



Paul R. LePage  
GOVERNOR

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

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

**IN RE: NICOLE L. MILES, RN**  
of Orrington, ME )  
License No. RN50961 )

**CONSENT AGREEMENT  
FOR  
PROBATION**

**Complaint 2010-391**

**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 Nicole L. Miles's license as a registered professional nurse ("RN") in the State of Maine. The parties to this Agreement are Nicole L. Miles ("Licensee" or "Ms. Miles"), the Maine State Board of Nursing ("the Board"), and the Office of the Attorney General, State of Maine. A subcommittee of the Board met with the Licensee in an informal conference on August 21, 2013. The parties enter into this Agreement pursuant to 32 M.R.S. §2105-A (1-A)(B), 10 M.R.S. §§8003 (5)(A-1)(4) and 8003 (5)(B) in order to resolve Complaint 2010-391.

**FACTS**

1. Licensee has been licensed to practice as an RN in Maine since May 4, 2005.
2. On August 24, 2010, the Board received notification from Eastern Maine Medical Center ("EMMC") that the Licensee had been terminated for diversion of controlled substances. 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 2010-391.
3. On August 25, 2010, the Board issued a Notice of Complaint to the Licensee relating to Complaint 2010-391.
4. On September 23, 2010, the Board received the Licensee's written response to the Notice of Complaint.
5. On February 8, 2013, the subcommittee of the Board held an informal conference with the Licensee regarding Complaint 2010-391 to review whether she had violated the following statutes:

32 M.R.S. §2105-A (2)(A). The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued.

32 M.R.S. §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.

32 M.R.S. §2105-A (2)(E). A licensee is considered incompetent in the practice for which she is licensed if the licensee has:



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

(1) Engaged in conduct which evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public.

(2) Engaged in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed.

32 M.R.S. §2105-A (2)(F). The licensee engaged in unprofessional conduct which violates a standard of professional behavior that has been established in the practice for which she is licensed.

32 M.R.S. §2105-A (2)(H). A violation of a Maine Revised Statute, Title 32, Chapter 31 and rules adopted by the Board.

6. During the informal conference, the subcommittee of the Board considered the very thorough investigation conducted by EMMC, as well as the Licensee's explanation of the events.
7. Evidence of potential drug diversion and/or substandard administration of medication before the Board included:
  - a) multiple instances of removal of oxycodone without documentation
  - b) multiple instances of removal of other medications without documentation
  - c) multiple instances of improper wasting of narcotics
  - d) the presence of diverted medication in a shared locker
  - e) an admission of diverting drugs by the Licensee, although this admission was later refuted by the Licensee as an attempt to obtain leniency during the discipline process with EMMC
8. Evidence of substance abuse before the board included a previous admission by the Licensee of practicing while impaired, although this admission was later refuted by the Licensee as an attempt to obtain leniency during the discipline process.
9. Based on the evidence before it, the subcommittee of the Board deferred action on Complaint 2010-391, continued the informal conference, and requested that the Licensee obtain a substance abuse evaluation to be conducted by the Medical Professionals Health Program.
10. On August 21, 2013, the Board held the continued informal conference with the Licensee regarding Complaint 2010-391 in order to review the findings of the substance abuse screening evaluation. The evaluation did not find that substance abuse was an issue for the Licensee.
11. Following the informal conference, the subcommittee voted to offer the Licensee a Consent Agreement which would allow her to continue her practice of nursing while addressing the risk of drug diversion and impaired practice, as well as the risk related to the Licensee's techniques and documentation of narcotic administration.
12. 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 3, 2014, the Board will take further action. In the absence of an agreement the Board could impose, subsequent to adjudicatory proceedings, findings beyond those contained above and also impose greater adverse action including fines, suspension or revocation of Licensee's license.

### AGREEMENT

13. Licensee admits to the Facts as stated above and admits that such conduct constitutes grounds for the Board to impose discipline against her Maine nursing license under the following laws and regulations:

32 M.R.S. §2105-A (2)(F) and Board Rules Chapter 4 §1.A.6 for engaging in conduct that violates any standard of professional behavior which has been established in the practice for which the licensee is licensed; and

Board Rule Chapter 4 §3(F) for failing to follow policies and procedures in the practice situation designed to safeguard the patient.

14. As discipline for the violations admitted to in paragraph 13 above, Licensee agrees that unless this Agreement is modified in writing by all of the parties hereto, her license to practice as a registered professional nurse shall be probationary for the next five (5) years following the execution of this Agreement and her license will 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 nurse. 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, at all times, observe her nursing performance. The nurse supervisor shall inform the Board if the Licensee demonstrates any issues with regard to inappropriate decision-making, ability to concentrate, absenteeism, drug diversion, narcotic administration/documentation or any other concerns. The supervising nurse shall report such information to the Board by telephone and 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, with particular attention to narcotic administration and patient assessment. It is the Licensee's responsibility to ensure that these reports are provided to the Board in a timely manner.

- b) Notification to Nursing Employers/Potential Nursing 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.
- c) 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 information.
- d) 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.
- e) Nursing Employment 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. The State of Maine is Licensee's "home state" of licensure and primary state of

residence, which means that she has declared the State of Maine as her fixed permanent and principal home for legal purposes relating to 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. 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.

- f) Required Course. Licensee will enroll in and successfully complete, within 60 days of final execution of this Agreement, a course related to the proper techniques and documentation of narcotics administration. Licensee shall obtain prior approval from the Board for any course intended to satisfy the requirements of this paragraph.
15. Violation of any of the terms or conditions of this Agreement by Licensee shall constitute grounds for discipline including, but not limited to, modification, suspension, or revocation of licensure or the denial of licensure renewal.
  16. In accordance with this Agreement and pursuant to 10 M.R.S. §8003(5)(B), the Board and Licensee agree that the Board has the authority to issue an order modifying, suspending, and/or revoking her license in the event that she fails to comply with any of the terms or conditions of this Agreement.
  17. 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 the 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 the 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.
  18. 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 only be modified by 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.
  19. The Board and the Attorney General may communicate and cooperate regarding Licensee's practice or any other matter relating to this Agreement.
  20. 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.


21. This Agreement constitutes adverse action and is reportable to the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).
22. Nothing in this Agreement shall be construed to affect any right or interest of any person not a party hereto.
23. For the purposes of this Agreement, the term "execution" means that date on which the final signature is affixed to this Agreement.
24. Licensee 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.

DATED: 12/31/13

  
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LICENSEE NICOLE L. MILES, RN

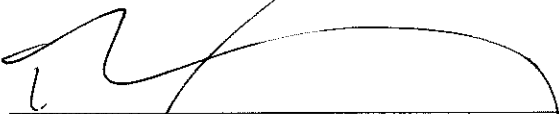
FOR THE MAINE STATE BOARD OF NURSING

DATED: Jan 2, 2014

  
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MYRA A. BROADWAY, JD, MS, RN  
Executive Director

FOR THE OFFICE OF THE ATTORNEY GENERAL

DATED: 1/3/14

  
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RONALD O. GUAY  
Assistant Attorney General

Effective Date: 1/3/14