



Paul R. LePage  
GOVERNOR

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

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

IN RE: LINDA J. SWAIN, RN  
of Waterville, ME  
License No. RN45051

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CONSENT AGREEMENT  
FOR  
VOLUNTARY SURRENDER

Complaint 2013-93

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 Linda Swain's license as a registered professional nurse ("RN") in the State of Maine. The parties to this Agreement are Linda Swain ("Ms. Swain" or "Licensee"), the Maine State Board of Nursing ("the Board"), and the Office of the Attorney General, State of Maine. A Board subcommittee met with the Licensee in an informal conference on December 16, 2013. The parties enter into this Agreement pursuant to 32 M.R.S. §2105-A (1-A)(C), 10 M.R.S. §§8003 (5)(B) and 8003(5)(D) in order to resolve Complaint 2013-93.

FACTS

1. Licensee has been licensed to practice as an RN in Maine since July 11, 2000.
2. On December 7, 2012, Licensee submitted her 2012-2014 RN Renewal Application and responded "NO" to the question, "Is there any complaint pending against your license in any state or jurisdiction?"
3. On May 1, 2013, the Board received notification from the Department of Health & Human Services, Office of the Inspector General, that Ms. Swain's Massachusetts RN license had recently been revoked. Following Board request, the Massachusetts Board of Registration in Nursing provided its Final Decision and Order by Default dated March 15, 2013, in which Linda Swain's Massachusetts RN license was revoked subsequent to investigation concerning improper, unsafe and reliable medication, administration, documentation and pain management practices (Percocet); and diversion of controlled substances (Ativan). Licensee failed to file a response or appeal with the Massachusetts Board. As a result of receiving this information, the Board initiated a complaint against the Licensee's Maine nursing license. Board staff docketed the Complaint as 2013-93.
4. On June 3, 2013, the Board issued a Notice of Complaint to Licensee relating to Complaint 2013-93.
5. On July 18, 2013, the Board received the Licensee's written response to the Notice of Complaint in which she stated that she failed to address the Massachusetts complaint because she was living out of the country and would not be returning to Massachusetts.
6. On September 4, 2013, following review of the case, the Board voted to offer the Licensee a Consent Agreement; Licensee, however, preferred the option to meet with the Board in an informal conference.
7. On November 18, 2013, Board staff received a telephone call from an investigator at the Correctional Center in Windham, ME advising that an internal investigation was being conducted concerning allegations of Linda Swain's inappropriate relationship with an inmate.



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OFFICES LOCATED AT: 161 CAPITOL ST., AUGUSTA, ME  
<http://www.maine.gov/boardofnursing/>

PHONE: (207) 287-1133

FAX: (207) 287-1149

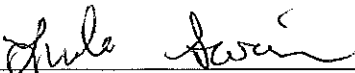
8. On December 16, 2013, the Board held an informal conference with the Licensee regarding Complaint 2013-93.
9. During the informal conference, the Board considered the documentation provided by the Massachusetts Board, as well as the Licensee's explanation of the circumstances surrounding its revocation of her RN license. Licensee stated she was not aware of any action pending or taken in Massachusetts until she received the information included in Board Complaint 2013-93.
10. During the informal conference, the Board discussed with the Licensee the option of license surrender since she is currently not working as a nurse and recommended she contact the Massachusetts Board. The Board voted to offer the Licensee a Consent Agreement for a voluntary surrender.
11. 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 3, 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

12. Licensee admits to the Facts as stated above and 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 32 M.R.S. §2105-A (2)(A) for the practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued;
  - 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; and
  - d. Board Rule Chapter 4 §3(F) for failing to follow policies and procedures in the practice situation designed to safeguard the patient.
13. As discipline for the conduct cited in Paragraph No. 12 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.
14. 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.
15. 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.

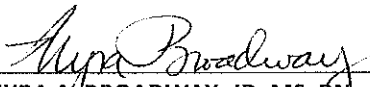
16. This Agreement constitutes adverse action and is reportable to the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).
17. Nothing in this Agreement shall be construed to affect any right or interest of any person not a party hereto.
18. For the purposes of this Agreement, the term "execution" means that date on which the final signature is affixed to this Agreement.
19. 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: 2-25-14

  
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LICENSEE LINDA J. SWAIN, RN

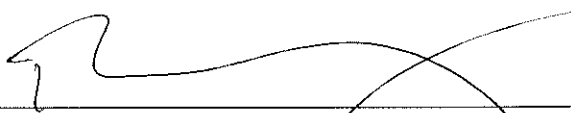
FOR THE MAINE STATE BOARD OF NURSING

DATED: 3/4/14

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

FOR THE OFFICE OF THE ATTORNEY GENERAL

DATED: 3/27/14

  
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RONALD O. GUAY  
Assistant Attorney General

Effective Date: 3/27/14