



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: ANNA MARIA CLIFTON, RN  
of East Machias, ME  
License No. RN46964

)  
)  
)

CONSENT AGREEMENT  
FOR  
PROBATION

Complaint No. 2013-17

**INTRODUCTION**

Pursuant to Title 32 Chapter 31, the Maine State Legislature endowed the Board with the power and duty to regulate the practice of nurses licensed by the Board, including issuing licenses and investigating complaints. Pursuant to 10 M.R.S. §8008, the Legislature provided that the sole purpose of the Board is to "protect the public health and welfare" and that "other goals or objectives may not supersede this purpose."

This document is a Consent Agreement ("Agreement") regarding Anna Maria Clifton's license as a registered professional nurse ("RN") in the State of Maine. The parties to this Agreement are Anna Maria Clifton ("Licensee" or "Ms. Clifton"), the Maine State Board of Nursing ("the Board"), and the Office of the Attorney General, State of Maine. The Board met with Ms. Clifton in an informal conference on July 23, 2013. The parties enter into this Agreement pursuant to 32 M.R.S. §2105-A (1-A)(B), 10 M.R.S. §§8003 (5)(A-1)(4) and 10 M.R.S. §8003 (5)(B) in order to resolve Complaint 2013-17.

**FACTS**

1. Ms. Clifton was first licensed to practice as an RN in Maine on January 23, 2002. Ms. Clifton is currently employed at Down East Community Hospital ("DECH").
2. On January 18, 2003, Ms. Clifton entered into a "Settlement Agreement" with the Missouri Department of Economic Development, Division of Professional Registration, Missouri State Board of Nursing. The Agreement contained a "joint stipulation of facts" that included:
  - Ms. Clifton's use of alcohol to the point of impairment commencing in 1999
  - Three instances where Ms. Clifton reported to work under the influence of alcohol, which included her submission to blood-alcohol tests that demonstrated the presence of alcohol in her blood
  - Her arrest for driving while intoxicated on June 13, 2000

In addition, the Agreement included "joint conclusion of law" that identified the laws violated by Ms. Clifton as a result of the facts, as well as a "joint agreed disciplinary order" which imposed a two-year probation with conditions upon Ms. Clifton's Missouri nursing license. The conditions included regular reports from her employer, abstention from alcohol use, evaluation and counseling, and participation in self-help groups such as Alcoholics Anonymous ("AA").

3. On July 22, 2003, Ms. Clifton entered into a "Consent Agreement for License Renewal and Probation" with the Maine State Board of Nursing and Maine Office of the Attorney General. That Consent Agreement was based upon the Missouri Settlement Agreement and placed Ms. Clifton's Maine nursing license on probation with conditions regarding substance abuse. More specifically, it required her to abstain completely from the use of alcohol, undergo monitoring for use of alcohol, engage in counseling and treatment, and participate in AA.



PRINTED ON RECYCLED PAPER

OFFICES LOCATED AT: 161 CAPITOL ST., AUGUSTA, ME  
<http://www.maine.gov/boardofnursing/>

4. On June 2, 2005, the Board issued a written order terminating its July 22, 2003 Consent Agreement for Probation, based upon Ms. Clifton's compliance with the terms and conditions thereof.
5. On January 25, 2013, the Board received information from the Office of the District Attorney for Prosecutorial District VII, Machias, Maine. That information revealed that:
  - On July 30, 2012, Ms. Clifton was charged with Criminal Operating Under the Influence ("OUI") while having a blood-alcohol content of .15 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath in violation of 17-A M.R.S. §2411, which occurred on July 3, 2012.
  - On October 24, 2012, Ms. Clifton entered into an "Agreement of Defendant and Order Deferring Disposition" in which she pled guilty to Criminal OUI.

As a result of receiving this information, the Board initiated a complaint against Ms. Clifton's Maine nursing license. Board staff docketed the Complaint as 2013-17 and sent it and the information received from the Office of the District Attorney for Prosecutorial District VII to Ms. Clifton for response.

6. On February 28, 2013, the Board received a written response from Ms. Clifton to Complaint 2013-17. In her response, Ms. Clifton stated that she had attended a "get together" at the home of a co-worker for the July 3-4 holiday. According to Ms. Clifton, the "mixed drinks were stronger than [she] thought" and she was "only a few miles from [her] home and thought [she] could drive home." Ms. Clifton indicated that she was stopped by police for weaving while driving. In addition, Ms. Clifton indicated that she had since been "receiving alcohol counseling" and has been making progress.
7. On March 6-7, 2013, the Board reviewed Complaint 2013-17 and voted to invite Ms. Clifton to attend an informal conference to discuss it.
8. On April 18, 2013, the Board received another letter from Ms. Clifton regarding her arrest for OUI, the steps she has taken to improve her judgment, and her plan to continue counseling. In addition, Ms. Clifton provided a letter from her licensed alcohol drug counselor, indicating that she had seen Ms. Clifton for one-hour individual sessions on ten (10) occasions since October 18, 2012. The counselor indicated that Ms. Clifton's treatment goals included: abstinence from alcohol and establishing a program of recovery; improving interpersonal communications; and establishing positive coping skills.
9. On July 22, 2013, the Board received copies of the police investigative reports regarding Ms. Clifton's arrest for Criminal OUI on July 3, 2013. According to the police report, a motorist advised police that a vehicle, later identified as Ms. Clifton's, was operating erratically. Police located the vehicle, noted that it was weaving and stopped it. Ms. Clifton was identified as the operator. Police recovered a partially empty bottle of vodka on the floor in the back seat area. After arresting her, police administered an intoxilyzer breath test, which demonstrated that Ms. Clifton had a blood-alcohol content of .20 of alcohol per 100 milliliters of blood or 210 liters of breath.
10. On July 23, 2013, the subcommittee of the Board held an informal conference with Ms. Clifton regarding Complaint 2013-17, which included a discussion of her substance abuse history and prior Consent Agreements with the Missouri Board of Nursing and the Maine State Board of Nursing. Following the informal conference, the subcommittee voted to offer Ms. Clifton a Consent Agreement to resolve Complaint 2013-17 without further proceedings.
11. Absent Ms. Clifton's acceptance of this Consent Agreement by signing, dating, and returning it to the Maine State Board of Nursing, 158 State House Station, Augusta, Maine 04333-0158 **on or before November 20, 2013**, the Board will take further action with regard to Complaint 2013-17. In the absence of an agreement the Board could impose, subsequent to adjudicatory proceedings, findings beyond those

contained above and also impose greater adverse action including fines, suspension or revocation of Licensee's license.

#### AGREEMENT

12. Anna Maria Clifton admits to the Facts as stated above and admits that such conduct constitutes grounds for the Board to impose discipline against her Maine nursing license pursuant to 32 M.R.S. §2105-A (2)(B) for habitual substance abuse that has resulted or is foreseeably likely to result in her performing services in a manner that endangers the health or safety of patients.
13. As discipline for the conduct described and admitted to above, Anna Maria Clifton agrees that until or unless this Consent Agreement is modified in writing by all of the parties hereto, **her license to practice as a registered professional nurse shall be probationary for the next five (5) years** following the execution<sup>1</sup> of this Consent Agreement and subject to the following conditions/restrictions:
  - a. Abstinence. Ms. Clifton shall totally refrain from the use or possession of any and all prohibited substances except drugs that are dispensed or prescribed by a single primary care physician or drugs that are dispensed or prescribed under circumstances that constitute a genuine medical or surgical emergency. "Prohibited substances" as used throughout this Consent Agreement shall mean all controlled substances (i.e., benzodiazepines, sedatives, hypnotics or similar drugs; opiates), alcohol, and all mood and/or consciousness or mind-altering substances, whether illicit or not. In the event that the Board or Board staff receives a report of use or possession of any prohibited substance by Ms. Clifton, it shall result in the immediate suspension of her Maine nursing license, which shall continue to be suspended until the Board holds a hearing on the matter.
  - b. Enrollment/Successful Participation in the Maine Medical Professionals Health Program. Ms. Clifton shall enroll and successfully participate in the Maine Medical Professionals Health Program (MPHP). In complying with this provision, Ms. Clifton specifically and explicitly waives vis a vis the Board, the Board staff, and the Office of the Attorney General any claims of confidentiality regarding: the written contract with MPHP; any and all records pertaining to her compliance with her contract with MPHP; and any records including, but not limited to, substance abuse treatment records and laboratory reports in the possession of MPHP regarding Ms. Clifton. The MPHP contract must include a condition that Ms. Clifton submits to testing or monitoring for the presence of any prohibited substances as defined under this Consent Agreement. In complying with this testing or monitoring provision, Ms. Clifton agrees to the following:
    - (i) Immediate, Indefinite, Automatic Suspension for Failure to Enroll in and Successfully Participate in MPHP. Ms. Clifton's failure to enroll in and/or successfully participate in MPHP shall result in the immediate, indefinite, automatic suspension of her nursing license, which shall continue until the Board holds a hearing on the matter. The suspension shall become effective at the time that Ms. Clifton receives actual notice from the Board that a report of violation(s) has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means.
    - (ii) To undergo such testing of the type (including, but not limited to, urine, blood, hair or fingernail analysis) as determined by MPHP<sup>2</sup> and as frequently and for the duration agreed to in the written contract with MPHP. Failure to undergo such testing as required shall constitute a violation of this Consent Agreement, which shall be immediately reported to the Board by MPHP and serve as grounds for the immediate suspension of Ms. Clifton's Maine nursing license pending hearing.

<sup>1</sup> For the purposes of this Consent Agreement, the term "execution" means the date on which the final signature is affixed to this Consent Agreement.

<sup>2</sup> The MPHP contract may include a condition that Ms. Clifton submits to different types of testing.

The suspension shall become effective at the time that Ms. Clifton receives actual notice from the Board that a report of a failure to undergo testing has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means.

- (iii) Immediate Report of Positive Test Results. Any test result which indicates any level of a prohibited substance shall be reported by Ms. Clifton immediately to the Board in writing within 24 hours after Ms. Clifton receives notice of the positive test. Ms. Clifton understands that MPHP has a separate duty to report under its contract with the Board. By way of clarification, immediate reports will not be required if the tests show a positive result for a mood or mind-altering drug that is known to the Board and MPHP to be a drug prescribed by Ms. Clifton's treatment provider for a medical condition and levels appear consistent with the quantity and dosage prescribed.
  - (iv) Retention of Reports. During the term of this Consent Agreement, all original laboratory data and test reports shall be retained by MPHP until instructed otherwise by the Board.
  - (v) Rebuttable Presumption and Admission into Evidence of Test Results. It is agreed and understood that a test evidencing the presence of any prohibited substance shall raise a rebuttable presumption that such substance was in fact used by Ms. Clifton. Such a positive test result shall alone, including any test result showing the presence of ethyl glucuronide, ethyl sulfate, or phosphatidyl ethanol, be sufficient to prove the use of the prohibited substance by Ms. Clifton. Ms. Clifton further agrees that the result of the test shall be admitted into evidence in any proceeding regarding her Maine nursing license, whether before the Board or before a court of competent jurisdiction.
  - (vi) Immediate, Indefinite, Automatic Suspension for Positive Test. If any urine, blood or hair test is positive (i.e., in any manner evidences any use of any prohibited substance, including a positive result for the presence of ethyl glucuronide, ethyl sulfate, or phosphatidyl ethanol), then the result shall be the immediate, indefinite, automatic suspension of Ms. Clifton's Maine nursing license, which shall continue until the Board holds a hearing on the matter, unless the Board, or the Board's Executive Director and the Board's assigned Assistant Attorney General, earlier determine that the report is without merit. The suspension shall become effective at the time that Ms. Clifton receives actual notice from the Board that a report of violation(s) has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means.
  - (vii) Board Hearing to Determine Use of Prohibited Substance. After receiving a positive report evidencing use by Ms. Clifton of any prohibited substance, the Board shall investigate the situation, including notifying Ms. Clifton for a response. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Ms. Clifton and the Board agree to hold the hearing later) and it shall be held pursuant to the Maine Administrative Procedure Act.
  - (viii) Releases. Ms. Clifton agrees to execute any and all releases necessary for the Board, Board staff, and the Board's assigned Assistant Attorney General to communicate directly with MPHP regarding her compliance with that program and obtain/review copies of any and all documentation regarding her participation in MPHP.
- c. Nurse Employment Restrictions. Ms. Clifton's nursing employment is restricted during the period of probation to structured settings with on-site supervision by another registered nurse. Structured settings shall not include assignments from temporary employment agencies, home health care, school nursing, work as a travel nurse, or within the correctional system.

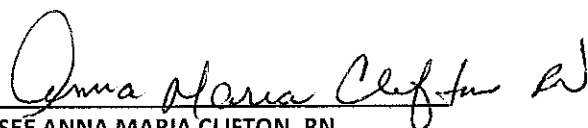
- d. Nurse Supervisor. In complying with this condition, Ms. Clifton shall, within ten (10) days following the execution of this Consent Agreement, provide the Board with the name of the individual who will be her supervisor for the purposes of this Agreement. The nurse supervisor must be in direct contact with Ms. Clifton (i.e., physically present) and observe her nursing performance. The nurse supervisor shall inform the Board if Ms. Clifton demonstrates any issues with regard to isolation, inappropriate boundaries or decision-making, ability to concentrate, absenteeism, substance abuse, incompetence, unprofessionalism or any other concerns. In addition, the nurse supervisor shall provide the Board with a written report regarding Ms. Clifton's nursing performance every three (3) months following the execution of this Consent Agreement. It is Ms. Clifton's responsibility to ensure that the supervisor provides these reports to the Board in a timely fashion.
- e. Notification to Nursing Employers/Potential Employers/Licensing Jurisdictions. Ms. Clifton shall provide a copy of this Consent Agreement to any nursing employers or potential nursing employers, and to any jurisdiction in which she holds or seeks a nursing license.
- f. Contact Address/Change of Contact Address – Notification Requirement. Ms. Clifton shall provide the Board with a current address at which she may be contacted by the Board. She shall inform the Board in writing within 15 days of any change of her address/contact information.
- g. Employment Change – Notification Requirement. Ms. Clifton will notify the Board in writing within five (5) business days of any change in her nursing employment and/or enrollment in a nursing education program. Notice under this section shall include the place and position of employment and/or the nursing educational program.
- h. Nursing Employment Restrictions. 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. Clifton'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 principal 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. Clifton understands and agrees that this Consent Agreement is applicable to her multi-state licensure privilege, if any, to practice nursing in Compact states.

IT IS FURTHER AGREED that while Ms. Clifton's license is subject to this Consent 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 in which she wishes to work.

- i. Waiver of Confidentiality and Release of Records. Ms. Clifton agrees and understands that the Board and the Office of the Attorney General shall have complete access to her present and future personal medical and counseling records regarding chemical dependency and mental health issues and to all otherwise confidential data pertaining to her treatment or monitoring for substance abuse and mental health issues. Ms. Clifton waives any privileges concerning such information, reports, or records, and agrees to execute any and all releases necessary to permit the Board or the Office of the Attorney General access to such information. All releases must, in addition to waiving any relevant State law privileges or immunities, provide the Board and the Office of the Attorney General access to all material covered by 42 C.F.R., Part 2. In the event that the releases are not sufficient to obtain access to any information which the Board considers relevant, Ms. Clifton agrees to personally obtain such information and furnish it to the Board, to the extent permitted by law.
14. Violation of any of the terms or conditions of this Consent Agreement by Ms. Clifton shall constitute grounds for discipline including, but not limited to, modification, suspension, or revocation of licensure or the denial of licensure renewal.


15. Pursuant to 10 M.R.S. §8003(5)(B) the Board and Ms. Clifton agree that the Board has the authority to issue an order modifying, suspending, and/or revoking her license in the event that she fails to comply with any of the terms or conditions of this Consent Agreement.
16. Unless otherwise specified by the terms and conditions of this Agreement, if Ms. Clifton is alleged to have violated any conditions of her probation, the Board will give written notice to her regarding her failure to comply, sent to the last known address that is on file with the Board. Ms. Clifton shall, within 30 days from receipt of this notification, submit written response to the Board regarding the alleged violation. The Board will review the Licensee's response to determine what action, if any, it will take. If the Licensee fails to timely respond to the Board's notification regarding noncompliance, her license may be immediately suspended pending a hearing at the next regularly scheduled Board meeting. If after notice and hearing, the Board finds that the Licensee has failed to meet probationary conditions, 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. §2015-A.
17. Ms. Clifton waives her right to a hearing before the Board or any court regarding all facts, terms and conditions of this Consent Agreement. Ms. Clifton agrees that this Consent Agreement is a final order resolving her pending application for licensure. This Consent Agreement is not appealable and is effective until modified or rescinded by the parties hereto. This Consent Agreement cannot be amended orally; it can only be amended by writing signed by the parties hereto and approved by the Office of the Attorney General. Ms. Clifton may file a written request, together with any supporting documentation, to modify the terms and conditions of this Consent Agreement. The Board retains the sole discretion to: (a) deny Ms. Clifton's request; (b) grant Ms. Clifton's request; and/or (c) grant Ms. Clifton's request in part as it deems appropriate to ensure the protection of the public. Any decision by the Board as a result of Ms. Clifton's request to modify this Consent Agreement need not be made pursuant to a hearing and is not appealable to any court.
18. The Board and the Attorney General may communicate and cooperate regarding Ms. Clifton's practice or any other matter relating to this Consent Agreement.
19. This Consent 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.
20. This Consent Agreement constitutes adverse action and is reportable to the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).
21. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.
22. For the purposes of this Consent Agreement, the term "execution" means that date on which the final signature is affixed to this Consent Agreement.
23. Ms. Clifton acknowledges by her signature hereto that she has read this Consent Agreement, that she has had an opportunity to consult with an attorney before executing this Consent Agreement, that she executed this Consent Agreement of her own free will and that she agrees to abide by all terms and conditions set forth herein.

DATED: 11-13-13

  
\_\_\_\_\_  
LICENSEE ANNA MARIA CLIFTON, RN

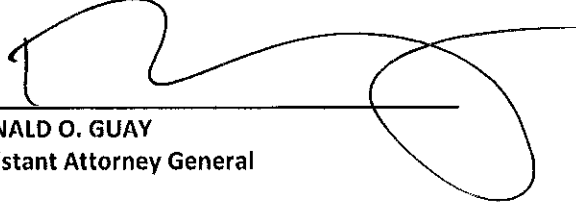
FOR THE MAINE STATE BOARD OF NURSING

DATED: 11/24/13

  
\_\_\_\_\_  
MYRA A. BROADWAY, JD, MS, RN  
Executive Director

FOR THE OFFICE OF THE ATTORNEY GENERAL

DATED: 11/26/13

  
\_\_\_\_\_  
RONALD O. GUAY  
Assistant Attorney General

Effective Date: 11/26/13