



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: NANCY L. MELCHER) **CONSENT AGREEMENT**
 of Windham, Maine) **FOR**
 License #R039753) **PROBATION**

INTRODUCTION

This document is a Consent Agreement (“Agreement”) regarding Nancy L. Melcher’s (“Ms. Melcher” or “Licensee”) license to practice registered professional nursing in the State of Maine. The parties to this Agreement are Ms. Melcher, the Maine State Board of Nursing (“Board”) and the Office of the Attorney General, State of Maine. The Board met with Ms. Melcher in an informal conference on September 3, 2009. The parties enter into this Agreement pursuant to 10 M.R.S.A. § 8003(5), (A-1) (4) and 10 M.R.S.A. § 8003(5) (B); they reached this Agreement on the basis of a 1) Board Notice of Complaint/Provider Report dated December 15, 2008, with supporting documentation from Pine Point Center (“Pine Point”) dated November 26, 2008; 2) Board Notice of Complaint dated January 26, 2009, with supporting documentation from Biddeford District Court regarding an October 2004 Conviction for Unlawful Possession of Scheduled Drugs; and 3) Ms. Melcher’s responses, dated January 1 and February 23, 2009.

FACTS

1. Nancy L. Melcher has been a registered professional nurse licensed to practice in Maine since June 1996.
2. Nancy L. Melcher was retained by Pine Point In October 2008 from a nursing agency, Nursing Services, Inc., to provide nursing services. Pine Point’s Provider Report to the Board dated November 26, 2008 disclosed that Ms. Melcher made multiple medication errors, specifically:
 - 2p – 10p shift on 11/10/08
 - 6a – 2p shift on 11/11/08
 - 2p – 10p shift on 11/12/08
 - 2p – 10p shift on 11/13/08

An investigation by Pine Point found that Ms. Melcher failed to administer scheduled medications to 21 patients during the 2p – 10p shifts on November 10 and 12, 2008. On November 13, Ms. Melcher called in to report that she would be late for her shift. When she arrived at 1:30PM, she was confronted by the Director of Nursing and the Nurse Manager regarding the medication errors cited above. Ms. Melcher admitted that she had failed to administer the medications to the 21 patients. There were no adverse events from the medication omissions. The Director of Nursing and Nurse Supervisor also reported a distinct odor of alcohol on Ms. Melcher’s breath.



PRINTED ON RECYCLED PAPER

OFFICES LOCATED AT: 161 CAPITOL ST., AUGUSTA, ME
<http://www.maine.gov/boardofnursing/>

PHONE: (207) 287-1133

FAX: (207) 287-1149

3. Nancy L. Melcher admits that she has had a substance abuse problem in the past and sought counseling; she has attended AA and participated in a 12-Step Program. She admits that she is currently at risk and represented that she has developed a support system to address her substance abuse issues.

AGREEMENT

4. Nancy L. Melcher understands and agrees that based upon the above-stated facts this document imposes discipline regarding her license to practice nursing in the State of Maine. The grounds for discipline for violations are under 32 M.R.S.A. § 2105-A(2)(B), (2)(F), (2)(H) and Chapter 4, sections 1(A)(1), 1(A)(2), 1(A)(6) and 1(A)(8) of the Rules and Regulations of the Maine State Board of Nursing. Specifically, the violations are:
 - a. M.R.S.A. § 2105-A (2) (B). Habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients. (See also Rule Chapter 4, Section 1.A.2.)
 - b. M.R.S.A. § 2105-A (2) (F). Unprofessional Conduct. Ms. Melcher engaged in unprofessional conduct because she violated a standard of professional behavior that has been established in the practice for which she is licensed. (See also Rule Chapter 4, Section 1.A.6.)
 - c. M.R.S.A. § 2105-A (2) (H). A violation of this chapter or a rule adopted by the Board. (See also Rule Chapter 4, Section 1.A.6.)
5. Nancy L. Melcher's license as a registered professional nurse is placed on probation with conditions. The period of probation will commence upon her return to nursing practice and will be for a period of five years, effective only while she is employed in nursing practice and/or enrolled in a clinical nursing education program. For purposes of this Agreement, nursing employment is any employment during which Ms. Melcher performs nursing services. Her probationary license will be subject to the following conditions:
 - a. Nancy L. Melcher shall fully comply and cooperate with the representatives of the Board in its monitoring and investigation of her compliance with probation. Ms. Melcher shall inform the Board in writing within 15 days of any address change.
 - b. Nancy L. Melcher will abstain completely from the use of alcohol or drugs, with the exception of substances used in accordance with a valid prescription from a health care provider who is aware of her substance abuse history.
 - c. Nancy L. Melcher will arrange for and ensure the submission of quarterly reports to the Board by her treatment providers and such reports shall continue until her probation is terminated. If Ms. Melcher's treatment is terminated during her probation, she shall notify the Board and provide written documentation.
 - d. Nancy L. Melcher will notify the Board in writing within five business days after she obtains any nursing 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 nursing educational program. If during the period of probation, her employment as a nurse or her educational program in the field of nursing terminates, she shall notify the Board in writing within five business days after she is terminated or separated, regardless of cause, with a full explanation of the circumstances surrounding the termination or separation.

e. Nancy L. Melcher will notify any and all of her nursing employers and faculty involved in any clinical studies of the terms of this Agreement and provide them with a copy of it.

f. Nancy L. Melcher's employment is restricted during the period of probation to structured settings with on-site supervision by another registered professional nurse. Structured settings shall not include assignments from temporary employment agencies, home health, school nursing, work as a travel nurse, or within the correctional system

g. Nancy L. Melcher will arrange for and ensure the submission to the Board of quarterly reports from her nursing employer and/or clinical faculty regarding her general nursing practice, which is to include clinical competency, ability to follow policies and procedures relative to standards of practice, and clinical documentation.

h. Nancy L. Melcher agrees and understands that the Board and Office of the Attorney General shall have access to any and all medical records and all otherwise confidential or medically privileged information pertaining to her treatment for substance abuse which the Board deems necessary to evaluate her compliance with the Agreement and her continued recovery. Ms. Melcher shall provide such information, authorize the release of such records and information, and authorize any such discussions and communications with any and all persons involved in her care, counseling and employment as may be requested by the Board.

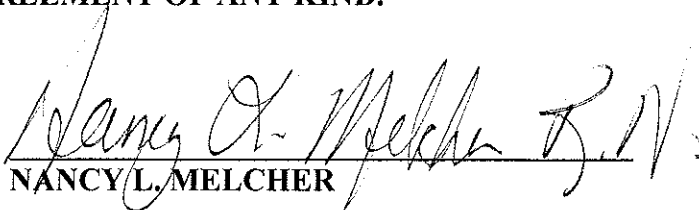
6. Nancy L. Melcher agrees and understands that her license will remain on probationary status and subject to the terms of this Agreement beyond the five-year probationary period until and unless the Board, at her written request, votes to terminate her probation. When considering whether to terminate the probation, the Board will consider the extent to which Ms. Melcher has complied with the provisions of this Agreement.
7. Nancy L. Melcher understands and agrees that if any member of the Board or the Board's Executive Director 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 or its Executive Director receives such information, it will be immediately forwarded to Ms. Melcher for response. Ms. Melcher understands and agrees that in such an event, her license shall remain suspended pending a hearing. The Board shall hold a hearing within 60 days of the automatic suspension unless both the Licensee and the Board agree to hold the hearing later, or the Executive Director and/or Office of the Attorney General 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 Office of the Attorney General, Ms. Melcher's license will be immediately reinstated retroactive to the date of suspension.

8. If Ms. Melcher violates any other condition of her probation, the Board will give written notice to the Licensee regarding her failure to comply. Notice will be sent by certified mail, return receipt requested, to the last known address of the Licensee that is on file with the Board. The Licensee has 30 days from receipt of this notification to respond to the Board, in writing, regarding the alleged violation. The Board will review her timely response to determine what action, if any, it determines to take. If the Licensee fails to timely respond to the Board's notification regarding her failure to comply, her license will be immediately suspended pending a hearing at the next regularly scheduled Board meeting. If after notice and a hearing, the Board finds that the Licensee has failed to meet the conditions of probation, 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.
9. 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 Ms. Melcher's "home state" of licensure and primary state of residence, which means she has declared the State of Maine as her fixed permanent and principle 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. Melcher understands this Agreement is subject to the Compact. She agrees that during the pendency of this Agreement, her nursing practice will be limited to the State of Maine as it pertains to the Compact. If Ms. Melcher wishes to practice in any other party state within the Compact, she shall arrange to have the party state in which she intends to practice provide the Board with written authorization that she has been approved to practice in that state.
10. 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.
11. Nancy L. Melcher understands that she does not have to execute this Agreement and has the right to consult with an attorney before entering into the Consent Agreement.
12. Nancy L. Melcher affirms that she executes this Agreement of her own free will.
13. Modification of this Agreement must in writing and signed by all parties.
14. This Agreement is not subject to review or appeal by the Licensee, but may be enforced by an action in the Superior Court.
15. This Agreement becomes effective upon the date of the last necessary signature below.

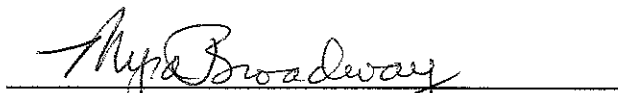
I, NANCY L. MELCHER, HAVE READ AND UNDERSTAND THE FOREGOING
CONSENT AGREEMENT. I UNDERSTAND THE EFFECT IT WILL HAVE ON MY
REGISTERED PROFESSIONAL NURSE LICENSE. I UNDERSTAND THAT BY SIGNING
IT, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY, KNOWINGLY, AND
INTELLIGENTLY AND AGREE TO BE BOUND BY THIS AGREEMENT. I UNDER-
STAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT
AND THERE IS NO OTHER AGREEMENT OF ANY KIND.

DATED: 3/19/10


NANCY L. MELCHER

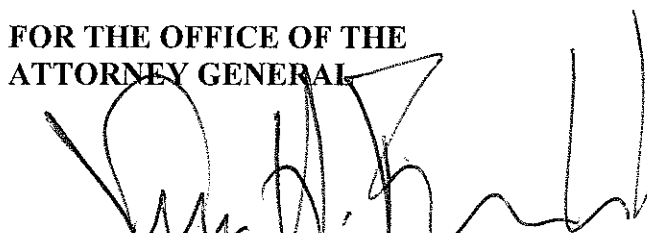
FOR THE MAINE STATE
BOARD OF NURSING

DATED: 3/23/10


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

FOR THE OFFICE OF THE
ATTORNEY GENERAL

DATED: 3/25/10


JOHN H. RICHARDS
Assistant Attorney General