



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

PAUL R. LEPAGE
 GOVERNOR

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

IN RE: BARBARA J. BALLATORE, RN)
 Old Orchard Beach, ME)
 License No. RN38505)

**CONSENT AGREEMENT
 FOR
 PROBATION**

INTRODUCTION

This document is a Consent Agreement (“Agreement”) regarding Barbara J. Ballatore’s license as a registered professional nurse (“RN”) in the State of Maine. The Parties to this Agreement are Barbara J. Ballatore (“Licensee” or “Ms. Ballatore”), Maine State Board of Nursing (“Board”) and the Office of the Attorney General, State of Maine. The Parties met in an informal conference on November 29, 2011 and reached this Agreement on the basis of: 1) a Board Complaint dated March 20, 2008 with an attached Provider Report from New England Rehabilitation Hospital of Portland (“NERHP”) dated March 4, 2008 and received by the Board on March 7, 2008; 2) a Board Complaint dated December 10, 2008 “For Failure to Respond” to the March 2008 Board Complaint from NERHP; and 3) Ms. Ballatore’s response to the Complaints dated January 12, 2009. A portion of the Complaint from NERHP and Ms. Ballatore’s response are attached hereto, incorporated herein and respectively marked as Exhibit A. The Parties enter into this Agreement pursuant to 32 M.R.S. §§ 2105-A (1-A) (B), and 10 M.R.S. § 8003 (5) (B).

FACTS

1. Barbara J. Ballatore was licensed as an RN to practice in Maine on May 23, 1995.
2. Barbara J. Ballatore was terminated from her position as a staff RN at NERHP on February 29, 2008 because of excessive medication errors, inadequate medication administration documentation and absenteeism. Exhibit A.
3. The above-referenced Complaints were first addressed at an informal conference with Ms. Ballatore and the Board on October 6, 2010. The informal conference was recessed pending receipt of: 1) an evaluation and report from Ms. Ballatore’s primary care physician (“PCP”); 2) an evaluation and report from a licensed substance abuse counselor; and 3) a report from her current employer regarding her nursing practice. The informal conference was rescheduled and completed on November 29, 2011¹.
4. At the informal conference held on November 29, 2011, the Board reviewed: 1) the evaluation and report from Ms. Ballatore’s PCP; 2) an evaluation and report from a licensed substance abuse counselor; and 3) a Job Performance Evaluation from her current employer regarding her nursing practice. As of November 29, 2011, Ms. Ballatore represented to the Board that she has been sober since June 5, 2008.
5. Barbara J. Ballatore admits the allegations stated in the Board Complaint and Provider Report from NERHP dated March 20, 2008. Ms. Ballatore also admits that she has a substance abuse problem with alcohol.
6. Barbara J. Ballatore waives her right to a hearing before the Board and has agreed to resolve this matter by entering into this Agreement.

¹ After receipt of Ms. Ballatore’s PCP’s evaluation and report, her current employer’s report, received on January 6, 2011, and Ms. Ballatore’s substance abuse evaluation, received by the Board on June 20, 2011, an informal conference scheduled for August 31, 2011 and October 6, 2011 were continued at Ms. Ballatore’s request and was rescheduled and completed on November 29, 2011.



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AGREEMENT

7. Barbara J. Ballatore understands and agrees that the Board has evidence from which it could conclude there is a violation of Title 32 M.R.S. §§ 2105-A (2) (B), (2) (E) (1), (2) (F), (2) (H) and Chapter 4.1.A.2, 4.1.A.5.a., 4.1.A.6., 4.1.A.8., Chapter 4.3.F of the Rules and Regulations of the Maine State Board of Nursing (“Board Rules”). Ms. Ballatore understands and agrees that this conduct in the above-stated facts constitutes grounds for discipline. Ms. Ballatore’s RN license is hereby placed on **PROBATION** for a term of two (2) years of nursing practice. Specifically, the violations are:
- a. 32 M.R.S. § 2105-A (2) (B). Habitual substance abuse that has resulted or was foreseeably likely to result in Ms. Ballatore performing services in a manner that endangered the health and safety of patients. See also: Board Rule Chapter 4, Section 1.A.2.
 - b. 32 M.R.S. § 2105-A (2) (E) (1). Ms. Ballatore engaged in conduct that evidenced a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public. See also: Board Rule Chapter 4, Section 1.A.5.a.
 - c. 32 M.R.S. § 2105-A (2) (F). Unprofessional Conduct. Ms. Ballatore engaged in unprofessional conduct which violated a standard of professional behavior that has been established in the practice for which she is licensed. See also: Board Rule Chapter 4, Section 1.A.6.
 - d. 32 M.R.S. § 2105-A (2) (H). Ms. Ballatore violated a Maine Revised Statute in Title 32, Chapter 31 and rules adopted by the Board. See also: Board Rule Chapter 4, Section 1.A.8.
 - e. Board Rule: Chapter 4, Section 3. Defines “Unprofessional Conduct” as *nursing behavior which fails to conform to legal standards of the nursing profession, which could reflect adversely on the health and welfare of the public*, which includes:
 - Chapter 4, Section 3(F). Ms. Ballatore failed to follow policies and procedures designed to safeguard a patient in that she failed to follow appropriate standards of nursing practice for medication administration and documentation.
 - Chapter 4, Section 3(K). Ms. Ballatore inaccurately recorded a patient or health care provider record.
8. Barbara J. Ballatore’s license as an RN is placed on probationary status with conditions. The period of probation will be for a period of two (2) years, effective only while she is employed in nursing practice. Her probationary license will be subject to the following conditions:
- a. Barbara J. Ballatore 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.
 - b. Barbara J. Ballatore will notify the Board in writing within five business days of any changes in nursing employment and/or 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. Ballatore’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.
 - c. Barbara J. Ballatore will abstain completely from the use of alcohol or drugs, with the exception of substances used in accordance with a valid prescription from treatment providers who are aware of Ms. Ballatore’s substance abuse history.
 - d. Barbara J. Ballatore will continue in her treatment program to such an extent and for as long as her treatment providers recommend. She will arrange for and ensure the submission of quarterly reports to the Board by her treatment providers and such reports shall continue until her probation is terminated. If Ms.

Ballatore's treatment is terminated during her probation, she shall notify the Board and provide written documentation.

e. Barbara J. Ballatore's nursing employment is restricted during the period of probation to structured settings with on-site supervision by another 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.

f. Barbara J. Ballatore will notify any and all of her nursing employers of the terms of this Agreement and provide them with a copy of it.

g. Barbara J. Ballatore will arrange for and ensure the submission to the Board of quarterly reports from her nursing employer regarding her general nursing practice including adherence to policies and procedures and documentation of medication administration.

9. Barbara J. Ballatore agrees and understands that her license will remain on probationary status and subject to the terms of this Agreement beyond the above-referenced two-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. Ballatore has complied with the provisions of this Agreement.

10. Barbara J. Ballatore agrees and understands 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 medical treatment which the Board deems necessary to evaluate her compliance with this Agreement. Ms. Ballatore 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 for the purpose of evaluating her compliance with this Agreement.

11. If Ms. Ballatore violates any other condition of her probation, the Board will give written notice to the Licensee regarding her failure to comply. She 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 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. § 8003 and Title 32 M.R.S. § 2105-A.

12. 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 Board Rules. The State of Maine is Ms. Ballatore's "Home state" of licensure and primary state of residence, which means that 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. Ballatore understands and agrees that this Agreement is applicable to her multi-state licensure privilege, if any, to practice nursing in Compact states.

IT IS FURTHER AGREED that while Ms. Ballatore's license is subject to this Agreement, she may not work outside the State of Maine pursuant to a multi-state privilege without the written permission of the Maine State Board of Nursing and the Board of Nursing in the Party state(s) in which she wishes to work.

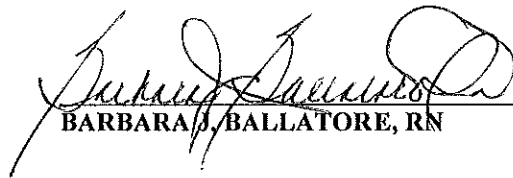
13. Barbara J. Ballatore understands that she does not have to execute this Agreement and has the right to consult with an attorney before entering into the Agreement.

14. Modification of this Agreement must be in writing and signed by all the Parties.

15. This Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.
16. This Agreement is not subject to review or appeal by Ms. Ballatore, but may be enforced by an action in the Superior Court.
17. This Agreement becomes effective upon the date of the last necessary signature below.

I, BARBARA J. BALLATORE, RN, 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: 4-11-12



BARBARA J. BALLATORE, RN

FOR THE MAINE STATE
BOARD OF NURSING

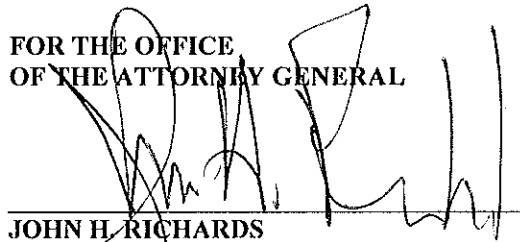
DATED: 4/12/12



MYRA A. BROADWAY, JD, MS, RN

FOR THE OFFICE
OF THE ATTORNEY GENERAL

DATED: 4/13/12



JOHN H. RICHARDS
Assistant Attorney General