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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: RICHARD B. HAWKSLEY, RN  
of Waterville, ME  
License No. RN49034

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CONSENT AGREEMENT  
FOR  
PROBATION

Complaint 2013-146

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 Richard Hawksley's license as a registered professional nurse ("RN") in the State of Maine. The parties to this Agreement are Richard Hawksley ("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 9, 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 2013-146.

FACTS

1. Licensee has been licensed to practice as an RN in Maine since July 30, 2003.
2. On July 18, 2013, the Board received notification from Lakewood Continuing Care Center ("Lakewood") that the Licensee had been terminated for medication administration and documentation deficiencies. 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 2013-146.
3. On July 29, 2013, the Board issued a Notice of Complaint to Licensee relating to Complaint 2013-146.
4. On August 19, 2013, the Board received the Licensee's written response to the Notice of Complaint.
5. On October 9, 2013, the subcommittee of the Board held an informal conference with the Licensee regarding Complaint 2013-146 to review whether he had violated the following statutes:

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



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

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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 investigation conducted by Lakewood, as well as the Licensee's explanation of the events. The Board also took notice of its Decision and Order dated May 21, 2011 which found violations of the statutes enumerated in paragraph 5 above for several previous instances of medication errors.
7. Evidence of potential incompetence and/or substandard administration of medication before the Board included:
  - a) ~~Administering a prn medication without an assessment x 1~~
  - b) Failure to conduct a required pill count at change of shift x 2
  - c) ~~Failure to properly prepare medications by failing to adequately crush tablets x 1~~
  - d) Failure to correctly chart an unavailable medication x 1
  - e) Failure to restock controlled medications in an accurate fashion x 1
  - f) Failure to administer a drug to a patient x 1
  - g) ~~Failure to accurately chart a missed medication x 3~~
8. The Board did note that the Licensee had complied with several conditions of his probation that had been placed upon him as a result of the Decision and Order dated May 21, 2011. The Board did express its concerns that despite some demonstrated improvement in his practice, the errors noted in the current complaint presented a basis for concern as to whether Mr. Hawksley still potentially remained less than completely competent in his medication administration skills.
9. Following the informal conference, the subcommittee voted to offer the Licensee a Consent Agreement which would allow the Licensee to continue his practice of nursing while addressing the concerns of potential incompetence in the administration of medications.
10. 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

11. Licensee admits to the Facts as stated above and that such conduct constitutes grounds for the Board to impose discipline against his Maine nursing license under the following laws and regulations:

32 M.R.S. §2105-A (2)(E)(1) for engaging 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;

32 M.R.S. §2105-A (2)(E)(2) for engaging 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) 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

Board Rule Chapter 4 §3 (F) for failing to follow policies and procedures in the practice situation designed to safeguard the patient.
12. As discipline for the violations admitted to in paragraph 11 above, Licensee agrees that unless this Agreement is modified in writing by all of the parties hereto, **his license to practice as a registered professional nurse**

**shall be probationary for the next three (3) years** following the execution of this Agreement and his 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 his nursing performance, in particular, during the administration of medications, including narcotics: 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. 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.

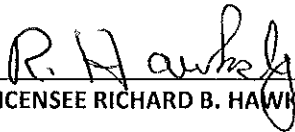
- b) **Notification to Nursing Employer(s)/Potential Employers/Licensing Jurisdictions.** Licensee shall provide a copy of this Agreement to any nursing employers or potential nursing employers and to any jurisdiction in which he holds or seeks a nursing license.
- c) **Substance Free.** Licensee agrees to abstain from the use of all intoxicants. For the avoidance of doubt, the term "intoxicant" is any substance, whether legal or illegal, which is reasonably likely to cause mental impairment as a consequence of their consumption. Licensee may use prescription medications, but will inform the Nurse Supervisor [specified in 12(a) above] about the use of any prescription which could cause a mental impairment as the result of its use.
- d) **Contact Address/Change of Contact Address – Notification Requirement.** Licensee shall provide the Board with a current address at which he may be contacted by the Board. Licensee shall inform the Board in writing within 15 days of any change of his contact address/information.
- e) **Employment Change – Notification Requirement.** Licensee will notify the Board in writing within five (5) business days of any change in his 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.
- 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 he has declared the State of Maine as his fixed permanent and principal home for legal purposes relating to 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. Licensee understands and agrees that this Agreement is applicable to his 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, he may not work outside the State of Maine pursuant to a multi-state privilege without written permission of the Maine State Board of Nursing and the Board of Nursing in the party state in which he wishes to work.

13. 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 denial of licensure renewal.


14. 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 his license in the event that he fails to comply with any of the terms or conditions of this Agreement.
15. In the event that Licensee is alleged to have violated any condition of his probation, the Board will give written notice to him regarding his 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, his 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.
16. 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.
17. The Board and the Attorney General may communicate and cooperate regarding Licensee's practice or any other matter relating to this Agreement.
18. 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.
19. This Agreement constitutes adverse action and is reportable to the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).
20. Nothing in this Agreement shall be construed to affect any right or interest of any person not a party hereto.
21. For the purposes of this Agreement, the term "execution" means that date on which the final signature is affixed to this Agreement.
22. Licensee acknowledges by his signature hereto that he has read this Agreement, that he has had an opportunity to consult with an attorney before executing this Agreement, that he has executed this Agreement of his own free will and that he agrees to abide by all the terms and conditions set forth in this Agreement.

DATED: 3/18/14  
(jw)

  
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LICENSEE RICHARD B. HAWSLEY

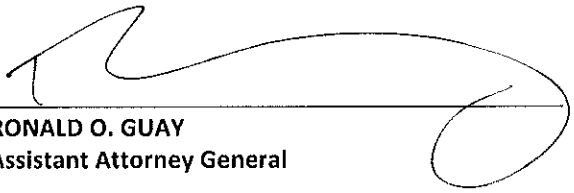
DATED: 3/26/14

FOR THE MAINE STATE BOARD OF NURSING

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

FOR THE OFFICE OF THE ATTORNEY GENERAL

DATED: 3/27/14

  
RONALD O. GUAY  
Assistant Attorney General

Effective Date: 3/27/14