

AGREEMENT

9. Ms. Beninati 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 pursuant to:
- 32 M.R.S. § 2105-A(2)(B) for misusing 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)(1) for engaging in conduct that evidences a lack of fitness to discharge the duty owed by the licensee to a patient;
 - 32 M.R.S. § 2105-A(2)(F) for engaging in unprofessional conduct by violating a standard of professional behavior that has been established in the practice;
 - 32 M.R.S. § 2105-A(2)(F) for engaging in unprofessional conduct by practicing nursing when her physical or mental ability to practice is impaired by alcohol or drugs (Board Rule Ch. 3 § 4(O));
 - 32 M.R.S. § 2105-A(2)(F) for engaging in unprofessional conduct by diverting drugs, supplies or property of patients or a health care provider (Board Rule Ch. 3 § 4(P)); and
 - 32 M.R.S. § 2105-A(2)(F) for engaging in unprofessional conduct 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 (Board Rule Ch. 3 § 4(Q)).
10. As discipline for the conduct cited above, Ms. Beninati agrees to the **SURRENDER** of her Maine LPN license effective upon the date of the final execution of this Agreement.
11. Ms. Beninati 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.
12. Ms. Beninati understands and agrees that she may not petition the Board to reinstate her license for a period of **TWO YEARS** from the date of final execution of this Agreement. Ms. Beninati further agrees that she will not be eligible to request reinstatement of her LPN license unless and until she a) is evaluated by an addictionologist approved by the Medical Professionals Health Program (“MPHP”) and obtains a written evaluation; b) enrolls in the MPHP and agrees to undergo random toxicological testing as the MPHP deems appropriate, which may include without limitation urine, blood, hair, or fingernail analysis; and c) demonstrates compliance with all requirements of her written contract with the MPHP. Along with her written request to reinstate her license, Ms. Beninati agrees to provide the Board with the written evaluation of the MPHP-approved addictionologist and documentation pertaining to her participation in the MPHP, including any medical records, evaluations, reports of monitors and treatment providers, and the results of toxicological testing.
13. Ms. Beninati understands and agrees that upon receiving her application for a Maine nursing 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. Ms. Beninati waives her right to a hearing before the Board or any court regarding all terms of this Agreement. Ms. Beninati agrees that this Agreement is a final order resolving this matter. This Agreement is not appealable. This Agreement cannot be modified orally. It can be modified only in 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 Ms. Beninati’s request to modify this Agreement need not be made pursuant to a hearing.
15. The parties agree that the Board will take no further action against Ms. Beninati’s nursing license for the specific conduct admitted to herein except or unless she fails to comply with the terms and conditions of this Agreement. The Board may however consider the conduct described above as evidence of a pattern of misconduct in the event that other allegations are brought against Ms. Beninati. The Board may also consider

the fact that discipline was imposed by this Agreement in determining appropriate discipline in any further complaints against Ms. Beninati.

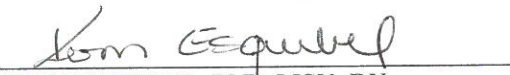
16. The Board and the Office of the Attorney General may communicate and cooperate regarding Ms. Beninati's practice or any other matter relating to this Agreement
17. Ms. Beninati agrees that her failure to comply with any of the terms or conditions of this Agreement constitutes unprofessional conduct and shall be grounds to take additional adverse action against her license.
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).
20. Nothing in this Agreement shall be construed to affect any right or interest of any person not a party hereto.
21. Ms. Beninati understands that she has the right to consult with legal counsel prior to the execution of this Consent Agreement.
22. For the purposes of this Agreement, the term "execution" means that date on which the final signature is affixed to this Agreement.
23. Ms. Beninati 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: 5/23/17 ¹⁶


LICENSEE JOLEEN M. BENINATI, LPN


FOR THE MAINE STATE BOARD OF NURSING

DATED: 5/30/17


KIM ESQUIBEL, PhD, MSN, RN
Executive Director

FOR THE OFFICE OF THE ATTORNEY GENERAL

DATED: 5/31/17


LAUREN LAROCHELLE
Assistant Attorney General

RECEIVED

MAY 31 2017
OFFICE OF THE ATTORNEY GENERAL
MAINE