



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: STEPHEN D. MARSTON** )  
 of Brighton, Massachusetts )  
 License #R026756 )

**CONSENT AGREEMENT  
 FOR REPRIMAND**

**INTRODUCTION**

This document is a Consent Agreement ("Agreement") regarding Stephen D. Marston's license to practice registered professional nursing 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 Stephen D. Marston ("Licensee" or "Mr. Marston"), Maine State Board of Nursing ("Board") and the Office of the Attorney General, State of Maine. The Board met with Mr. Marston in an informal conference on October 8, 2008. The parties reached this Agreement on the basis of a complaint from the Board dated January 13, 2004. The complaint consists of information in 1) a Case Report from the Maine Attorney General's Office, Case Number 04000461; and 2) an Offense/Incident Report from the Auburn Police Department, Incident No. 0400461, dated January 7, 2004 [Exhibit A].

**FACTS**

1. Stephen D. Marston has been a registered professional nurse licensed to practice in Maine since August 1983; this license lapsed on January 20, 2004.
2. Stephen D. Marston started employment at the Maine Veterans Home in Augusta, Maine on May 7, 2001.
3. Stephen D. Marston admits that he diverted the narcotic Oxycodone from Maine Veterans Home on or about the period of time between October 2003 and January 6, 2004, for his own personal use. Mr. Marston never returned to work at this facility after January 8, 2004 and was eventually terminated.
4. Stephen D. Marston admits that he has a substance abuse problem, first diagnosed in 1987/1988.
5. Stephen D. Marston has been sober for approximately 11 months.

**AGREEMENT**

6. Stephen D. Marston understands that his conduct in the above-stated facts constitutes grounds for discipline under Title 32 M.R.S.A. § 2105-A (2) (A), (2) (B), (2) (F), (2) (H) and Chapter 4.1.A.1., 4.1.A.2., 4.1.A.5.a., 4.1.A.6., 4.1.A.8. and Chapter 4.3.F., 4.3.K., 4.3.P. and 4.3.Q. of the Rules and Regulations of the Maine State Board of Nursing. Stephen D. Marston is hereby **REPRIMANDED** for the following violations:



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- a. The practice of fraud or deceit in connection with a service rendered within the scope of the license issued, 32 M.R.S.A. § 2105-A (2) (A).
  - 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 and safety of patients, 32 M.R.S.A. § 2105-A (2) (B). (See also Chapter 4, Section 1.A.2.)
  - c. Incompetence in the practice for which the licensee is licensed by engaging in conduct that evidenced a lack of ability or fitness to discharge the duty owed by a licensee to a client or patient or the general public, 32 M.R.S.A. § 2105-A (2) (E) (1). (See also Chapter 4, Section 1.A.5.a.)
  - d. Unprofessional Conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior that has been established in the practice for which the licensee is licensed, 32 M.R.S.A. § 2105-A (2) (F). (See also Chapter 4, Section 1.A.6.)
  - e. A violation of this chapter or a rule adopted by the Board, 32 M.R.S.A. § 2105-A (2) (H). (See also Chapter 4, Section 1.A.6.)
  - f. “Unprofessional Conduct” as defined by the Rules and Regulations of the Maine State Board of Nursing in Chapter 4, Section 3, describes “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:
    - 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.
    - P. Diverting drugs, supplies or property of patients or health care provider.
    - Q. Possessing, obtaining, furnishing or administering prescription drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs.”
7. Stephen D. Marston understands and agrees that he will pay a fine in the amount of five hundred dollars (\$500). The fine shall be paid in no less than fifty-dollar (\$50) monthly installments, by certified check or money order, and made payable to “Treasurer, State of Maine.” Payments should be submitted to Myra A. Broadway, JD, MS, RN, Executive

Director, at the Maine State Board of Nursing, 158 State House Station, Augusta, Maine 04330.

8. Stephen D. Marston 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 "RN," including in a veterinarian's office, while his nursing license is lapsed. In addition, Mr. Marston is not to seek employment where the handling or dispensing of drugs is part of the job responsibility.
9. Stephen D. Marston understands and agrees that his license will not be reinstated and will remain subject to the terms of this Agreement indefinitely until and unless the Board, at Mr. Marston's written request, votes to reinstate his license. Mr. Marston understands and agrees that if the Board reinstates his license, it will be for a probationary period.
10. 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. Marston'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 that are in the Compact are referred to as "remote states," which means party states other than the home state that have adopted the Compact. Mr. Marston understands that this document is a Consent Agreement that is subject to the Compact.
11. Stephen D. Marston 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.
12. 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.
13. Modification of this Consent Agreement must be in writing and signed by all parties.
14. This Consent Agreement is not subject to review or appeal by the Mr. Marston.
15. This Consent Agreement becomes effective upon the date of the last necessary signature below.

**I, STEPHEN D. MARSTON, 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 UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND.**

DATED: 11/15/08

Stephen D. Marston  
STEPHEN D. MARSTON

FOR THE MAINE STATE  
BOARD OF NURSING

DATED: 11/18/08

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

FOR THE OFFICE OF THE  
ATTORNEY GENERAL

DATED: 11/20/08

John H. Richards  
JOHN H. RICHARDS  
Assistant Attorney General