



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: ABIGAIL SEARS, RN)
 of Pittston, ME)
 License No. RN 47657)

CONSENT AGREEMENT
 FOR WARNING &
 PROBATION

Complaint 2012-25

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 Abigail Sears' license as a registered professional nurse ("RN") in the State of Maine. The parties to this Agreement are Abigail Sears ("Licensee"), the Maine State Board of Nursing ("the Board"), and the Office of the Attorney General, State of Maine. A subcommittee of the Board met with the Licensee in an informal conference on October 10, 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 8003 (5)(B) in order to resolve Complaint 2012-25.

FACTS

1. Licensee has been licensed to practice as an RN in Maine since July 31, 2002.
2. On February 8, 2012, the Board received notification from Central Maine Medical Center ("CMMC") that the Licensee had been terminated for repeated violations of HIPPA. Additional documentation requested by the Board from CMMC was received on March 1, 2012. As a result of receiving this information, the Board issued a complaint against the Licensee's Maine nursing license. Board staff docketed the Complaint as 2012-25.
3. On March 7, 2012, the Board issued a Notice of Complaint to Licensee relating to Complaint 2012-25.
4. On March 26, 2012, the Board received the Licensee's written response to the Notice of Complaint.
5. On October 10, 2013, the subcommittee of the Board held an informal conference with the Licensee regarding Complaint 2012-25 to review whether she had violated the following statutes:

32 M.R.S. §2105-A (2)(E). A licensee is considered incompetent in the practice for which she is licensed if the licensee has:

(1) Engaged in conduct which evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public.

(2) Engaged in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed.

32 M.R.S. §2105-A (2)(F). The licensee engaged in unprofessional conduct which violates a standard of professional behavior that has been established in the practice for which she is licensed.



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32 M.R.S. §2105-A (2)(H). A violation of a Maine Revised Statute, Title 32, Chapter 31 and rules adopted by the Board.

6. During the informal conference, the subcommittee of the Board considered the information provided by CMMC, as well as the Licensee's explanation of the events.
7. Evidence of inappropriate access to patient files before the Board included:
 - a) CMMC review of electronic records accessed by Licensee from July 1, 2011 to December 9, 2011.
 - b) CMMC found that Licensee had accessed records of patients not under her care.
 - c) CMMC found that the unauthorized accesses to patient records were undertaken from both work and home computers.
 - d) CMMC found that the unauthorized accesses to patient records were occurring when the Licensee was working and when she was not working.
 - e) CMMC documented that on October 10, 2011 while not working and while at home, the Licensee accessed the records of eight patients who were not under her care.
 - f) CMMC documented that while at work, the Licensee accessed one patient's file 45 times over the course of six days (September 17, 2011 to September 21, 2011), although that patient was not under the Licensee's care.
 - g) Licensee admits that she had accessed patient records for patients not under her care but states that she did not do it for "unethical reasons."
8. Following the informal conference, the subcommittee voted to offer the Licensee a Consent Agreement which would allow the Licensee to continue her practice of nursing while addressing the concerns related to future breaches of confidential patient information.
9. 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 March 24, 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 fines, suspension or revocation of Licensee's license.

AGREEMENT

10. Licensee 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 under the following laws and regulations:

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;

Board Rule Chapter 4 §3(F) for failing to follow policies and procedures designed to safeguard the patient's privacy;

Board Rule Chapter 4 §3(I) for failing to safeguard the patient's dignity and right of privacy in providing services regardless of race, color, creed, and status; and

Board Rule Chapter 4 §3(J) for violating confidentiality of information or knowledge concerning the patient.
11. As discipline for the violations admitted to in paragraph 10 above, Licensee agrees that unless this Agreement is modified in writing by all of the parties hereto, **the Licensee is hereby WARNED and her license to practice as a registered professional nurse shall be probationary for the next three (3) years** following the execution of this Agreement and her license will be subject to the following conditions:

- a) Nurse Supervisor. Licensee's nursing 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 home health care, school nursing, work as a travel nurse, or work within the correctional system.

The nurse supervisor must be in direct contact with the Licensee (i.e., physically on site) and actively monitor the Licensee's access to facility medical records. The nurse supervisor shall inform the Board if the Licensee demonstrates any issues with regard to inappropriate access to patient records or any other concerns. The supervising nurse shall report such information to the Board in writing within 24 hours or as soon thereafter as possible. In addition, the nurse supervisor shall provide the Board with a written report regarding Licensee's nursing performance every three (3) months following the execution of this Agreement. Licensee is currently employed by a staffing agency; quarterly progress reports must be submitted by Licensee's agency supervisor as well as the on-site RN. It is Licensee's responsibility to ensure that these reports are provided to the Board in a timely manner.

- b) Notification to Nursing Employer(s)/Potential Employers/Licensing Jurisdictions. Licensee shall provide a copy of this Agreement to any nursing employers or potential nursing employers, and to any jurisdiction in which she holds or seeks a nursing license.
- c) Contact Address/Change of Contact Address – Notification Requirement. Licensee shall provide the Board with a current address at which she may be contacted by the Board. Licensee shall inform the Board in writing within 15 days of any change of her contact information.
- d) Employment Change – Notification Requirement. Licensee 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.
- e) 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 Licensee'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 relating to 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. Licensee understands and agrees that this Agreement is applicable to her multi-state licensure privilege, if any, to practice nursing in Compact states.

IT IS FURTHER AGREED that while Licensee's license is subject to this 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.

12. Violation of any of the terms or conditions of this Agreement by Licensee shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of licensure renewal.
13. In accordance with this Agreement and pursuant to 10 M.R.S. §8003(5)(B), the Board and Licensee 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 Agreement.
14. In the event that Licensee is alleged to have violated any condition 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. Licensee shall, within 30 days from receipt of this notification, submit a written response to the Board regarding the alleged violation. The Board will review 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 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 that it deems appropriate and impose any of the sanctions including, but not limited to, that found in 10 M.R.S. §8003 and 32 M.R.S. §2105-A.

15. This Agreement is not appealable and is effective until modified or rescinded by the parties to this Agreement. 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. Licensee may file a written request, together with any supporting documentation, to modify the terms and conditions of this Agreement. The Board retains the sole discretion to: (a) deny Licensee's request; (b) grant Licensee's request; and/or (c) grant Licensee's request in part as it deems appropriate to ensure the protection of the public. Any decision by the Board as a result of Licensee's request to modify this Agreement need not be made pursuant to a hearing and is not appealable to any court.
16. The Board and the Attorney General may communicate and cooperate regarding Licensee's practice or any other matter relating to this Agreement.
17. 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.
18. This Agreement constitutes adverse action and is reportable to the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).
19. Nothing in this Agreement shall be construed to affect any right or interest of any person not a party hereto.
20. For the purposes of this Agreement, the term "execution" means that date on which the final signature is affixed to this Agreement.
21. 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: 3/19/14

A. Sears, RN BSN
LICENSEE ABIGAIL SEARS, RN

FOR THE MAINE STATE BOARD OF NURSING

DATED: 3/21/14

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

FOR THE OFFICE OF THE ATTORNEY GENERAL

DATED: 3/27/14

Ronald O. Guay
RONALD O. GUAY
Assistant Attorney General