



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: LYNNE K. LOWELL) CONSENT AGREEMENT
 of Shapleigh, Maine) **FOR**
 License #R050094) **PROBATION**

INTRODUCTION

This document is a Consent Agreement (“Agreement”) regarding Lynne K. Lowell’s (“Ms. Lowell” or “Licensee”) license to practice registered professional nursing in the State of Maine. The parties to this Agreement are Ms. Lowell, the Maine State Board of Nursing (“Board”) and the Office of the Attorney General, State of Maine; they enter into this Agreement pursuant to 10 M.R.S.A. § 8003(5), (A-1) (4) and 10 M.R.S.A. § 8003(5) (B). The Board met with Ms. Lowell in an informal conference on October 7, 2009. The parties reached this Agreement on the basis of a 1) Board Notice of Complaint/Provider Report dated March 19, 2008, with supporting documentation from Southern Maine Medical Center (“SMMC”) dated March 12, 2008; 2) Ms. Lowell’s response dated January 6, 2009; and 3) Supplemental Information from the Division of Licensing & Regulatory Services, Department of Health & Human Services, dated April 15, 2009.

FACTS

1. Lynne K. Lowell has been a registered professional nurse licensed to practice in Maine since July 2004.
2. Lynne K. Lowell was hired by SMMC to work as a registered professional nurse on January 8, 2008; she was terminated on March 7, 2008 as a result of evidence that she had not followed SMMC policies while administering controlled substances. An investigation was conducted by SMMC regarding Ms. Lowell’s medication administration practices; a review of the pharmacy records from a sampling of several patients under her care during a 12-hour shift between March 7-8, 2008 disclosed that:
 - a. Ms. Lowell dispensed 2mg of Morphine with no supporting documentation that it was administered to the patient.
 - b. Ms. Lowell documented that she administered Lorazepam (ordered 1mg intravenously every two hours as needed) to a patient at 0640 and also at 0645, prior to the drug’s withdrawal from the Pyxis machine (“Pyxis”), which showed that only one dose of the drug was withdrawn at 0654.
 - c. Ms. Lowell documented that she administered Lorazepam (ordered 1mg every two hours as needed) to a patient on March 7, 2008 at 0136, 0340 and 0606. On March 8, 2008, she administered Lorazepam at 0220 and 0231. The patient record documents that this patient was administered Lorazepam only once a day by other nurses. In



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addition, the records show that Ms. Lowell removed Ativan 1mg on eight separate occasions, only six of which were documented in the patient's chart.

- d. Ms. Lowell documented that she administered Vicoden (ordered two tablets every four hours as needed) to a patient on March 7, 2008 at 2140 and on March 8, 2008 at 0415. The Pyxis documentation showed that she withdrew two tablets of Vicoden on March 7, 2008 at 2125 and two tablets on March 8, 2008, at 0217 and 0641. The March 8, 2008 withdrawal at 0641 was not documented as having been given to the patient nor is there any documentation of it being wasted.
 - e. Ms. Lowell administered six tablets of Percocet in a three-hour period, although the physician's order was for two tablets every four hours as needed. The pharmacy records show Ms. Lowell withdrew the Percocet tablets from Pyxis for the same patient at 2327, 0222 and 0231.
 - f. Ms. Lowell documented that she administered Oxycodone (ordered two tablets every four hours as needed) to a patient on March 8, 2008 at 0231, but did not withdraw the Oxycodone from Pyxis until 0650.
3. Lynne K. Lowell diverted scheduled narcotics from SMMC for her own personal use.
 4. Lynne K. Lowell represents that she has been substance-free since May 2008 and has not worked as a nurse since that time.
 5. Ms. Lowell is in treatment for depression and anxiety and is receiving counseling for substance abuse. She currently attends AA once a week and participates in the Hyannis Big Book Step Study format which helps her in maintaining sobriety. Ms. Lowell has also tested negative in random urine tests since May 2008.
 6. In lieu of an adjudicatory hearing, Ms. Lowell has agreed to enter this Agreement with the Board.

AGREEMENT

7. Lynne K. Lowell understands and agrees that based upon the above-stated facts, this document imposes discipline regarding her license to practice nursing in the State of Maine. The grounds for discipline for violations are under 32 M.R.S.A. § 2105-A(2)(A), (2)(B), (2)(F), (2)(H) and Chapter 4, sections 1(A)(1), 1(A)(2), 1(A)(6), 1(A)(8) and Chapter 4, sections 3(K), 3(P) and 3(Q) of the Rules and Regulations of the Maine State Board of Nursing. Specifically, the violations are:
 - a. M.R.S.A. § 2105-A (2) (A). The practice of fraud and deceit in connection with service rendered within the scope of the license issued to Ms. Lowell by diverting scheduled drugs for her own personal use. (See also Rule Chapter 4. Section 1.A.1.)

- b. M.R.S.A. § 2105-A (2) (B). Habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients. (See also Rule Chapter 4, Section 1.A.2.)
- c. M.R.S.A. § 2105-A (2) (F). Unprofessional Conduct. Ms. Lowell engaged in unprofessional conduct because she violated a standard of professional behavior that has been established in the practice for which she is licensed. (See also Rule Chapter 4, Section 1.A.6.)
- d. M.R.S.A. § 2105-A (2) (H). A violation of this chapter or a rule adopted by the Board. (See also Rule Chapter 4, Section 1.A.6.)
- e. Rule Chapter 4, Section 3. Unprofessional Conduct. *Nursing behavior which fails to conform to legal standards of the nursing profession, and which could reflect adversely on the health and welfare of the public shall constitute unprofessional conduct and shall include, but shall not be limited to, the following:*

Chapter 4, Section 3(K). Ms. Lowell inaccurately recorded, falsified or altered a health care provider record.

Chapter 4, Section 3(P). Ms. Lowell diverted drugs from patients and a health care provider.

Chapter 4, Section Q. Ms. Lowell possessed, obtained and administered prescription drugs to herself, except as directed by a person authorized by law to prescribe drugs.

- 8. Lynne K. Lowell neither admits nor denies the facts contained herein regarding the diversion of narcotics or other controlled substances from SMMC; however, she acknowledges that if this matter went to a hearing before the Board, it is more likely than not that the above-stated facts and underlying investigative information would support the Board's findings in this Consent Agreement.
- 9. Lynne K. Lowell's license as a registered professional nurse is placed on probation with conditions. The period of probation will commence upon her return to nursing practice and will be for a period of five years, effective only while she is employed in nursing practice and/or enrolled in a clinical nursing education program. For purposes of this Agreement, nursing employment is any employment during which Ms. Lowell performs nursing services. Her probationary license will be subject to the following conditions:
 - a. Lynne K. Lowell shall fully comply and 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. Lynne K. Lowell will abstain completely from the use of alcohol or drugs, with the exception of substances used in accordance with a valid prescription from a health care provider who is aware of her substance abuse history.

- c. Lynne K. Lowell must enroll and participate in the Maine Professionals Health Program and will continue in her aftercare treatment program(s) to such an extent and for as long as her treatment provider(s) recommend.
 - d. Lynne K. Lowell will arrange for and ensure the submission of quarterly reports to the Board by her treatment provider(s) and such reports shall continue until her probation is terminated. If her treatment is terminated during her probation, she shall notify the Board and provide written documentation.
 - e. Lynne K. Lowell will notify the Board in writing within five business days after she obtains any 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. Lowell'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.
 - f. Lynne K. Lowell will notify any and all of her nursing employers and faculty involved in any clinical studies of the terms of this Agreement and provide them with a copy of it.
 - g. Lynne K. Lowell's 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, school nursing, work as a travel nurse, or within the correctional system.
 - h. Lynne K. Lowell 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.
 - i. Lynne K. Lowell 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 treatment for substance abuse which the Board deems necessary to evaluate her compliance with the Agreement and her continued recovery. Ms. Lowell 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.
10. Lynne K. Lowell agrees and understands 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. Lowell has complied with the provisions of this Agreement.

11. Lynne K. Lowell 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. Lowell for response. Ms. Lowell understands and agrees that in such an 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. Lowell's license will be immediately reinstated retroactive to the date of suspension.
12. If Ms. Lowell violates any other condition 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.
13. 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. Lowell'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. Lowell understands this Agreement is subject to the Compact. She agrees that during the pendency of this Agreement, her nursing practice is limited to the State of Maine as it pertains to the Compact. If she 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.
14. 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.
15. Lynne K. Lowell understands that she does not have to execute this Agreement and has the right to consult with an attorney before entering into the Consent Agreement.

16. Lynne K. Lowell affirms that she executes this Agreement of her own free will.
17. Modification of this Agreement must in writing and signed by all parties.
18. This Agreement is not subject to review or appeal by the Licensee, but may be enforced by an action in the Superior Court.
19. This Agreement becomes effective upon the date of the last necessary signature below.

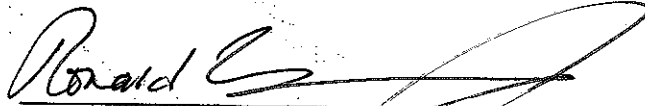
I, LYNNE K. LOWELL, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THE EFFECT IT WILL HAVE ON MY REGISTERED PROFESSIONAL NURSE LICENSE. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY, KNOWINGLY, AND INTELLIGENTLY AND AGREE TO BE BOUND BY THIS AGREEMENT. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND.

DATED: 12/18/09



LYNNE K. LOWELL

DATED: 12/21/09



RONALD W. SCHNEIDER JR., ESQ.
Attorney for Lynne K. Lowell

FOR THE MAINE STATE BOARD OF NURSING


DATED: 12/22/09



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

FOR THE OFFICE OF THE ATTORNEY GENERAL

DATED: 12/23/09



JOHN H. RICHARDS
Assistant Attorney General