



Paul R. LePage
GOVERNOR

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

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

IN RE: MARIE DEMPSEY
of Windham, ME
License No. RN46274

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CONSENT AGREEMENT TO
SURRENDER LICENSE

Complaint 2013-231

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 Marie Dempsey's license as a registered professional nurse ("RN") in the State of Maine. The parties to this Agreement are Marie Dempsey ("Ms. Dempsey" or "Licensee"), the Maine State Board of Nursing ("the Board"), and the Office of the Attorney General, State of Maine. The parties enter into this Agreement pursuant to 32 M.R.S. § 2105-A (1-A)(C) and 10 M.R.S. § 8003(5)(B) in order to resolve Complaint 2013-231.

FACTS

1. Ms. Dempsey was first licensed to practice in Maine as an RN on July 12, 2001.
2. Ms. Dempsey has a history of alcohol abuse and relapse, which has resulted in prior discipline by the Board. On July 18, 2013, following a June 6, 2013 hearing, the Board issued its Decision & Order approving Ms. Dempsey's 2012-2014 RN renewal application with probationary conditions in order to protect the public health and welfare, for a period of five years.
3. In its Decision, the Board found significant issues regarding her credibility about her alcohol abuse, history of relapse, and work performance, the latter of which was addressed by her employer in 2011 with a Record of Warning and Implementation of an Improvement Plan. The Board concluded that she had violated 32 M.R.S. §2105-A (2)(B), specifically, that she had demonstrated habitual substance abuse that had resulted or was foreseeably likely to result in her performing services in a manner that endangers the health or safety of patients.
4. In Condition 1(c) of the Decision, the Board ordered that Ms. Dempsey abstain completely from the use of alcohol or drugs with the exception of substances used in accordance with valid prescriptions.
5. In Condition 1(e) of the Decision, the Board ordered that Ms. Dempsey participate in the Maine Professionals Health Program ("the MPHP") or a similar monitoring program with random urine and/or substance screens.



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6. In Condition 2 of the Decision, the Board ordered that if the Executive Director received reasonably reliable information suggesting that she had not remained substance-free, then her RN license could be immediately and automatically suspended pending further review by the Board.
7. On November 25, 2013, the Board received written notification from the Maine Medical Professionals Health Program ("MPHP") that Licensee had tested positive for a very high level of alcohol on November 15, 2013. Although Licensee initially attributed the result to the use of Nyquil, she subsequently admitted to drinking whisky. Upon receipt of the MPHP notification, the Board's Probation Compliance Officer contacted Ms. Dempsey about the MPHP report; Licensee admitted that she had consumed alcohol and upon recommendation from her counselor, had entered a detox program at Mercy Recovery Center.
8. At all times relevant to this matter, Ms. Dempsey was employed as an RN at Maine Medical Center in Portland, Maine. The November 15, 2013 test sample was obtained at approximately 6 p.m. Licensee confirmed through statements made to Board staff that she worked on November 15, 2013 until approximately 4:30 p.m.
9. Board staff docketed the complaint as 2013-231 and on November 26, 2013, issued its Notice of Complaint to the Licensee for response.
10. On December 5, 2013, the Board voted to suspend Ms. Dempsey's nursing license in accordance with paragraphs 1(a) and 2 of her July 18, 2013 Decision & Order, finding that her continued and persistent misuse of alcohol constitutes immediate jeopardy of her performing services in a manner that endangers the health and safety of patients in the future. There is risk of significant medical errors due to impairment as a result of intoxication that arises from someone having engaged in such conduct, especially in light of the lack of candor demonstrated. This conduct fails to conform to the legal requirements imposed as a condition of her licensure and is substantially related to the qualifications, functions, or duties of an RN. Moreover, her conduct adversely impacts the health and welfare of the public and places the public she serves in immediate jeopardy of physical harm including death.
11. Licensee has completed in-patient treatment at Mercy Recovery Center and is currently attending its intense out-patient program, followed by weekly Mercy Early Recovery Group meetings, increased counseling, and participation with a Home Support Group, Caduceus, and AA. She continues with her MPHP monitoring program and follow-up drug screens have been negative.
12. Ms. Dempsey has offered to surrender her RN license based upon the above-stated facts and thereby waives her rights to an adjudicatory hearing.
13. Absent Licensee's acceptance of this Agreement by signing and returning it to the Maine State Board of Nursing, 158 State House Station, Augusta, Maine 04333-0158 on or before January 10, 2014, the Board will take further action. 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 costs of a hearing, suspension or revocation of Licensee's license.

AGREEMENT

14. The Maine State Board of Nursing accepts Marie Dempsey's offer to voluntarily surrender her RN license, RN46274.
15. Licensee admits to the Facts as stated above and agrees that such conduct constitutes grounds for the Board to impose discipline against her Maine nursing license under the following laws and regulations:
 - a. Pursuant to 10 M.R.S. §8003(5)(A-1)(4) for failure to comply with the conditions of probation cited in the July 18, 2013 Decision & Order;
 - b. Pursuant to 32 M.R.S. §2105-A (2)(B) for misuse of alcohol, drugs or other substances that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients;
 - c. Pursuant to 32 M.R.S. §2105-A (2)(F) and Board Rules Chapter 4 §1.A.6 for engaging in conduct that violates any standard of professional behavior which has been established in the practice for which the licensee is licensed;
 - d. Board Rule Chapter 4 §3(F) for failing to follow policies and procedures in the practice situation designed to safeguard the patient; and
 - e. Board Rule Chapter 4 §3(O) for practicing nursing when physical or mental ability to practice is impaired by alcohol or drugs.
16. As discipline for the conduct cited in Paragraph No. 15 above, Licensee agrees to **SURRENDER** her Maine RN license, effective on the date of the final execution of this Agreement. Licensee understands and agrees that as a result of surrendering her license, she no longer has a nursing license and is subject to the terms of this Agreement until and unless the Board, at her written request, votes to reinstate her license. Licensee understands and agrees that upon receiving her request to reinstate her Maine RN license, the Board shall have the sole discretion to grant or deny such a request or to grant her licensure with probation and conditions as it determines appropriate to protect the public.
17. Ms. Dempsey shall not work or volunteer in any capacity for a health care provider as defined by Title 24 M.R.S. §2502(2) or in any position holding herself out as a registered professional nurse or with the designation "RN" while she does not hold a nursing license.
18. This Agreement is not appealable. This Agreement cannot be modified orally. It can only be modified by writing and only if signed by all of the parties to the Agreement and approved by the Office of the Attorney General. Any decision by the Board as a result of Licensee's request to modify this Agreement need not be made pursuant to a hearing.
19. 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-A.

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- 20. This 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 Agreement shall be construed to affect any right or interest of any person not a party hereto.
- 22. For the purposes of this Agreement, the term "execution" means that date on which the final signature is affixed to this Agreement.
- 23. Licensee acknowledges by her signature hereto that she has read this Agreement, that she has had an opportunity to consult with an attorney before executing this Agreement, that she has executed this Agreement of her own free will and that she agrees to abide by all the terms and conditions set forth in this Agreement.

Dated: 1-14-14



 LICENSEE MARIE DEMPSEY
 FOR THE MAINE STATE BOARD OF NURSING

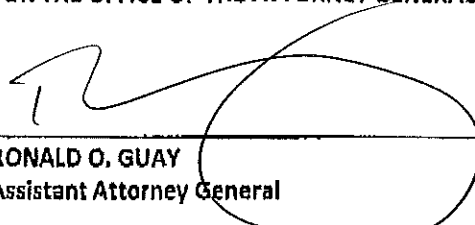
Dated: Jan 15, 2014



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

FOR THE OFFICE OF THE ATTORNEY GENERAL

Dated: 1/21/14



 RONALD O. GUAY
 Assistant Attorney General

EFFECTIVE DATE: 1/21/14