



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

JOHN ELIAS BALDACCI
 GOVERNOR

MYRA A. BROADWAY, J.D., M.S., R.N.
 EXECUTIVE DIRECTOR

IN RE: MICHAEL E. DAVENPORT)
 of Portland, Maine)
 License #P006612) **CONSENT AGREEMENT**
FOR
WARNING

INTRODUCTION

This document is a Consent Agreement (“Agreement”) regarding Michael E. Davenport’s license to practice as a licensed practical nurse in the State of Maine. The parties enter into this Agreement pursuant to 32 M.R.S.A. § 2105-A (1-A) (A), 10 M.R.S.A. § 8003(5) (A-1) (1) and § 8003(5) (B). The parties to this Agreement are Michael E. Davenport (“Licensee” or “Mr. Davenport”), Maine State Board of Nursing (“Board”) and the Office of the Attorney General, State of Maine. The Board met with Mr. Davenport in an informal conference on October 6, 2010. The parties reached this Agreement on the basis of 1) a Board Notice of Complaint/Provider Report dated November 22, 2005 with information from Devon Gables Health Care Center (“Devon Gables”) in Tucson, AZ dated October 28, 2005; and 2) Mr. Davenport’s response dated January 10, 2007.

FACTS

1. Michael E. Davenport has been a licensed practical nurse licensed to practice in Maine since July 1980. Because he was working under the Compact privilege of his Maine license in Arizona when the incidents at Devon Gables occurred, the Maine Board is provided jurisdiction to take disciplinary action against Mr. Davenport’s nursing license. Michael E. Davenport’s nursing license lapsed on December 30, 2006.
2. Michael E. Davenport was employed as a licensed practical nurse at Devon Gables from August 2004 until his termination on October 25, 2005, for substandard nursing practice [Exhibit A].
3. Michael Davenport failed to notify the Maine Board of his change of address as required by Chapter 3, Section 1.A. of the Rules and Regulations of the Maine State Board of Nursing. However, as a result of Board staff efforts, he was located and the Board Notice was sent to him on February 27, 2006; Mr. Davenport responded to the Notice on January 10, 2007. Mr. Davenport subsequently changed his address again without notifying the Board, making it difficult for the Board to resolve the pending issue. Mr. Davenport did, however, contact the Board on August 27, 2010 and an informal conference was held on October 6, 2010.
4. Michael E. Davenport’s conduct in failing, on more than one occasion, to keep the Board informed of his current address, as well as his lack of accountability to his profession as a nurse to resolve the pending complaint, are unacceptable professional behaviors.

AGREEMENT

5. Michael E. Davenport understands and agrees that his conduct in the above-stated facts constitutes grounds for discipline under Title 32 M.R.S.A. § 2105-A (2)(F) and (2)(H) and Chapter 4.1.A.6 and Chapter 4, Section 3(F) of the Rules and Regulations of the Maine State Board of Nursing. Michael E. Davenport is hereby formally **WARNED** for these violations. Specifically, the violations are:

Title 32 M.R.S.A. §§:

- a. 2105-A (2) (F). Unprofessional Conduct. Mr. Davenport engaged in unprofessional conduct by violating standards of professional behavior regarding patient care that have been established in the practice for which he is licensed. (See also Chapter 4, Section 1.A.6.)
- b. 2105-A (2) (H). A violation of this chapter or a rule adopted by the Board. (See also Chapter 4, Section 1.A.6.)



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OFFICES LOCATED AT: 161 CAPITOL ST., AUGUSTA, ME

http://www.maine.gov/boardofnursing/

PHONE: (207) 287-1133

FAX: (207) 287-1149

Chapter 4, Section 3. Unprofessional Conduct as defined by the Rules and Regulations of the Maine State Board of Nursing in Chapter 4, Section 3, states: *Nursing behavior which fails to conform to legal standards of the nursing profession, and which could reflect adversely on the health and welfare of the public shall constitute unprofessional conduct and shall include, but shall not be limited to, the following:*

- a. Section 3(F). Mr. Davenport failed to follow policies and procedures designed to safeguard patients.
6. Michael E. Davenport understands and agrees that prior to reinstatement of his licensed practical nurse license, he will submit a written request to meet with the Board sitting at the time to discuss reinstatement.
7. 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 Rules and Regulations of the Maine State Board of Nursing. The State of Maine is Mr. Davenport’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 principle home for legal purposes; 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. Mr. Davenport understands this Agreement is subject to the Compact.
8. Michael E. Davenport understands that he does not have to execute this Consent Agreement and has the right to consult with an attorney before entering into the Agreement.
9. This Agreement is a public record within the meaning of 1 M.R.S.A. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S.A. § 408.
10. Modification of this Agreement must be in writing and signed by all parties.
11. This Agreement is not subject to review or appeal by the Licensee.
12. This Agreement becomes effective upon the date of the last necessary signature below.

I, MICHAEL E. DAVENPORT, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THE EFFECT IT WILL HAVE ON MY PRACTICAL NURSE 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: 11-27-10



MICHAEL E. DAVENPORT

FOR THE MAINE STATE BOARD OF NURSING

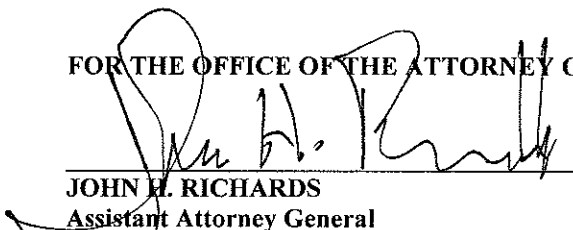
DATED: 12/1/10



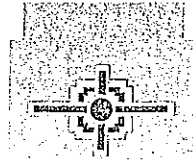
MYRA A. BROADWAY, J.D., M.S., R.N.
Executive Director

FOR THE OFFICE OF THE ATTORNEY GENERAL

DATED: 12/1/10



JOHN H. RICHARDS
Assistant Attorney General



DEVON GABLES
HEALTH CARE
CENTER

PENGAD 800-631-6989
STATE'S
EXHIBIT
A

October 28, 2005

Myra A. Broadway, J.D., M.S., R.N.
Maine State Board of Nursing
24 Stone Street
158 SHS
Augusta, ME 04333-0158

Dear Ms. Broadway,

I am writing to report Michael Davenport, LPN, license # P006612, for poor practice.

He has been employed, by Devon Gables Health Care Center, in Tucson, Arizona, since August 2004, as a staff nurse.

On Tuesday, October 25, 2005, during our annual survey, Mr. Davenport was observed to do the following:

1. He did not wash his hands. When asked why, he responded that he knew he should, but never does.
2. He handled medications, with his hands, to the point of breaking a pill in half. When asked why he didn't use a pill cutter, he responded that someone must have taken it and he didn't have time to get another one.
3. He was observed giving 4 residents their 9:00am medications, after 12 noon. He signed the medication sheet for 9:00am. When asked how he would indicate the proper administration time, he stated that he probably should note it on the reverse side, of the medication sheet, that he gave it at 12 noon, but he did not document as such.
4. One resident is on Prilosec and eye drops for Glaucoma. He was not going to offer her these medications. When he was asked why, he stated that she always refuses them. He then went in the room to offer the medications. The resident said that she didn't want them, he just said: "O.K." and left without attempting to coax her into taking them or explaining the risk of not taking them. She, occasionally, refuses these medications, however, has many times agreed to take them when coaxed.

5. A resident had an order for "Inhalers at bedside". Mr. Davenport did not observe her taking it, as is our policy. He just documented that she took them. When the surveyor questioned him, he asked her if she took them, she hadn't. She then took her inhalers, however, incorrectly and stated that when she feels short of breath, she sometimes takes 5 or 6 puffs at a time. This resident's ability, to self-administer her inhalers was never assessed, as is our policy.

Mr. Davenport stated, to the surveyor, that he would do better. He was later observed exhibiting the same poor practice.

Upon notification of the above incidents, Mr. Davenport was immediately replaced, on the unit, and his employment at Devon Gables Health Care Center was terminated.

If you have any further questions, please don't hesitate to call me at 1-520-296-6161 ext. 5008.

Sincerely,



Jan Boguskefsky, RN

Director of Nurses

Devon Gables Health Care Center

RECEIVED
NOV 03 2005
MAINE STATE
BOARD OF NURSING