



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

PAUL R. LePAGE
 GOVERNOR

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

IN RE: JOSEPH C. PINKHAM) **CONSENT AGREEMENT**
 of Bath, ME) **FOR VOLUNTARY**
 License #R057087) **SURRENDER OF LICENSE**

INTRODUCTION

This document is a Consent Agreement (“Agreement”) regarding Joseph C. Pinkham’s license as a registered professional nurse in the State of Maine. The parties to this Agreement are Joseph C. Pinkham (“Licensee” or “Mr. Pinkham”), Maine State Board of Nursing (“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), 10 M.R.S. §§ 8003 (A-1) (4), 8003 (5) (B) and 8003 (5) (D). The parties reached this Agreement on the basis of a 1) Board Notice of Complaint with a Provider Report from Central Maine Medical Center (“CMMC”) dated July 19, 2010; 2) supplemental information via e-mail from CMMC dated August 12, 2010; and 3) response from the Licensee received September 9, 2010.

FACTS

1. Joseph C. Pinkham has been licensed as a registered professional nurse to practice in Maine since October 2009; this license lapsed on November 22, 2010.
2. Joseph C. Pinkham was employed as a registered professional nurse at CMMC from April 15, 2010 until his termination on July 17, 2010 due to misappropriation of hospital drugs. Following the completion of his shift on July 16, 2010, peers reported his behavior appeared to be in an altered state. At the same time, five empty vials of Diphenhydramine/Benadryl 50mg were discovered in the public restroom, along with used syringes on the floor, blood in the toilet and on the floor, and the Licensee’s paycheck stub and 90-day evaluation in the sink.
3. Joseph C. Pinkham was taken to the Emergency Department for evaluation and while there admitted to the Security Supervisor that he had stolen the vials found in the restroom from the pyxus machine and injected the drugs into his arm. He also admitted to stealing at least 30-50 vials of the same medication over the last three months for his personal use. He stated he used the drugs on average two to three times per shift. The Licensee agreed to a search of his personal vehicle by CMMC Security which resulted in the discovery of an empty bottle of Diprivan/Propofol 20ml, a smaller empty vial of Fentanyl, and syringes.
4. Joseph C. Pinkham states that in 2005, during the course of patient care, he injured his back which ultimately required two surgeries before he could return to work. During that period, he developed an addiction to opiates and had been prescribed Oxycodone for back pain. His pain had become unmanageable and he had ‘poor to no insight’ into his illness.
5. Joseph C. Pinkham fully acknowledges his responsibility for the drug diversion and agrees with the reports submitted by CMMC.
6. Joseph C. Pinkham states he spent five days at Mercy Recovery Center, followed by Intensive Out-Patient treatment at the Addiction Resource Center in Brunswick. He continues with aftercare, including regular attendance at AA and Caduceus meetings, and signed a five-year contract with the Medical Professionals Health Program (“MPHP”) on September 1, 2010. As of January 2011, he remained in compliance with said contract; urine drug screens had been consistently negative. The Board, however, has been advised by MPHP correspondence that Mr. Pinkham has decided to prematurely terminate his Monitoring Contract, effective February 25, 2011.



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7. Joseph C. Pinkham, through correspondence to the Board dated February 20, 2011, has offered to surrender his registered professional nursing license based upon the above-stated facts and thereby waives his right to an adjudicatory hearing.

AGREEMENT

8. The Maine State Board of Nursing will accept Joseph C. Pinkham's offer to voluntarily surrender his registered professional nursing license. Mr. Pinkham understands and agrees that should this matter go to hearing before the Board on the above-stated facts and the underlying information to support those facts, it is more likely than not they would support the Board's findings in this Agreement. Further, he understands and agrees that this document imposes discipline regarding his nursing practice in the State of Maine. The grounds for discipline are found under Title 32 M.R.S. § 2105-A(2)(A), (2)(B), (2)(F) and (2)(H) and Chapter 4, Sections 1(A)(1), 1(A)(2), 1(A)(6), 1(A)(8) and Chapter 4, Sections 3(F), 3(K), 3(P) and 3(Q) of the Rules and Regulations of the Maine State Board of Nursing. Specifically, the violations are:

Title 32 M.R.S. §§:

- a. 2105-A (2) (A). Mr. Pinkham engaged in the practice of fraud or deceit in connection with a service rendered within the scope of his license. (See also Chapter 4, Section 1.A.1.)
 - b. 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. 2105-A (2) (F). Unprofessional Conduct. Mr. Pinkham has engaged in unprofessional conduct by violating standards of professional behavior that have been established in the practice for which he is licensed. (See also Rule Chapter 4, Section 1.A.6.)
 - d. 2105-A (2) (H). A violation of this chapter or a rule adopted by the Board. (See also Rule Chapter 4, Section 1.A.8.)
 - e. Chapter 4, Section 3. *Unprofessional Conduct* as defined by the Rules and Regulations of the Maine State Board of Nursing states that *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:*
 - F. Failure to take appropriate action or follow policies and procedures in the practice situation designed to safeguard the patient.
 - ~~K. Inaccurate recording, falsifying or altering a patient or health care provider record~~ mm JCP
 - P. Diverting drugs, supplies or property of patients of health care provider.
 - Q. Possessing, obtaining, furnishing or administering prescription drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs.
9. Joseph C. Pinkham understands and agrees that his nursing license will remain on surrender status and subject to the terms of this Agreement indefinitely until and unless the Board, at his written request, votes to reinstate his license. Mr. Pinkham understands and agrees that if the Board reinstates his license, it will be for a probationary period.
10. 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 Mr. Pinkham's "Home state" of licensure and primary state of residence, which means that he has declared the State of Maine as his fixed permanent and principle home for legal purposes; his 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. Mr. Pinkham understands this Agreement is subject to the Compact.

11. Joseph C. Pinkham understands that he does not have to execute this Consent Agreement and has the right to consult with an attorney before entering into the Agreement.
12. Joseph C. Pinkham 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 himself out as a registered professional nurse or with the designation "RN" while his nursing license is surrendered.
13. 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.
14. Modification of this Agreement must be in writing and signed by all parties.
15. This Agreement is not subject to review or appeal by the Licensee, but may be enforced by an action in the Superior Court.
16. Joseph C. Pinkham affirms that he executes this Agreement of his own free will.
17. This Agreement becomes effective upon the date of the last necessary signature below.

I, JOSEPH C. PINKHAM, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. 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: 3-4-2011



JOSEPH C. PINKHAM

**FOR THE MAINE STATE
BOARD OF NURSING**

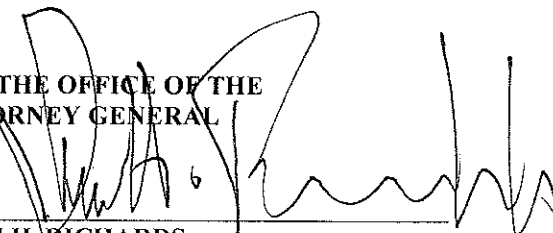
DATED: 3/4/11



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

**FOR THE OFFICE OF THE
ATTORNEY GENERAL**

DATED: 3/4/11



JOHN H. RICHARDS
Assistant Attorney General