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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: **GEMMA ESCOBAR-ORTIZ**  
of Lewiston, ME  
License No. RN56878

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**CONSENT AGREEMENT TO  
SURRENDER LICENSE**

**Complaints 2011-521, 2012-180 & 2013-16**

**INTRODUCTION**

This document is a Consent Agreement ("Agreement") regarding Gemma Escobar-Ortiz's license as a registered professional nurse ("RN") in the State of Maine. The parties to this Agreement are Gemma Escobar-Ortiz ("Licensee" or "Ms. Escobar-Ortiz"), the Maine State Board of Nursing ("the 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), 10 M.R.S. §8003 (5)(B), and 10 M.R.S. §8003 (5)(D) in order to resolve Complaints 2011-521, 2012-180, and 2013-16.

**FACTS**

1. Gemma Escobar-Ortiz was first licensed to practice in Maine as an RN on August 18, 2009.
2. On October 17, 2011, the Board received a Provider Report from Androscoggin Home Care & Hospice ("AHCH") notifying the Board that AHCH's contract with Ms. Escobar-Ortiz through Arcadia Home Care & Staffing ("Arcadia") was completed on August 18, 2011 and as of October 14, 2011, Ms. Escobar-Ortiz had not returned her nursing supplies. In addition, AHCH had received a complaint from one of AHCH's clients that Ms. Escobar-Ortiz came to the residence after the family had discontinued services, had called in a Tramadol prescription for said patient, and attempted to pick it up at the pharmacy. Subsequent investigation by the Lewiston Police Department revealed that Ms. Escobar-Ortiz was identified on a pharmacy video attempting to pick up a prescription for an AHCH patient on October 11, 2011. On the basis of this information, the Board initiated Complaint 2011-521 and sent it to Ms. Escobar-Ortiz for response.
3. On February 2, 2012, the Board received supplemental information from Arcadia notifying the Board that Gemma Escobar-Ortiz's employment had been suspended on October 14, 2011 and discharged December 6, 2011 based on her failure to function within limits set by agency policies and procedures. This report was sent to Ms. Escobar-Ortiz as part of Complaint 2011-521 for response.
4. On March 20, 2012, the Board received a written response from Ms. Escobar-Ortiz in which she admitted having "misplaced" AHCH supplies, including a pager. Ms. Escobar-Ortiz admitted that her employment at Arcadia was terminated December 6, 2011.
5. On August 28, 2012, the Board received a Provider Report from Lakewood Continuing Care Center ("Lakewood") notifying the Board that Lakewood's contract with Ms. Escobar-Ortiz through Diversified Staffing Group ("Diversified") was terminated on August 8, 2012 for "gross errors" in narcotic counting procedures and suspected Tramadol diversion. Based on this information, the Board initiated Complaint 2012-180 and sent it to Ms. Escobar-Ortiz for response.
6. On October 25, 2012, during a telephone interview with the Board's Investigator, Ms. Escobar-Ortiz admitted to calling in Tramadol for a former AHCH client and attempting to pick it up at the pharmacy in October 2011. She admitted to lying to AHCH and the Board about this incident. She continued to buy



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Tramadol off the internet until discovering she was pregnant and stated that she resumed its use in July 2012. Ms. Escobar-Ortiz admitted to having diverted Tramadol from a former employer, Windward Gardens, in 2010, and from Lakewood in August 2012 as described in Paragraph 5.

7. On November 7, 2012, the Board was notified by the Maine Medical Professionals Health Program ["MPHP"], a monitoring and advocacy program for medical professionals struggling with addiction and/or mental health challenges, that Ms. Escobar-Ortiz had signed a five-year monitoring contract. Ms. Escobar-Ortiz met with the Board in an informal conference on November 20, 2012 and was offered a Consent Agreement for Probation, one condition of which was to remain with MPHP. On January 10, 2013, the Board was notified by MPHP that Ms. Escobar-Ortiz's contract was terminated on January 7, 2013 due to noncompliance with reporting and toxicological testing.
8. On January 29, 2013, the Board was notified by Seaside Healthcare ("Seaside") that Seaside had suspended the employment of Ms. Escobar-Ortiz pending a full investigation due to poor documentation practice indicating the likelihood of diversion of medication. A follow-up report received by the Board on February 15, 2013 stated that Ms. Escobar-Ortiz's employment at Seaside had been terminated on February 7, 2013 for excessive medication of patients, alterations in original medication administration documentation, and failure to follow policies and procedures in the administration of narcotics. Based on this information, the Board initiated Complaint 2013-16 and sent it to Ms. Escobar-Ortiz for response.
9. On March 6, 2013, the Board voted to suspend Ms. Escobar-Ortiz's RN license in accordance with 5 M.R.S. §10004 (3). A hearing scheduled for April 4, 2013 was granted continuance upon Ms. Escobar-Ortiz's request to afford her time to respond to Complaint 2013-16.

In her response of April 18, 2013, the licensee admitted that her documentation practice needed to be better. She denied drug diversion at Seaside. Drug screen results from testing on February 5, 2013 were negative.

10. On May 1, 2013, the Board received notification from MPHP that Ms. Escobar-Ortiz had signed a new five-year monitoring contract.
11. Gemma Escobar-Ortiz has offered to surrender her RN license based upon the above-stated facts and thereby waives her rights to an adjudicatory hearing.

#### AGREEMENT

12. Gemma Escobar-Ortiz admits to the Facts as stated above and admits that such conduct constitutes grounds for the Board to impose discipline against her as follows:
  - a. Pursuant to 32 M.R.S. §2105-A (2)(A) for engaging in the practice of fraud or deceit in connection with service rendered within the scope of the license issued. See also: Board Rule Chapter 4, §1.A.1.
  - b. Pursuant to 32 M.R.S. §2105-A (2)(B) for habitual substance abuse that has resulted or is foreseeably likely to result in Ms. Escobar-Ortiz performing services in a manner that endangers the health or safety of patients. See also: Board Rule Chapter 4, §1.A.2.
  - c. Pursuant to 32 M.R.S. §2105-A (2)(F) for engaging in unprofessional conduct that violates a standard of professional behavior that has been established in the practice for which she is licensed. See also: Board Rule Chapter 4, §1.A.6.

- d. Pursuant to 32 M.R.S. §2105-A (2)(H) for engaging in unprofessional conduct as specified in Board Rule Ch. 4, §3(F) by failing to take appropriate action or follow policies and procedures in the practice situation designed to safeguard the patient.
  - e. Pursuant to 32 M.R.S. §2105-A (2)(H) for engaging in unprofessional conduct as specified in Board Rules Ch. 4, §3(K) by inaccurately recording, falsifying, or altering a patient or health care provider record.
  - f. Pursuant to 32 M.R.S. §2105-A (2)(H) for engaging in unprofessional conduct as specified in Board Rules Ch. 4, §3(P) by diverting drugs, supplies, or property of a patient or health care provider.
  - g. Pursuant to 32 M.R.S. §2105-A (2)(H) for engaging in unprofessional conduct as specified in Board Rule Ch. 4, §3(Q) by possessing, obtaining, furnishing or administering prescription drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs.
13. As discipline for the conduct admitted in Paragraph No. 12 above, Ms. Escobar-Ortiz agrees to **SURRENDER** her Maine RN license, effective on the date of the final execution of this Agreement. Ms. Escobar-Ortiz understands and agrees that as a result of surrendering her license, she no longer has a license and is subject to the terms of this Agreement until and unless the Board, at her written request, votes to reinstate her license. Ms. Escobar-Ortiz understands and agrees that, upon receiving a request from her to reinstate her Maine RN license, the Board shall have the sole discretion to grant or deny such a request or to grant her a license with probation and conditions as it determines appropriate to protect the public.
  14. Prior to requesting that the Board reinstate her Maine license, Ms. Escobar-Ortiz must participate in MPHP or another Board-approved monitoring program. At the time she requests reinstatement, Ms. Escobar-Ortiz shall supply (1) documentation from MPHP or other Board-approved monitoring program showing her compliance with the treatment plan, and (2) documentation of her current diagnosis (made within three months of her request for reinstatement) and recommendation for future treatment. The Board will consider this information in deciding whether to reinstate her license.
  15. The State of Maine is a "party state" that has adopted the Nurse Licensure Compact ("the Compact"), which is set out in Chapter 11 of the Rules of the Maine State Board of Nursing. The State of Maine is Ms. Escobar-Ortiz'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; 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. Escobar-Ortiz understands this Agreement is subject to the Compact.
  16. Gemma Escobar-Ortiz 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 herself out as a registered professional nurse or with the designation "RN" while she does not hold a nursing license. She shall not seek any employment where the handling or dispensing of drugs is part of the job responsibility.
  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.
  18. This Agreement constitutes a final adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB) pursuant to Section 1128E of the Social Security Act and 45 C.F.R. Part 61.
  19. Modification of this Agreement must be in writing and signed by all parties.

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- 20. This Agreement is not subject to review or appeal by the licensee, but may be enforced by an action in the Superior Court.
- 21. Gemma Escobar-Ortiz affirms that she executes this Agreement of her own free will.
- 22. This Agreement becomes effective upon the date of the last necessary signature below.

I, GEMMA ESCOBAR-ORTIZ, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I UNDERSTAND THE EFFECT IT WILL HAVE ON MY NURSING LICENSE. 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: 9/24/13

  
GEMMA ESCOBAR-ORTIZ

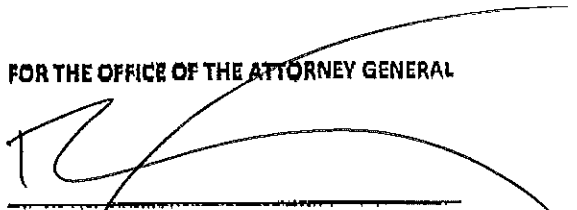
FOR THE MAINE STATE BOARD OF NURSING

Dated: 9/29/13

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

FOR THE OFFICE OF THE ATTORNEY GENERAL

Dated: 10/4/13

  
RONALD O. GUAY  
Assistant Attorney General