



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: RACHELLE ARTEA, RN
of Lewiston, ME
License No. RN56301

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**CONSENT AGREEMENT
FOR
PROBATION**

Complaint 2013-162

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 Rachelle Artea's license as a registered professional nurse ("RN") in the State of Maine. The parties to this Agreement are Rachelle Artea ("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 February 24, 2014. 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 2013-162.

FACTS

1. Licensee has been licensed to practice as an RN in Maine since May 28, 2009.
2. On August 21, 2013, the Board received notification from Central Maine Medical Center ("CMMC") that the Licensee had been terminated for failure to administer medications in accordance with CMMC Medication Administration Policy. Additional information requested by the Board from CMMC received October 1, 2013 disclosed Licensee failed to chart/waste/return 32 controlled substance tablets and three vials of controlled substance medications that she had removed from the pyxis; removal from pyxis of three doses of controlled substance medication after patient discharge; removal of controlled medications outside of order guidelines; and inability to explain these deviations from documentation and policy standards. As a result of receiving this information, the Board created a complaint against the Licensee's Maine nursing license. Board staff docketed the Complaint as 2013-162.
3. On October 1, 2013, the Board issued a Notice of Complaint to Licensee relating to Complaint 2013-162.
4. On November 1, 2013, the Board received the Licensee's written response to the Notice of Complaint in which she denied stealing any medications, but admitted to not logging out of pyxis as she should have due to having so many patients on PRN medications, which would require her to log into pyxis an average of 40-60 times in a 12-hour shift, leaving 20 or more opportunities for 'others to take advantage.' Licensee stated she is forced to accept responsibility for the missing medications, but refuses to accept the blame. She acknowledged she was not careful enough nor were her actions supported by video surveillance.
5. On February 24, 2014, the Board subcommittee held an informal conference with the Licensee regarding Complaint 2013-162 to review whether she had violated the following statutes:

32 M.R.S. §2105-A (2)(A). 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.



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32 M.R.S. §2105-A (2)(B). 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.

32 M.R.S. §2105-A (2)(E). Incompetence by engaging in conduct that evidences (1) a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public and/or (2) 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). Unprofessional conduct that violates a standard of professional behavior that has been established in the practice for which the Licensee is licensed.

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

6. During the informal conference, the Board subcommittee considered the investigation conducted by CMMC, as well as the Licensee's explanation of the events. Issues cited before the Board included:
 - a) At the time of the informal conference, Licensee admitted to a history of substance abuse. She stated she has been in treatment for 18 months, has seen a counselor every 1-2 weeks since October 2013, sees a psychiatrist, and attends support meetings.
 - b) Licensee admitted in her response of November 1, 2013 that she did not appropriately log out of her pyxis account.
 - c) Medication errors, including administration and documentation by Licensee.
7. Following the informal conference, the subcommittee voted to offer the Licensee a Consent Agreement for probation which would allow her to continue her practice of nursing while addressing the concerns of potential future medication errors.
8. 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 June 25, 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

9. 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)(B). 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.

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

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.

Board Rules Ch. 4, §3(F) by failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard the patient.

Board Rules Ch. 4, §3(K) by inaccurately recording, falsifying, or altering a patient or health care provider record.

10. As discipline for the violations admitted to in paragraph 9 above, Licensee agrees that unless this Agreement is modified in writing by all of the parties hereto, **her license to practice as a registered professional nurse shall be probationary for the next five (5) 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 assignments from temporary employment agencies, home health care, school nursing, work as a travel nurse, or within the correctional system.

The nurse supervisor must be in direct contact with the Licensee (i.e., physically on site) and be able to observe her nursing performance, particularly during medication administration. The nurse supervisor shall inform the Board if the Licensee demonstrates any issues with regard to inappropriate decision-making, medication administration/documentation 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. 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) **Counseling and Treatment.** Licensee will continue treatment program(s) to such an extent and as long as her treatment providers recommend. She will abstain from the use of alcohol or drugs not prescribed by her health care providers and will submit to random drug testing. She will arrange for and ensure the submission of quarterly reports to the Board by her treatment providers and NA/AA sponsors; such reports shall continue until her probation is terminated. If Ms. Artea's treatment is terminated during her probation, she shall notify the Board and provide written documentation.
- f) **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.

11. 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.
12. 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.
13. In the event that Licensee is alleged to have violated any condition of his 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 the 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.
14. 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.
15. The Board and the Attorney General may communicate and cooperate regarding Licensee's practice or any other matter relating to this Agreement.
16. 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.
17. This Agreement constitutes adverse action and is reportable to the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).
18. Nothing in this Agreement shall be construed to affect any right or interest of any person not a party hereto.
19. For the purposes of this Agreement, the term "execution" means that date on which the final signature is affixed to this Agreement.
20. 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: 5/29/14



LICENSEE RACHELLE ARTEA, RN

FOR THE MAINE STATE BOARD OF NURSING


DATED: 6/6/14



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

FOR THE OFFICE OF THE ATTORNEY GENERAL

DATED: 6/13/14



RONALD O. GUAY
Assistant Attorney General