



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: SANDRA PHINNEY, LPN )  
of Lubec, ME )  
License LPN9716 )

CONSENT AGREEMENT  
FOR  
WARNING

Complaint 2013-179

**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 Sandra Phinney's license as a licensed practical nurse ("LPN") in the State of Maine. The parties to this Agreement are Sandra Phinney ("Licensee"), the Maine State Board of Nursing ("the Board"), and the Office of the Attorney General, State of Maine. The Board reviewed this complaint on December 4, 2013 and voted to offer the Licensee a consent agreement for a warning. The parties enter into this Agreement pursuant to 32 M.R.S. §2105-A (1-A)(A), 10 M.R.S. §8003 (5) (A-1)(1), and 8003 (5)(B) in order to resolve Complaint 2013-179.

**FACTS**

1. Licensee was first licensed to practice as an LPN in Maine on November 28, 1988. During all times relevant to this complaint, the Licensee was employed by Oceanview Nursing and Residential Care ("Oceanview").
2. On September 30, 2013, the Board received notification from Oceanview that the Licensee had been terminated for violation of its patient restraint policy. On September 4, 2013, Licensee, without a physician's order, placed a gait belt around a resident who was seated in a wheelchair, thereby restraining her. Board staff docketed the Complaint as 2013-179.
3. On September 30, 2013, the Board issued a Notice of Complaint to Licensee relating to Complaint 2013-179.
4. On October 30, 2013, the Board received the Licensee's written response to the Notice of Complaint, in which she admits to placing the gait belt on the patient to prevent a fall as the patient would have been unattended while Licensee was doing a med pass with less than standard staffing on the unit. Oceanview documents acknowledge that the patient was a fall risk.
5. The documents submitted by Oceanview contain policies that clearly state that the use of physical restraints without consent of the patient or physician orders is prohibited conduct for nursing staff.



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

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6. Oceanview reported the incident to the State of Maine Department of Health and Human Services.
7. On December 4, 2013, the Board reviewed the written submissions of Oceanview and the Licensee and found that there was sufficient evidence to find a violation of Board rules and voted to offer Licensee a consent agreement.
8. On December 17, 2013, the Board notified Licensee of its decision; Licensee contacted Board staff on December 30, 2013 and agreed to accept the consent agreement in lieu of meeting with the Board in an informal conference.
9. This Agreement is being offered in order to resolve Complaint 2013-179 without further proceedings. 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 February 14, 2014, the Board will take further action. In the absence of an agreement on Complaint 2013-179 the Board could impose, subsequent to adjudicatory proceedings, greater adverse action on this matter including fines, suspension or revocation of Licensee's license.

#### AGREEMENT

10. 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.
11. As discipline for the violations admitted to in paragraph 10 above, Licensee agrees that she will receive a WARNING related to the above-stated conduct.
12. Licensee waives her right to an adjudicatory hearing before the Board or any court regarding all facts, terms and conditions of this Agreement. Licensee agrees that this Agreement is a final order resolving Complaint 2013-179.
13. The Board and the Attorney General may communicate and cooperate regarding Licensee's practice or any other matter relating to this Agreement.
14. 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-A.
15. Nothing in this Agreement shall be construed to affect any right or interest of any person not a party hereto.
16. For the purposes of this Agreement, the term "execution" means that date on which the final signature is affixed to this Agreement.


17. 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: 1/22/14

  
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LICENSEE SANDRA PHINNEY, LPN

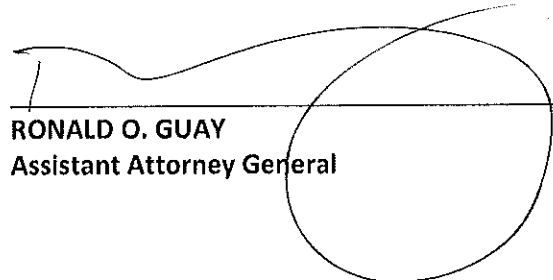
FOR THE MAINE STATE BOARD OF NURSING

DATED: 1/30/14

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

FOR THE OFFICE OF THE ATTORNEY GENERAL

DATED: 2/20/14

  
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RONALD O. GUAY  
Assistant Attorney General

Effective Date: 2/20/14