



MICHAEL E. CARPENTER
ATTORNEY GENERAL

VENDEAN V. VAFIADES
CHIEF DEPUTY

Telephone: (207) 626-8800
FAX: (207) 287-3145

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
STATE HOUSE STATION 6
AUGUSTA, MAINE 04333

REGIONAL OFFICES:

96 HARLOW ST., SUITE A
BANGOR, MAINE 04401
TEL: (207) 941-3070

59 PREBLE STREET
PORTLAND, MAINE 04101-3014
TEL: (207) 822-0260

November 2, 1993

RECEIVED

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**MAINE STATE
BOARD OF NURSING**

Terry A. Fralich, Esq.
Norman, Hanson & DeTroy
P.O. Box 4600
Portland, ME 04112-4600

Re: Norman L. Berthiaume, R.N.

Dear Terry:

This will memorialize the agreement reached on October 21, 1993 at the meeting of the Maine State Board of Nursing concerning the license to practice professional nursing of your client, Norman Berthiaume. Mr. Berthiaume has requested that the Board affirm the termination of the probationary status of his license which was created by a February 14, 1991 Consent Agreement Regarding Probationary Status of License. The Board and the Attorney General's office take the position that the licensee needed to request reinstatement of his license from the Board. The licensee takes the position, which he does not waive by this agreement, that the probationary status expired by the terms of the Consent Agreement at the end of the two-year period of probation set forth in that agreement (i.e., on November 8, 1992). It is agreed that the probationary status of Mr. Berthiaume's license to practice nursing is terminated as of October 21, 1993 and the restrictions on his practice contained in that Consent Agreement no longer apply to his license. The Board and the Office of the Attorney General reserve the right to initiate appropriate proceedings, pursuant to the provisions of the Nurse Practice Act, against Mr. Berthiaume's license for possible violations of the Consent Agreement and other possible violations of the Nurse Practice Act or the Rules of the Maine State Board of Nursing.

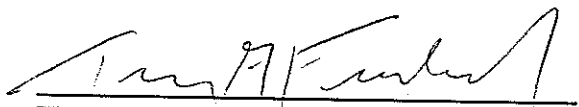
A second original of this letter is enclosed. If this comports with your understanding of our agreement, please sign and date both originals below and return one to me. If not, just let me know.

Sincerely,



TIMOTHY W. COLLIER
Assistant Attorney General

SEND AND AGREED TO:



TERRY A. FRALICH, ESQ.
Counsel for Norman Berthiaume, R.N.

MAINE STATE BOARD OF NURSING

35 ANTHONY AVENUE
STATE HOUSE STATION 158
AUGUSTA, MAINE 04333
(207) 289-5324

In re:) CONSENT AGREEMENT REGARDING
) PROBATIONARY STATUS OF
Norman Berthiaume, R.N.) LICENSE
of Saco, Maine)

INTRODUCTION

This document is a Consent Agreement regarding Norman L. Berthiaume's license to practice professional nursing in the State of Maine, entered into pursuant to 32 M.R.S.A. Section 2105-A(1-A)(B) and 10 M.R.S.A. Section 8003(5)(A-1)(4). The parties to this Consent Agreement are: Norman L. Berthiaume, R.N., ("Licensee") the Maine State Board of Nursing ("Board") and the Department of Attorney General, State of Maine ("Department").

By letter dated October 2, 1990, Licensee was notified to meet with the Board in an informal conference to discuss the complaint filed against him by the Board regarding what action the Board would take with respect to his application for renewal of his registered nurse license, based on information provided to the Board regarding his plea in Federal Court to importation of obscene matter in violation of Title 18, U.S. Codes, Section 1462. Licensee met the Board in informal conferences held on November 8, 1990 and December 13, 1990. Licensee was present and represented by attorney Robert E. Hirshon.

FINDINGS OF FACT

As a result of the informal conference, the Board made the following findings of facts:

1. Licensee stated that this was an isolated incident. The U.S District Court Judge that sentenced Mr. Berthiaume apparently agreed.
2. Mr. Berthiaume voluntarily began and continues in psychological counseling.
3. Court documents indicate there is no prior history of any same or similar acts by the Licensee.
4. Licensee has a good work history.

5. Judge Carter stated "I really get very clearly the picture there is no indication whatever of this person being involved in the abuse of children sexually or otherwise."
6. Licensee has voluntarily restricted his practice to adults, pending final resolution of this matter.
7. Licensee has pled guilty to importation of obscene matter in violation of Title 18, U.S. Code, Section 1462. Licensee was sentenced to two years probation, a \$2,000 fine and was ordered to submit to counseling.
8. Many letters of support have been submitted to the Board on behalf of Licensee.
9. Roger Ginn, Ph.D., evaluated Licensee and he concluded that psychological testing did not point to any significant psychological or emotional problems which would adversely affect his functioning or suggest that he is any risk at all to anyone in the community.
10. A follow up independent psychological evaluation was performed on Licensee by William T. O'Donohue, Ph.D., at the Board's request.
11. Dr. O' Donohue reported that Licensee admitted to having sexual fantasies regarding 12 to 15 year old boys and girls and then retracted that statement the next day.
12. Licensee took the initiative to retract the statement the next day.
13. Dr. Ginn does not concur with Dr. O'Donohue's conclusions, based upon Dr. O'Donohue's own evaluation/test results.
14. There have been no allegations of any sexual misconduct by Licensee with any age group.
15. Licensee now has an osteopathic doctor who is willing to be his preceptor.
16. Dr. O'Donohue's stated conclusion is that "it is probable that Licensee suffers from a deviant pattern of sexual arousal known as pedophilia. This diagnosis is only probable and the possibility that Licensee has only a professional interest in this matter cannot definitely be ruled out."
17. Licensee has no prior criminal or board disciplinary record of activity.

18. Licensee is presently not receiving any counseling specifically related to sexually deviant behavior.
19. Licensee states that he will seek and submit to professional counseling regarding specifically related issues dealing with sexually deviant behavior.

COVENANTS

Based on the above findings of fact, the Board voted to renew Mr. Berthiaume's license on a probationary status of two years duration, beginning on November 8, 1990, under the following terms and conditions:

1. Licensee shall submit to psychological evaluation and counseling regarding the issue of why he ordered the pornographic video and all issues surrounding that question.
2. This psychological evaluation and counseling shall be with a qualified professional in the field, who is a psychologist or a psychiatrist.
3. Licensee shall not pursue the required evaluation and counseling with Dr. Roger Ginn.
4. Licensee's practice shall be limited to persons of the age of 18 and over.
5. Licensee shall submit quarterly reports to the Board from the counselor he seeks treatment from in regard to condition number 1 above.
6. Licensee shall continue with the counseling recommended by the professional retained above, until that counselor is satisfied that Licensee no longer needs treatment. A final report shall be submitted to the Board.
7. Licensee shall submit quarterly reports to the Board from his physician preceptor or supervising physician.
8. Licensee shall disclose to his physician preceptor, supervising physician, or employer the contents of this Consent Agreement during period of probation.
9. Licensee may practice as a nurse practitioner.
10. Licensee is to have no violations of the Nurse Practice Act or Board rules during the probationary period.
11. Licensee hereby permits the Board to receive and review all reports submitted to the Board in connection with this Agreement.

12. All parties agree that this Consent Agreement may be modified at any time upon the petition of the Licensee, any such modification shall be agreed upon by the ~~Licensee and the Board.~~ *parties. J.B. JCC NIS*
13. The failure by Licensee to comply with any term or condition of this Consent shall result in the automatic and immediate revocation of his license. Notwithstanding said revocation, upon petition by the Licensee, the Board at its next meeting shall hold a hearing to determine whether and under what circumstances it shall reinstate said license.
14. Following satisfactory completion of the probationary period by the Licensee, the license will be in full force with no limitation or conditions and with no further action required by the Board or the Licensee.
15. Licensee shall not be held responsible or accountable in the event of the delinquency or non-performance or non-delivery of any required reports due to circumstances beyond the Licensee's control.
16. By entering into this agreement, the Licensee makes no admission of guilt either overt or implied.

DATED: February 8, 1991

BY: *Norman L. Berthiaume*
NORMAN L. BERTHIAUME, R.N.

DATED: February 8, 1991

BY: *Robert E. Hirschon*
ROBERT E. HIRSHON, ESQ.
Attorney for Licensee

FOR THE MAINE STATE BOARD
OF NURSING:

DATED: February 14, 1991

BY: *Jean C. Caron*
JEAN C. CARON, R.N.
Executive Director

FOR THE DEPARTMENT OF
ATTORNEY GENERAL

DATED: *Feb 12, 1991*

BY: *James D. Bivins*
JAMES D. BIVINS
Assistant Attorney General
Counsel to the Board