



Paul R. LePage  
GOVERNOR

STATE OF MAINE  
BOARD OF NURSING  
158 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0158

KIM ESQUIBEL, PhD, M.S.N., RN  
EXECUTIVE DIRECTOR

IN RE: ELISHA R. BIERMAN, CRNA )  
of Topsham, ME )  
License No. RNA133027 & RN61366 )  
CONSENT AGREEMENT  
FOR  
PROBATION

Complaints 2015-192

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 Elisha R. Bierman's licenses as an Advanced Practice Certified Registered Nurse Anesthetist ("APRN-CRNA") and a Registered Professional Nurse ("RN") in the State of Maine. The parties to this Agreement are Elisha R. Bierman ("Licensee" or "Ms. Bierman"), 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)(B) and 10 M.R.S. § 8003(5)(A-1)(4) and (5)(B) in order to resolve Complaint 2015-192.

FACTS

1. Elisha R. Bierman was first licensed to practice as an APRN-CRNA in Maine on December 23, 2013. Ms. Bierman was first licensed to practice as an RN in Maine by endorsement on February 10, 2012.
2. On August 26, 2015, the Board received notification from St. Mary's Regional Medical Center ("St. Mary's") of the Licensee's loss of privileges at the facility. As a result of her loss of privileges, she was terminated from her employer, St. Mary's Anesthesia Associates, PA, on August 3, 2015. 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 2015-192.
3. On October 14, 2015 the Board issued a Notice of Complaint/Provider Report to Licensee regarding Complaint 2015-192.
4. On October 19, 2015, the Board received Licensee's 2015-2017 Registered Professional Nurse and Advanced Practice Certified Registered Nurse Anesthetist applications for license renewal, in which she disclosed that she is currently in substance abuse counseling, and is under contract and being monitored by the Maine Medical Professional Health Program.
5. On November 17, 2015, the Board received the Licensee's written response in which she acknowledged the incident and stated that she has taken steps to improve herself.
6. Following Board review of the Licensee's renewal applications at its December 2-3, 2015 meeting, the Board voted to preliminarily deny her applications with the offer of a Consent Agreement.
7. Absent Licensee's acceptance of this Agreement by signing, dating, and returning it to the Maine State Board of Nursing, 158 State House Station, Augusta, Maine 04333-0158 **on or before January 21, 2016**, the Board may take further action. In the absence of an agreement, the Board could impose, subsequent to adjudicatory



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proceedings, greater adverse action on this matter including fines, suspension or revocation of Licensee's license.

### AGREEMENT

8. Elisha R. Bierman agrees that there is sufficient information from which the Board could find that her conduct constitutes grounds for discipline as a violation of the following statutes and rules:

32 M.R.S. §2105-A (2)(B). Misuse of alcohol, drugs or other substances that 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)(F). Engaging in unprofessional conduct which violates a standard of professional behavior that has been established in the practice for which she is licensed.

9. As consideration of renewal of her nursing licenses, Licensee agrees that, unless this Agreement is modified in writing by all of the parties hereto, following execution of this agreement her licenses to practice as an advanced practice certified registered nurse anesthetist and a registered professional nurse shall be probationary for at least three (3) years of nursing employment and/or enrollment in a nursing education program and shall 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, or another Advanced Practice Registered Nurse when practicing within the scope of an APRN. 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 her nursing performance, particularly during medication administration. 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. The supervising nurse shall report such information to the Board in writing within 24 hours or as soon thereafter as possible. 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) Treatment Provider Reports. Licensee will completely abstain from the use of alcohol or drugs with the exception of substances used in accordance with a valid prescription from her health care treatment providers who are aware of her history. Licensee will continue her monitoring contract with MPHP and continue aftercare with her treatment program(s) to such an extent and as long as her treatment provider(s) recommends. In addition, she will arrange for and ensure the submission of quarterly reports to the Board by her treatment provider(s) and such reports shall continue until her probation is terminated. If treatment is terminated during her probation, she shall notify the Board and provide written documentation.
- c) 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 she holds or seeks a nursing license. Licensee shall also notify any nursing employers or potential nursing employers of her substance abuse history.
- d) Current Contact Address/Change of Contact Address – Notification Requirement. Licensee shall provide the Board with a current address at which she may be contacted by the Board. Licensee shall inform the Board **in writing within 15 days** of any change of her contact address/information.
- e) Employment Change – Notification Requirement. Licensee will notify the Board **in writing within five (5) business days** of any change in her 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) Privilege to Practice 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. Licensee understands and agrees that this Agreement is applicable to her 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, she may not work outside the State of Maine pursuant to a multi-state privilege without the written permission of the Maine State Board of Nursing and the Board of Nursing in the party state in which she wishes to work.

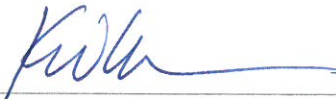
10. Licensee agrees that she will remain in compliance with her monitoring contract with MPHP, regardless of whether she is employed or enrolled in a nursing education program.
11. Licensee agrees and understands that her license will remain on probationary status and subject to the terms of this Agreement until and unless the Board, at her written request, votes to terminate her probation. When considering whether to terminate the probation, the Board will consider the extent to which she has complied with the provisions of this Agreement.
12. Violation of any of the terms or conditions of this Agreement by Licensee shall constitute unprofessional conduct and shall be grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of licensure renewal.
13. Licensee understands and agrees that if any member of the Board, the Board’s Executive Director, or the Attorney General’s Office receives reasonably reliable information suggesting that she has not remained substance-free in accordance with this Agreement, her **license will be immediately and automatically suspended pending further review by the Board.** In the event any member of the Board, the Board’s Executive Director, or the Attorney General’s Office receives such information, it will be immediately forwarded to the Licensee for response. She understands and agrees that in such an event, her license shall remain suspended pending a hearing, which will be held within 60 days of the automatic suspension unless both the Licensee and the Board agree to hold the hearing at a later date, or the Executive Director and/or Attorney General’s Office earlier determine that such information is without merit. If the information received is proven to be inaccurate or incorrect, either through hearing or determination by the Executive Director and/or Attorney General’s Office, Licensee’s license will be immediately reinstated retroactive to the date of the suspension.
14. In the event that Licensee is alleged to have violated any condition of her probation, the Board will give written notice to her regarding her 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 Licensee fails to timely respond to the Board’s notification regarding noncompliance, her license may be immediately suspended** pending a hearing at the next scheduled Board meeting. If after notice and hearing, the Board finds that 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.
15. 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 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. 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.
16. The Board and the Attorney General may communicate and cooperate regarding Licensee’s practice or any other matter relating to this Agreement.

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-A.
18. This Agreement constitutes adverse action and is reportable to the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).
19. Nothing in this Agreement shall be construed to affect any right or interest of any person not a party hereto.
20. For the purposes of this Agreement, the term “execution” means that date on which the final signature is affixed to this Agreement.
21. Applicant 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.
22. Upon execution by the last required signatory of this Agreement, Ms. Bierman’s applications for renewal of licensure as a Registered Professional Nurse and Advanced Practice Certified Registered Nurse Anesthetist in the State of Maine shall be APPROVED by the Board.

DATED: 12/22/2015


  
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LICENSEE ELISHA R. BIERMAN, CRNA

DATED: 12/24/2015

  
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KENNETH LEHMAN, ESQ.  
Attorney for Elisha R. Bierman, CRNA

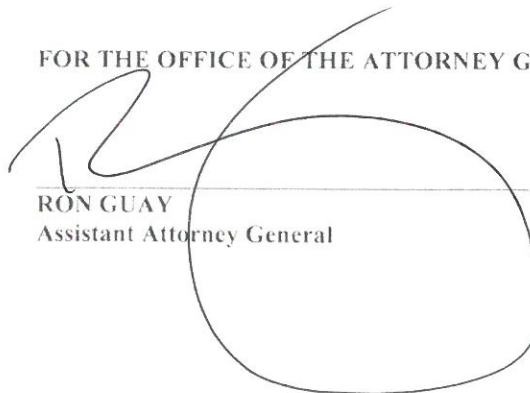
FOR THE MAINE STATE BOARD OF NURSING

DATED: 12/28/2015

  
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KIM ESQUIBEL, PhD, MSN, RN  
Executive Director

FOR THE OFFICE OF THE ATTORNEY GENERAL

DATED: 12/22/15

  
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RON GUAY  
Assistant Attorney General