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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: SUSAN M. BERNARDINI  
of East Millinocket, ME  
License No. RN38753

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CONSENT AGREEMENT  
FOR  
VOLUNTARY SURRENDER

Complaints #2011-85 & 2013-25

INTRODUCTION

This document is a Consent Agreement ("Agreement") regarding Susan M. Bernardini's license as a Registered Professional Nurse ("RN") in the State of Maine. The parties to this Agreement are Susan M. Bernardini ("Licensee" or "Ms. Bernardini"), Maine State Board of Nursing ("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), and 10 M.R.S. §8003(5) (B) in order to resolve Complaints 2011-85 and 2013-79.

FACTS

1. Susan M. Bernardini has been licensed to practice in Maine as an RN since June 21, 1995; her license lapsed on January 13, 2013.
2. On February 25, 2011, the Board received a Provider Report from Eastern Maine Medical Center ("EMMC") notifying the Board of the two-week suspension without pay of employee Susan M. Bernardini following its investigation of the display of odd behavior by Ms. Bernardini during her shift on a six-bed Cardiac Care Unit. Upon questioning by EMMC Nurse Management and Employee Relations staff, Ms. Bernardini denied being impaired at work due to medication, but stated she was exhausted. She denied being on controlled substances, but acknowledged she had consumed Ultram during the shift, which another nurse witnessed her taking. Ms. Bernardini acknowledged she was not getting enough rest and it was affecting her ability to perform to standard while on duty. She further acknowledged she had no recollection of conversations that took place during the shift or of changing the IV Heparin pump settings. In addition to the suspension, EMMC strongly encouraged Ms. Bernardini to contact the Employee Assistance Program. On the basis of this information, the Board initiated Complaint 2011-85 and sent it to Ms. Bernardini for response.
3. By letter dated April 10, 2011, Ms. Bernardini stated that she had been taking sleep aides because of multiple personal stressors which were impacting her sleep. She stated that at the beginning of her January 22, 2011 shift, she administered 0.5mg of liquid Ativan to an end-stage cancer patient. The Ativan was a concentrate which came in a 2mg pre-made syringe. The other two nurses on duty were busy with patients, so she did not ask them to witness her rinse the remaining 1.5mg of liquid Ativan down the sink; she did not get it wasted by another nurse electronically.

Susan M. Bernardini further stated in her response of April 10, 2011, that she had previously been prescribed Percocet by her orthopedic surgeon following ankle surgery. She was subsequently prescribed Ultram, a non-narcotic pain medication. She acknowledged that she consumed this medication while on duty during the January 22, 2011 shift. She stated she became sleepy as the night went on and at times had difficulty keeping her eyes open. She remembered an alarm sounding on a patient's Heparin pump, but did not remember changing the rate on the pump. By the end of her shift, Ms. Bernardini felt she could not safely drive home and made a reservation at a local hotel.



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4. By letter dated June 3, 2011, the Board notified Ms. Bernardini that it wished to meet with her in an informal conference. [Informal conferences scheduled for February 8 and March 19, 2013 had to be cancelled due to weather.]
5. On August 9, 2011, the Board received supplemental information from EMMC that Susan M. Bernardini resigned from employment on August 5, 2011 following her admitted diversion of Fentanyl 100mcg from a Pyxis machine for injection into her IV while she was a patient at EMMC.
6. On February 11, 2013, the Board received a Provider Report from Penobscot Job Corps Academy notifying the Board that Susan M. Bernardini was terminated from nursing employment for having a student's controlled medication on her person, for violating protocol for disposal of controlled medications, and for failure to follow procedure on where to store controlled medications. On the basis of this information, the Board initiated Complaint 2013-25 and sent it to Ms. Bernardini for response.
7. On March 20, 2013, Susan M. Bernardini admitted in a telephone interview with the Board's Investigator that while a patient at EMMC, she went into the Pyxis machine using her fingerprint ID and password to remove Fentanyl and injected it into her IV; she stated that she knew this was wrong. Ms. Bernardini further stated, however, that she did not divert medication from students at Penobscot Job Corps Academy. She stated that she was going to dispose of medication for a student and accidentally put it in her pocket. When she later realized what she had done, she put the medication back on the shelf.
8. On March 25, 2013, Susan M. Bernardini contacted the Board's Investigator and stated she wanted to change her story concerning the Penobscot Job Corps incident. She went on to admit that she took the medication from the student with the intention of taking it herself, but did return it to the shelf where she found it thinking the theft may have been discovered. She also stated that she was having a hard time post surgery getting off her prescribed Percocet.
9. By e-mail dated March 25, 2013, Susan M. Bernardini acknowledged that she placed a bottle of Concerta belonging to a Penobscot Job Corps student into her jacket pocket, with the intent of taking it home. The student was no longer taking the medication and it was to be disposed of. Ms. Bernardini stated she was having difficulty weaning off prescribed Percocet and thought the Concerta would aid in her withdrawal. She returned the Concerta to the shelf in the med room, however, because she knew it was wrong and was nervous about someone finding out she took it.
10. Susan M. Bernardini wishes to resolve these matters by surrendering her RN license, thereby waiving her right to an adjudicatory hearing.

#### AGREEMENT

11. Susan M. Bernardini 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. 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. 32 M.R.S. §2105-A (2)(B) for habitual substance abuse that has resulted or is foreseeably likely to result in Ms. Bernardini's performing services in a manner that endangers the health or safety of patients. See also: Board Rule Chapter 4, §1.A.2.
  - c. 32 M.R.S. §2105-A (2)(E)(1) for engaging in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public. See also: Board Rule Chapter 4, §1.A.5.a.

- d. 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.
  - e. 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.
  - f. 32 M.R.S. § 2105-A(2)(H) for engaging in unprofessional conduct as specified in Board Rule Ch. 4, §3(N) by practicing nursing when unfit to perform procedures and make decisions in accordance with the license held because of physical, psychological or mental impediment.
  - g. 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.
  - h. 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.
12. As discipline for the conduct admitted in Paragraph No. 11 above, Susan M. Bernardini agrees to **SURRENDER** her Maine RN license, effective on the date of the final execution of this Agreement. Ms. Bernardini 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. Bernardini 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.
  13. 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. Bernardini'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. Bernardini understands this Agreement is subject to the Compact.
  14. Susan M. Bernardini 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.
  15. 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.
  16. 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.
  17. Modification of this Agreement must be in writing and signed by all parties.
  18. This Agreement is not subject to review or appeal by the Licensee, but may be enforced by an action in the Superior Court.

- 19. Susan M. Bernardini affirms that she executes this Agreement of her own free will.
- 20. This Agreement becomes effective upon the date of the last necessary signature below.


I, SUSAN M. BERNARDINI, 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: 12/12/13

  
SUSAN M. BERNARDINI


FOR THE MAINE STATE BOARD OF NURSING

DATED: 12/20/13

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

FOR THE OFFICE OF THE ATTORNEY GENERAL

DATED: <sup>(LL)</sup>  
12-30-13

  
LAUREN LAROCHELLE  
Assistant Attorney General