



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: THERESA A. DAY** )  
 of Portland, Maine )  
 License #P007986 )  
 )  
 ) **CONSENT AGREEMENT**  
 ) **FOR LICENSE REINSTATEMENT**  
 ) **AND**  
 ) **PROBATION WITH CONDITIONS**

**INTRODUCTION**

This document is a Consent Agreement (“Agreement”) regarding Theresa A. Day’s license to practice licensed practical nursing in the State of Maine. The parties to this Agreement are Theresa A. Day (“Licensee” or “Ms. Day”), Maine State Board of Nursing (“Board”) and the Office of the Attorney General, State of Maine; they 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). The Board met with Ms. Day on December 3, 2009 regarding her request for reinstatement of her nursing license.

**FACTS**

1. License History: Ms. Day was originally licensed to practice licensed practical nursing in Maine on November 21, 1983. On February 11, 1991, Ms. Day entered into a Consent Agreement with the Board surrendering her nursing license indefinitely as a result of drug diversion and substance abuse. On March 17, 1992, the Board reinstated her nursing license, placing it on probation for a term of two years. Probation was successfully met and terminated on February 18, 1994. On September 4, 1997, Ms. Day entered into a Consent Agreement with the Board surrendering her nursing license as a result of incompetent nursing practice and substance abuse. The referenced Consent Agreements in this paragraph are incorporated herein, attached hereto, and marked as Exhibit A.
2. On October 19, 2001, Ms. Day pled guilty to the criminal charge of Unlawful Possession of Scheduled Drugs in the State of Maine Superior Court, Portland, Maine; Case Number CR-2000-01871 (Class D, misdemeanor). She received a sentence of incarceration for six months, all suspended, and placed on probation for one year. On November 11, 2002, her probation was revoked for failure to remain substance-free and she received a sentence of six months incarceration in the Cumberland County Jail.
3. Theresa A. Day states that she has been clean and sober for seven years and currently attends AA five to six times a month. Past substance abuse treatment consists of intensive in-patient at Mercy Hospital Recovery Program in February 2001 for 30 days; 12 weeks of group therapy sponsored through Catholic Charities of Maine from May 2001-July 2001; and further treatment in the Mercy Hospital Recovery Program as an in-patient for three days and out-patient for 30 days in September 2002. Ms. Day has also demonstrated that she has built a support group comprised of family and friends to assist her in maintaining sobriety.

**AGREEMENT WITH CONDITIONS OF PROBATION**

4. Theresa A. Day’s license as a licensed practical nurse in the State of Maine is reinstated on a probationary status with conditions. The period of probation will commence upon Ms. Day’s return to nursing practice for a period of five years, effective only while she is employed in



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nursing practice or enrolled in a nursing education program. For purposes of this Agreement, nursing employment is any employment during which Ms. Day performs nursing services. Her probationary license will be subject to the following conditions:

- a. Theresa A. Day 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.
- b. Theresa A. Day will continue in her treatment program(s) to such an extent and for as long as her treatment provider(s) recommend. She will arrange for and ensure the submission of quarterly reports to the Board by her treatment provider(s) and such reports will continue until her probation is terminated. If her treatment is terminated during her probation, she shall notify the Board and provide written documentation.
- c. Theresa A. Day 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. Theresa A. Day 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. Day'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 surrounding the termination or separation.
- e. Theresa A. Day 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. Theresa A. Day 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 is to include clinical competency, ability to follow policies and procedures relative to standards of practice, and clinical documentation.
- g. Theresa A. Day 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. Day has complied with the provisions of this Agreement.
- h. Theresa A. Day'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, school nursing, work as a travel nurse or within the correctional system.
- i. Theresa A. Day understands and agrees that the Board and the Office of 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. Day 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.

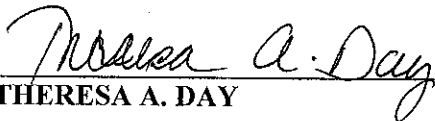
j. Theresa A. Day must enroll and successfully complete a Certified Nurse Assistant Medication course or a Licensed Practical Nurse refresher course, pre-approved by the Executive Director of the Board, within 90 days from the effective date of this Agreement.

5. If Ms. Day 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. Theresa A. Day 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, it will be immediately forwarded to Ms. Day for response. She understands and agrees that in such event, her license shall remain suspended pending a hearing. The Board shall hold a hearing within 60 days of the automatic suspension 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. Day'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. Day'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. Day 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. Day 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. Theresa A. Day 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. Theresa A. Day 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.

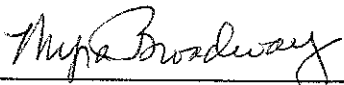
**I, THERESA A. DAY, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THE EFFECT IT WILL HAVE ON MY LICENSED PRACTICAL NURSE LICENSE. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY, KNOWINGLY, AND INTELLIGENTLY AND AGREE TO BE BOUND BY THIS AGREEMENT. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND.**

DATED: 02/14/2010

  
\_\_\_\_\_  
THERESA A. DAY

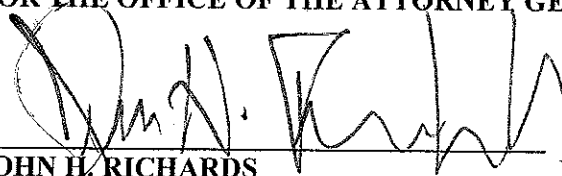
**FOR THE MAINE STATE BOARD OF NURSING**

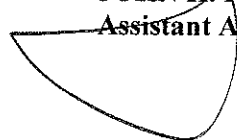
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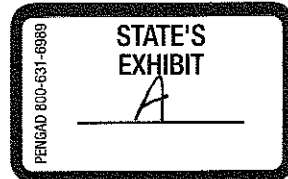
  
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MYRA A. BROADWAY, J.D., M.S., R.N.  
Executive Director

**FOR THE OFFICE OF THE ATTORNEY GENERAL**

DATED: 1/21/10

  
\_\_\_\_\_  
JOHN H. RICHARDS  
Assistant Attorney General





## MAINE STATE BOARD OF NURSING

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

In re: )  
Theresa A. Day, L.P.N. )  
of Portland, ME )

CONSENT AGREEMENT REGARDING  
VOLUNTARY SURRENDER OF  
LICENSE

### INTRODUCTION

This document is a Consent Agreement regarding Theresa A. Day's license to practice practical nursing in the State of Maine, entered into pursuant to 32 M.R.S.A. Section 2105-A(1-A)(B) and (C) (1988). The parties to this Consent Agreement are: Theresa A. Day, L.P.N., the Maine State Board of Nursing ("Board") and the Department of Attorney General, State of Maine.

By letter dated November 20, 1990, Theresa A. Day was advised by the Board that it had received a letter from Nursing Network alleging the theft of prescription forms from a Dr. Schuler's office and the filling of false prescriptions for percocet. The allegations also included Ms. Day's admission that she was addicted to percocet. Ms. Day responded to the Board's letter on October 24, 1990. Subsequently, the Board requested that Ms. Day attend an informal conference pursuant to 32 M.R.S.A. Section 2105-A(1-A). At the informal conference held on January 22, 1991, Ms. Day was present and not represented by an attorney.

### FINDINGS OF FACT

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

1. Licensee admitted to diverting drugs from Southern Maine Medical Center, St. Joseph's Hospital and Dr. Schuler's office.
2. Licensee stated she did not divert drugs from patients.
3. There is no documented evidence of harm to patients.
4. Licensee admits to 18 months of substance abuse.
5. Licensee states that she has been drug free for 1 1/2 months.
6. Licensee has not been through a treatment program as recommended by her evaluator.

- 7. Licensee is not sure if she has a substance abuse problem.
- 8. Licensee attends self-help groups sporadically.

COVENANTS

Based on the above findings of fact, the Board voted to accept Ms. Day's voluntary surrender of her practical nurse license for an indefinite period of time, under the following terms and conditions:

- 1. Licensee shall complete a formal substance abuse program for chemical dependency.
- 2. Licensee shall not be employed in health care, including employment as a nursing assistant.
- 3. Licensee shall remain alcohol and drug free.
- 4. Licensee shall submit proof of completion of a formal substance abuse program to the Board.
- 5. Any time after licensee has submitted proof of completion of a substance abuse program, she will be responsible to set up a meeting with the Board regarding possible reinstatement.
- 6. Licensee hereby waives all claims of confidentiality and privilege she may have regarding reports to be submitted to the Board in accordance with this Consent Agreement.
- 7. Failure to comply with any term or condition of this Consent Agreement shall result in the automatic, immediate and permanent revocation of Ms. Day's license.

DATED: 2/6/91

BY: Theresa A. Day  
THERESA A. DAY

FOR THE MAINE STATE BOARD OF NURSING:

DATED: 2/7/91

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

FOR THE DEPARTMENT OF ATTORNEY GENERAL

DATED: 2-11-91

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



## MAINE STATE BOARD OF NURSING

35 ANTHONY AVENUE  
STATE HOUSE STATION 158  
AUGUSTA, MAINE 04333  
(207) 624-5275

In re: )  
Theresa A. Day, L.P.N. )  
of Portland, Maine )  
License #P007986 )  
MODIFIED  
CONSENT AGREEMENT  
REGARDING LICENSURE

### INTRODUCTION

This document is a Modified Consent Agreement regarding Theresa A. Day's license to practice practical 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)(B). The parties to this Consent Agreement are: Theresa A. Day, L.P.N., the Maine State Board of Nursing ("Board") and the Department of Attorney General, State of Maine.

These same parties entered into a Consent Agreement on February 11, 1991. Pursuant to that Agreement, Ms. Day voluntarily surrendered her license to the Board for an indefinite period of time.

By letters dated May 8 and September 26, 1991 and January 27, 1992, Ms. Day requested that the Board consider reinstating her license to practice. A meeting with the Board was held on February 12, 1992, at which Ms. Day appeared without an attorney. At that meeting, the Board voted to modify the covenants of the February 11, 1991 Consent Agreement as follows:

### COVENANTS

Ms. Day's license to practice practical nursing in the State of Maine is hereby reinstated on a probationary status for a period of two years with the following conditions:

1. Ms. Day will remain completely substance-free.
2. Ms. Day will arrange to have quarterly reports submitted to the Board from her substance abuse counselor. Ms. Day waives any claims of confidentiality and privilege which she may have with respect to these reports.
3. Ms. Day will notify any employer she may have within the area of health care of the probationary status of her license, and will arrange to have quarterly reports submitted to the Board from such employer. Ms. Day waives any claims of confidentiality and privilege she

may have with respect to these reports.

4. Ms. Day will not be employed by any nursing pool agency.
5. Ms. Day will immediately notify the Board of any change in her employment.
6. Ms. Day will continue her attendance at self-help groups, including A.A. as well as N.A.
7. The Board agrees to take no further action upon these facts as long as Ms. Day fully complies with these conditions.

Ms. Day understands that this document is a Modified Consent Agreement which affects her rights to practice nursing in Maine. Ms. Day understands that she does not have to execute this Modified Consent Agreement and that she has the right to consult with an attorney before entering this Modified Consent Agreement. Ms. Day affirms that she executes this Modified Consent Agreement of her own free will.

DATED: 03/06/92

BY: Theresa A. Day  
THERESA A. DAY, L.P.N.

FOR THE MAINE STATE BOARD OF  
NURSING:

DATED: 3/16/92

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

FOR THE DEPARTMENT OF  
ATTORNEY GENERAL

DATED: 3/17/92

BY: Tim W. Collier  
TIMOTHY W. COLLIER  
Assistant Attorney General  
Counsel to the Board





MAINE STATE BOARD OF NURSING

35 ANTHONY AVENUE • STATE HOUSE STATION 158  
AUGUSTA, MAINE 04333-0158  
(207) 624-5275 • FAX (207) 624-5290

BEFORE THE MAINE STATE BOARD OF NURSING

IN THE MATTER OF LICENSE NO. )  
P07986 ISSUED TO: )  
THERESA A. DAY )  
To practice practical nursing )  
in the State of Maine )  
----- )

ORDER TERMINATING  
PROBATION

WHEREAS, on February 12, 1992 License No. P07986 issued to Theresa A. Day was placed on "probation" pursuant to 32 M.R.S.A. Section 2105-A (1-A); and

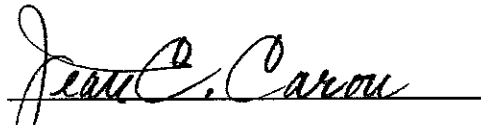
WHEREAS, on February 16, 1994, the Board of Nursing duly considered all evidence presented to it concerning Theresa Day's compliance with the conditions of said probation; and

WHEREAS, the Board found that Theresa Day has completed all of the Order;

NOW, THEREFORE, it is ordered that the Order of Probation executed on March 17, 1992 is hereby terminated.

DATED this 18th day of February 1994.

MAINE STATE BOARD OF NURSING

  
\_\_\_\_\_  
Jean C. Caron, R.N., M.S.  
Executive Director



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

ANGUS S. KING, JR.  
 GOVERNOR

JEAN C. CARON, M.S., R.N.  
 EXECUTIVE DIRECTOR

**IN RE:** ) **CONSENT AGREEMENT FOR**  
**THERESA A. DAY** ) **VOLUNTARY SURRENDER**  
**of Portland, Maine** ) **OF LICENSE**  
**License #P007986** )

**INTRODUCTION**

This document is a Consent Agreement regarding Theresa A. Day's license to practice practical nursing in the State of Maine. This Consent Agreement is pursuant to 32 M.R.S.A. § 2105-A(1-A)(C) and 10 M.R.S.A. § 8003(5)(B). The parties to this Consent Agreement are Theresa A. Day, Maine State Board of Nursing ("Board") and the Department of the Attorney General, State of Maine. The parties reached this agreement following an informal conference held on June 11, 1997 regarding information received on October 31, 1996 from Jeanne Delicata, R.N.C., Director of Nursing, The Barron Center.

**FACTS**

1. Ms. Day has a history of substance abuse.
2. On October 17, 1996, while on duty as the medication nurse in the Alzheimer's Unit at The Barron Center, Ms. Day made 67 errors in medication documentation during a 4-hour period.
3. In addition, Ms. Day administered controlled substances without first signing them out in the narcotics book.
4. On four occasions, Ms. Day did not follow the facility's policies regarding the administration, use and disposal of controlled substances, specifically, the Duragesic patch.
5. Ms. Day is currently being treated for depression.
6. Ms. Day stated that she is not currently working in nursing and has no foreseeable plans to return to nursing.
7. Ms. Day's conduct evidences incompetence in the nursing practice for which she is licensed.
8. The Board finds that Ms. Day's conduct, in light of her substance abuse history, suggests that Ms. Day may again have a substance abuse problem, although the Board notes that Ms. Day denies that she is abusing substances.

**AGREEMENT**

1. **Violation:** Theresa Day's conduct constitutes grounds for discipline under 32 M.R.S.A. § 2105-A(2)(E)(1)(incompetence). Notwithstanding the Board's concern that Ms. Day's

incompetence may relate to substance abuse, the Board and the Department of Attorney General, in reliance upon and in consideration of Ms. Day's execution of this Consent Agreement, will agree to allow Ms. Day to voluntarily surrender her license without admitting to a finding of habitual substance abuse.

2. **Further Action:** The Board agrees to take no further action upon these facts so long as Ms. Day voluntarily surrenders her license in accordance with this Consent Agreement.
3. **Reinstatement:** Ms. Day agrees and understands that her license to practice practical nursing will not be reinstated until and unless Ms. Day demonstrates to the Board's satisfaction that she is competent to return to practice. Ms. Day further agrees and understands that should Ms. Day request reinstatement the Board may require Ms. Day to submit to a mental health evaluation and a substance abuse evaluation by evaluators of the Board's choice. Should the Board deem such evaluations necessary, Ms. Day shall authorize the release of any and all medical records and all otherwise confidential or medically-privileged information that the Board deems necessary to evaluate Ms. Day's mental health and use of alcohol and drugs.
4. **Miscellaneous Provisions:** Ms. Day understands that this document is a Consent Agreement which affects her rights to practice practical nursing in Maine. This Consent Agreement may be amended only in writing, signed by all the parties. Ms. Day understands that she does not have to execute this Consent Agreement and that she has the right to consult with an attorney before entering into this agreement. Ms. Day affirms that she executes this Consent Agreement of her own free will.
5. **Effective Date:** This Consent Agreement becomes effective upon the last necessary signature below.

DATED: 8/15/97

Theresa A. Day  
THERESA A. DAY

MAINE STATE BOARD OF NURSING:

DATED: 9/2/97

Jean C. Caron  
JEAN C. CARON, M.S., R.N.  
Executive Director

DEPARTMENT OF ATTORNEY GENERAL:

DATED: 9/4/97

Susan A. Sparaco  
SUSAN A. SPARACO  
Assistant Attorney General  
Counsel to the Board