



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 W. HENDRY, R.N., C.R.N.A) CONSENT AGREEMENT
Formerly of Whiting, Maine) FOR SUSPENSION AND
License No. R045848) PROBATION OF LICENSE

INTRODUCTION

This document is a Consent Agreement regarding Michael W. Hendry's license to practice registered professional nursing and his approval to practice as a Certified Registered Nurse Anesthetist ("C.R.N.A.") in the State of Maine. The parties enter into this Agreement pursuant to 32 M.R.S.A. § 2105-A (1-A) (B) and 10 M.R.S.A. § 8003(5) (B). An Informal Conference was held on April 1, 2008. The parties to this Consent Agreement are Michael W. Hendry ("Mr. Hendry"), Maine State Board of Nursing ("Board") and the Office of the Attorney General, State of Maine. The parties reached this Agreement on the basis of three complaints with additional supportive information and Mr. Hendry's response filed with the Board, to wit: 1) Complaint dated January 28, 2008, from William Wink, B.S.N., M.S.H., C.R.N.A., marked as Exhibit 1; 2) Complaint dated February 5, 2008, from Sandra Richard, C.R.N.A., M.S.N.A., Marked as Exhibit 2; 3) Complaint dated February 11, 2008, from Diane Raymond, B.S.N, M.H.A., C.C.R.N., CNO/VP of Patient Care Service at Down East Community Hospital ("Down East"), marked as Exhibit 3; 4) Mr. Hendry's responses dated February 18, 2008 and March 5, 2008, marked as Exhibit 4; and, additional information from Marti W. Lew, R.N. dated March 31, 2008, marked as Exhibit 5.

FACTS

1. Michael W. Hendry was initially licensed by the Board as a registered professional nurse to practice in the State of Maine on April 10, 2001. Mr. Hendry was approved by the Board to practice as a C.R.N.A. in Maine on April 10, 2001.
2. Michael W. Hendry was employed at Down East as a staff C.R.N.A. from October 1, 2006 until his resignation on February 4, 2008. At the time of his resignation, Down East was conducting an investigation on Mr. Hendry's anesthesia administration practices and an alleged breach of infection control policies.
3. Michael W. Hendry admits that he used the same syringe on two different patients in the administration of Propofol on January 4, 2008 [Exhibit 1].
4. On January 31, 2008, it was reported that Mr. Hendry administered an expired syringe of Propofol to a patient [Exhibit 2].



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5. Michael W. Hendry performed an Interscalene block on a patient without adequate patient monitoring [Exhibit 2].
6. Michael W. Hendry admits that he drew teardrops on a patient's face with a marker while the patient was sedated with a subarachnoid block in place. The patient later complained that he suffered a reaction from the marker used to draw the teardrops on his face. Mr. Hendry was disciplined by Down East with a suspension for eight days and placed on probation for a period of ninety (90) days [Exhibits 2 and 5].

AGREEMENT

7. Michael W. Hendry understands that based upon the above-stated facts this document imposes discipline regarding his license to practice professional nursing and his practice as a C.R.N.A. in the State of Maine. The grounds for discipline for violations under 32 M.R.S.A. § 2105-A(2)(F), A(E)(2), (A)(2)(H) and Chapter 4, sections 1(A)(5)(b), 1(A)(6), 1(A)(8), Chapter 4, sections 3(K) and Chapter 8, section 1(3)(C)(1) of the Rules and Regulations of the Maine State Board of Nursing. Specifically, the violations are:
 - a. F. Unprofessional Conduct. Mr. Hendry engaged in unprofessional conduct which violated a standard of professional behavior that has been established in the practice for which he is licensed. See also Chapter 4, Section 1.A.6.
 - b. E. Incompetence. Mr. Hendry engaged in conduct that evidenced a lack of knowledge or inability to apply principles or skills to carry out the practice for which he is licensed. See also Chapter 4, Section 1A.5.b
 - c. H. Mr. Hendry violated Title 32, Chapter 3, statutes regulating nursing and rules adopted by the Board. See also Chapter 4, Section 1.A.6.
 - d. Chapter 4, Section 3 of the Rules and Regulations of the Maine State Board of Nursing. Unprofessional Conduct. Mr. Hendry's nursing behavior failed to conform to legal standards of the nursing profession which could reflect adversely on the health and welfare of the public. His unprofessional conduct includes the following:

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F. Failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard the patient.

K. Inaccurate recording, falsifying or altering a patient or health care provider record.

Chapter 8, section 1, (3)(C)(1) of the Rules and Regulations of the Maine State Board of Nursing. Mr. Hendry failed to practice within the limits of his education, training and experience.

8. Michael W. Hendry also understands and agrees that should this matter go to hearing before the Board on the above-stated facts and the underlying information to support those facts, that it is more likely than not that the facts would support the Board's findings in this Consent Agreement.
9. Michael W. Hendry understands that his license as a registered professional nurse and his approval to practice as a C.R.N.A. will be suspended for a period of two hundred-seventy (270) days. One-half of this suspension will be stayed and the remaining one hundred-thirty-five (135) days will be served. Upon successful completion of the 135-day suspension period, Mr. Hendry's license as a registered professional nurse and his approval to practice as a C.R.N.A. will be reinstated, and his license as a registered professional nurse and his approval to practice as a C.R.N.A. will be placed on probation for a period of two years.
10. Michael W. Hendry understands and agrees that the period of probation will commence on his return to nursing practice, either through employment and/or pursuant to an educational program. The period of probation for two years, will be effective only while he is employed in nursing practice and/or enrolled in a nursing education program. For purposes of this Agreement, nursing employment is any employment during which Mr. Hendry performs nursing services.
11. Michael W. Hendry's probationary license as a registered professional nurse and his approval to practice as a C.R.N.A. will be subject to the following conditions:
 - a. Michael W. Hendry will immediately notify the Board in writing should he return to employment and/or an educational program in the field of nursing. Notice under this section shall include the place and position of employment or the educational program and any subsequent change in employment or educational programs.
 - b. Michael W. Hendry will notify any and all of his nursing employers and faculty involved in any clinical studies of the terms of this Consent Agreement and shall provide them with a copy of it.

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c. Michael W. Hendry will arrange for and ensure the submission to the Board of quarterly reports from his nursing employer and/or clinical faculty regarding his nursing practice. If during the period of probation, Mr. Hendry's employment as a registered professional nurse or C.R.N.A. terminates or should his educational program in the field of nursing terminate, he shall notify the Board of this change to ensure that he remains in compliance with his employment and/or educational quarterly reports.

d. Michael W. Hendry shall not engage in locum tenens employment while his license as a registered professional nurse and his approval to practice as a C.R.N.A. is on probation.

12. Michael W. Hendry understands and agrees that his license will remain on probationary status and subject to the terms of this Agreement indefinitely beyond the two-year probationary period, until and unless the Board, at Mr. Hendry's written request, votes to terminate Mr. Hendry's probation. When considering whether to terminate the probation, the Board will consider the extent to which Mr. Hendry has complied with the provisions of this Agreement.
13. Michael W. Hendry agrees to a fine in the amount of four thousand five hundred dollars (\$4,500.00); however the Board will suspend all but two thousand two hundred and fifty dollars (\$2,250.00). The fine shall be paid on or before the last day of the suspension period. The payment shall be by certified check or money order, made payable to the "Treasurer of the State of Maine." Payment shall be submitted to the Maine State Board of Nursing, #158 State House Station, 161 Capitol Street, Augusta, Maine. Mr. Hendry further understands that his license as a registered professional nurse and his approval to practice as a C.R.N.A. will not be reinstated until the fine is paid in full.
14. Michael W. Hendry understands and agrees that if he fails to meet any of the obligations of this Consent Agreement, the Board will give written notice to Mr. Hendry regarding his failure to comply. Notice will be sent by certified mail, return receipt requested, to the last known address of Mr. Hendry that is on file with the Board. Mr. Hendry has thirty (30) days from receipt of this notification to respond to the Board, in writing, regarding the alleged failure to comply. The Board will review Mr. Hendry's timely response to determine what action, if any, the Board determines to take. If Mr. Hendry fails to timely respond to the Board's notification regarding his failure to comply, his license will be immediately suspended pending a hearing at the next regularly scheduled Board meeting. If after a hearing, the Board finds that Mr. Hendry has failed to meet the obligations of this Consent Agreement, the Board may take any disciplinary action which it deems appropriate and impose any of the sanctions including, but not limited to, that found in Title 10 M.R.S.A. § 8003 and Title 32 M.R.S.A. § 2105-A.

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15. 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. Mr. Hendry understands that this document is a Consent Agreement that is subject to the Compact.
16. Michael W. Hendry understands that he does not have to execute this Consent Agreement and that he has the right to consult with an attorney before entering the Consent Agreement.
17. Michael W. Hendry shall not work or volunteer in any capacity for a health care provider as defined by Title 24 M.R.S.A. § 2502 (2) or in any position holding himself out as a registered professional nurse or with the designation "R.N." or a "C.R.N.A." while his license as a registered professional nurse and his approval to practice as a C.R.N.A. license is suspended.
18. This Consent 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.
19. Modification of this Consent Agreement must be in writing and signed by all parties.
20. Michael W. Hendry understands and agrees that this Consent Agreement is not subject to review or appeal by Mr. Hendry, but may be enforced by an action in the Superior Court.
21. Michael W. Hendry affirms that he executes this Consent Agreement of his own free will.
22. This Consent Agreement becomes effective upon the date of the last necessary signature below.

I, MICHAEL W. HENDRY, R.N., C.R.N.A., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND.

DATED: 04/22/2008

Michael W. Hendry RN, CRNA
MICHAEL W. HENDRY, R.N., C.R.N.A.

FOR THE MAINE STATE BOARD OF NURSING

DATED: April 23, 2008 Myra Broadway
MYRA A. BROADWAY, J.D., M.S., R.N.
Executive Director

FOR THE OFFICE OF THE ATTORNEY GENERAL

DATED: 4/23/08 John H. Richards
JOHN H. RICHARDS
Assistant Attorney General