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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: AMY E. (SCHALLERT) HERBERT)
of San Diego, CA)
License No. RN53782)

CONSENT AGREEMENT
REGARDING
LICENSURE

Complaint No. 2012-138

INTRODUCTION

This document is a Consent Agreement ("Agreement") regarding Amy E. Herbert's license as a registered professional nurse ("RN") in the State of Maine. The parties to this Agreement are Amy E. Herbert ("Licensee" or "Ms. Schallert" or "Ms. Herbert"), Maine State Board of Nursing ("Board") and the Office of the Attorney General, State of Maine. The Board met with the Licensee in a telephonic informal conference on June 13, 2013. The parties enter into this Agreement pursuant to 32 M.R.S. § 2105- A (1-A) (C) and 10 M.R.S. § 8003(5) in order to resolve Complaint No. 2012-138.

FACTS

1. Amy E. Herbert was first licensed to practice as an RN in Maine on June 13, 2007; said license lapsed on November 4, 2012.
2. On October 29, 2008, Ms. Schallert applied for on-line license renewal and answered "NO" to the question, "Have you been convicted of a crime other than a minor traffic violation(s), since the last renewal of your Maine license?" She should have answered "YES" because she was convicted of Operating Under the Influence on June 14, 2007, the day after she was first issued her Maine RN license.
3. On November 1, 2010, Ms. Schallert applied for on-line license renewal and accurately answered "NO" to the question, "Have you been convicted of a crime other than a minor traffic violation(s) since the last renewal of your Maine license?"
4. On June 22, 2012, Board Complaint 2012-138 was initiated based upon receipt of a Notice of Decision and Order issued by the California Board of Registered Nursing, effective June 19, 2012, in which Amy Elizabeth Schallert's California nursing license was placed on probation for a period of three years. The Stipulated Settlement imposed various supervision and reporting requirements, as well as physical and mental health assessments for substance abuse. Complaint 2012-138 was sent to Ms. Schallert for response.
5. In Ms. Schallert's response dated July 2, 2012, she acknowledged her "serious error in judgment" which led to her 2007 Maine OUI conviction. She successfully completed 48 hours of community service, as well as Driver Education & Evaluation Program ("DEEP") and mandatory counseling. She stated she had successfully worked as a nurse in Maine until she and her husband moved to California in 2011.



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Upon the Board's request, Amy E. (Schallert) Herbert provided a copy of her substance abuse evaluation dated August 2, 2012 in which no treatment, neither medication nor counseling nor support group nor 12-step program, were recommended.

6. Amy E. Herbert wishes to resolve this matter by accepting this Agreement, thereby waiving her right to an adjudicatory hearing.

AGREEMENT

7. Amy E. Herbert understands that her conduct in the above-stated facts constitutes grounds for discipline. Specifically, the violations are:
 - a. Pursuant to 32 M.R.S. § 2105-A (2)(A) for engaging in the practice of fraud or deceit in connection with obtaining a license from the Board. See also: Board Rule Chapter 4.1.A.1.
 - b. Pursuant to 32 M.R.S. § 2105-A(2)(F) for engaging in unprofessional conduct that violates standards of professional behavior that have been established in the practice for which she is licensed. See also: Board Rule Chapter 4.1.A.6.
8. Amy E. Herbert understands and agrees that she will not apply for licensure in Maine until she has successfully met all of the obligations of the June 2012 California Decision and Order. Ms. Herbert agrees to provide with any application to the Board all information with respect to her compliance with, or any allegations that at any time she failed to comply with, the obligations of said Decision and Order.
9. 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. Ms. Herbert currently claims California as her Primary State of Residence, but understands this Agreement is applicable to her multi-state licensure privilege, if any, to practice nursing in Compact states.
10. 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.
11. 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.
12. Amy E. Herbert understands that she does not have to execute this Agreement and has the right to consult with an attorney before entering into the Agreement.
13. Amy E. Herbert affirms that she executes this Agreement of her own free will.
14. Modification of this Agreement must be in writing and signed by all parties.
15. This Agreement is not subject to review or appeal by the Licensee.
16. This Agreement becomes effective upon the date of the last necessary signature below.

I, AMY E. HERBERT, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THE EFFECT IT WILL HAVE ON MY NURSING LICENSE. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. 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: 8.17.13

Amy Herbert
AMY E. HERBERT

FOR THE MAINE STATE BOARD OF NURSING

DATED: 8/21/13

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

FOR THE OFFICE OF THE ATTORNEY GENERAL

DATED: 8/21/13

Robert Perkins
ROBERT PERKINS
Assistant Attorney General