms. Baker on November 15, 2006. The compilation of this information is incorporated within this Decision and Order.

FACTS

1. Heather L. Baker has been licensed as a registered professional nurse since 2003.
2. On or about September 19, 2006, Ms. Baker was terminated as a registered professional nurse from St. Mary's because she diverted narcotics from St. Mary's. Exhibit A.
3. On or about November 15, 2006, Det. Wrigley conducted an interview with Ms. Baker regarding the drug diversion incident at St. Mary's. Ms. Baker admitted that she diverted approximately 120 narcotics from St. Mary's over the past year. She also admitted that she worked under the influence of narcotics while she provided nursing services at St. Mary's; that she falsified Physician's order's to obtain narcotics; that she would use the emergency override in the emergency room Pyxis at St. Mary's to obtain narcotics and that she was addicted to narcotics. She identified the following list of drugs she diverted from St. Mary's: Morphine 10mg, Morphine 2mg, Morphine SR 15mg, Demerol 25mg to 100mg, Fentanyl with Ropiv, Oxycodone, Hydrocodone, Tylenol with Codeine, Lorazepam, Dilaudid and Ritalin.



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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 5 M.R.S.A. § 10004(3), "an agency may revoke, suspend or refuse to renew any license without proceedings in conformity with subchapters IV or VI, when: the health or physical safety of a person or the continued well-being of a significant natural resource is in immediate jeopardy at the time of the agency's action, and acting in accordance with subchapter IV or VI would fail to adequately respond to a known risk, provided that the revocation, suspension or refusal to renew shall not continue for more than 30 days."

CONCLUSIONS OF LAW

Pursuant to 5 M.R.S.A. § 10004 (3) the Board concludes that based upon the information contained in Exhibit A and the testimony of Det. Wrigley, that Ms. Baker's behavior fails to conform to legal standards and accepted standards of the nursing profession, and such conduct is substantially related to the qualifications, functions or duties of a registered professional nurse, and that her conduct reflects adversely on the health and welfare of the public, such that, the licensee and the public she serves is in immediate jeopardy, and that acting in accordance with subchapter IV or VI of Title 5 of the Maine Revised Statutes Annotated would fail to adequately respond to a known risk.


DECISION AND ORDER

By a unanimous vote of the Board, Heather L. Baker's registered professional nurse license is suspended effective immediately. A Notice of Hearing will be sent to Heather L. Baker for a scheduled adjudicatory hearing on January 3, 2008.

RECORD VOTE

THERESE B. SHIPPS	Affirmative
SUSAN L. BRUME	Affirmative
CARMEN CHRISTENSEN	Affirmative
BRUCE R. O'DONNELL	Affirmative
ROBIN BROOKS	Affirmative
KAREN L. TRIPP	Affirmative
DOROTHY MELANSON	Affirmative
SUSAN C. BALTRUS	Affirmative

DATED: Dec 18, 2007



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

NOTICE OF APPEAL RIGHTS

Heather L. Baker may appeal this Decision and Order summarily suspending 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.