



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

JOHN ELIAS BALDACCIO
 GOVERNOR

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

IN RE: WALTER M. ALBERS)
 of Eliot, ME)
 License #R054317)
)
) CONSENT AGREEMENT FOR
) LICENSE REINSTATEMENT
) AND
) PROBATION WITH CONDITIONS

INTRODUCTION

This document is a Consent Agreement (“Agreement”) regarding Walter M. Albers’s license to practice registered professional nursing in the State of Maine. The parties to this Agreement are Walter M. Albers (“Licensee” or “Mr. Albers”), Maine State Board of Nursing (“Board”) and the Office of the Attorney General, State of Maine. The Board met with Mr. Albers on December 3, 2009 regarding his request for reinstatement of his nursing license. 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).

FACTS

1. License History: Mr. Albers was originally licensed to practice registered professional nursing in Maine in September 2007. On September 21, 2009, he entered into a Consent Agreement [Exhibit A] with the Board for a one-year stayed suspension of said license, followed by its inactive status until reinstatement by the Board. The basis for the license suspension was drug diversion and substance abuse.
2. Walter M. Albers admits that he has a substance abuse problem and is an alcoholic. He voluntarily entered into a six-week Phase I substance abuse treatment program at York Hospital in October 2008. After its completion, he entered into Phase II, an intensive outpatient aftercare program, in January 2009. A description of the components of these programs is further explained in correspondence dated November 10, 2009 from Joel E. Nevers, LCSW [Exhibit B]. Mr. Albers states that his current aftercare treatment consists of attending AA meetings twice a week; continuing in Phase II group therapy weekly; receiving individual and family therapy monthly; attending a medical professional substance abuse support group on occasion; and daily prayer. Mr. Albers states that he has been clean and sober since October 18, 2008.

AGREEMENT WITH CONDITIONS OF PROBATION

3. Walter M. Albers’s license as a registered professional nurse in the State of Maine is reinstated on a probationary status with conditions. The period of probation will commence upon Mr. Albers’s return to nursing practice, for a period of five years and effective only while he is employed in nursing practice or enrolled in a nursing educational program. For purposes of this Agreement, nursing employment is any employment during which Mr. Albers performs nursing services. His probationary license will be subject to the following conditions:
 - a. Walter M. Albers will abstain completely from the use of alcohol or drugs, with the exception of substances used in accordance with a valid prescription from his health care providers who are aware of his substance abuse history.



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- b. Walter M. Albers will continue in his treatment program(s) to such an extent and for as long as his treatment providers recommend and will arrange for and ensure the submission of quarterly reports to the Board by his treatment providers until his probation is terminated. If Mr. Albers's treatment is terminated during his probation, he shall notify the Board and provide written documentation.
 - c. Walter M. Albers shall fully cooperate with the representatives of the Board in its monitoring and investigation of his compliance with probation. He shall inform the Board in writing within 15 days of any address change.
 - d. Walter M. Albers will notify the Board in writing within five business days after he obtains any nursing employment and/or enters 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, Mr. Albers's employment as a nurse or his educational program in the field of nursing terminates, he shall notify the Board in writing within five business days after he is terminated or separated, regardless of cause, with a full explanation of the circumstances.~~
 - e. Walter M. Albers will notify any and all of his nursing employers and faculty involved in any clinical studies of the terms of this Consent Agreement and provide them with a copy of it.
 - f. Walter M. Albers will arrange for and ensure the submission to the Board of quarterly reports from his nursing employer and/or clinical faculty regarding his general nursing practice, which is to include clinical competency, ability to follow policies and procedures relative to standards of practice, and clinical documentation.
 - g. Walter M. Albers understands and agrees that his 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 his written request, votes to terminate his probation. When considering whether to terminate the probation, the Board will consider the extent to which Mr. Albers has complied with the provisions of this Agreement.
 - h. Walter M. Albers'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 care, school nursing, work as a travel nurse, or within the correctional system.
 - i. Walter M. Albers understands and agrees that the Board and the Office of the Attorney General shall have access to any and all medical records and all otherwise confidential or medically privileged information pertaining to his treatment for substance abuse which the Board deems necessary to evaluate his compliance with the Agreement and continued recovery. Mr. Albers 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 his care, counseling and employment as may be requested by the Board.
4. If Mr. Albers violates the conditions of his probation, the Board will give written notice to the Licensee regarding his 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. He has 30 days from receipt of this notification to respond to the Board, in writing, regarding the alleged violation. The Board will review the Licensee's 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 his

failure to comply, his 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.

5. Walter M. Albers understands and agrees that if any member of the Board or the Board's Executive Director receives reasonably reliable information suggesting that he has not remained substance-free in accordance with the Consent Agreement, his 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, the information will be immediately forwarded to Mr. Albers for response. He understands and agrees that in such an event, his 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 the 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 the Office of the Attorney General, Mr. Albers's license will be immediately reinstated retroactive to the date of suspension.
6. 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. Albers's "home state" of licensure and primary state of residence, which means 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. Albers understands this Agreement is subject to the Compact. He agrees that during the pendency of this Agreement, his nursing practice may be limited to the State of Maine as it pertains to the Compact. If he wishes to practice in any other party state within the Compact, he shall arrange to have the party state in which he intends to practice provide the Board with written authorization that he has been approved to practice in that state.
7. 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.
8. Walter M. Albers understands that he does not have to execute this Agreement and has the right to consult with an attorney before entering into the Agreement.
9. Walter M. Albers affirms that he executes this Agreement of his own free will.
10. Modification of this Agreement must be in writing and signed by all parties.
11. This Agreement is not subject to review or appeal by the Licensee, but may be enforced by an action in the Superior Court.
12. This Agreement becomes effective upon the date of the last necessary signature below.

I, WALTER M. ALBERS, 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: 1/11/10

Walter M Albers
WALTER M. ALBERS

FOR THE MAINE STATE
BOARD OF NURSING

DATED: Jan 14, 2010

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

FOR THE OFFICE OF
ATTORNEY GENERAL

DATED: 1/21/10

John H. Richards
JOHN H. RICHARDS
Assistant Attorney General



JOHN ELIAS BALDACCI
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: WALTER M. ALBERS) **CONSENT AGREEMENT**
of Eliot, Maine) **FOR SUSPENSION**
License #R054317) **OF LICENSE**

INTRODUCTION

This document is a Consent Agreement ("Agreement") regarding Walter M. Albers'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) (C), 10 M.R.S.A. § 8003 (5) (B) and 10 M.R.S.A. § 8003 (5) (D). An informal conference was held on April 9, 2009. The parties to this Agreement are Walter M. Albers ("Mr. Albers" or "Licensee"), 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 a Notice of Complaint/Provider Report from the Board dated November 12, 2008, which included information from Portsmouth Regional Hospital ("Portsmouth Regional"), Portsmouth, New Hampshire dated November 3, 2008, with attachments dated October 13 and 20, 2008 [Exhibit 1].

FACTS

1. Walter M. Albers has been licensed as a registered professional nurse to practice in Maine since September 2007; his license lapsed April 23, 2009.
2. Walter M. Albers's employment as a registered professional nurse at Portland Regional was terminated on October 10, 2008 after he submitted to a urine screen that tested positive for morphine sulfate, which he diverted from Portsmouth Regional for his own personal use. Mr. Albers admitted to consuming one morphine tablet and returned the remaining tablets that were originally diverted.
3. Walter M. Albers admitted he has a substance abuse problem and is an alcoholic.
4. Walter M. Albers has voluntarily not worked as a nurse since October, 2008. He stated that he has not consumed alcohol since November 18, 2008; currently sees a counselor every other week; and attends Alcoholics Anonymous three times a week.
5. Walter M. Albers is currently in treatment to address his substance abuse issues.

AGREEMENT

6. In lieu of a hearing before the Board, Walter M. Albers understands and agrees that his license will be suspended for a one-year period; however, the suspension is stayed and Mr. Albers's license will be placed on inactive status.



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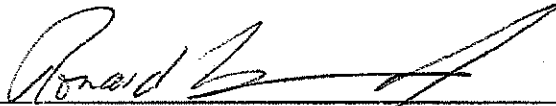
FAX: (207) 287-1149

7. Walter M. Albers understands that based upon the above-stated facts, this document imposes discipline regarding his license to practice registered professional nursing in the State of Maine. The grounds for discipline for violations are under 32 M.R.S.A. § 2105-A(2)(A), (2)(B), (2)(F), (2)(H) and Chapter 4, sections 1(A)(1), 1(A)(2), 1(A)(6), 1(A)(8) and Chapter 4, sections 3(K), 3(P) and 3(Q) of the Rules and Regulations of the Maine State Board of Nursing. Specifically, the violations are:
 - a. M.R.S.A. § 2105-A (2) (A). The practice of fraud and deceit in connection with service rendered within the scope of the license issued by diverting morphine sulfate for his own personal use. (See also Rule Chapter 4, Section 1.A.1)
 - b. 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)
 - c. M.R.S.A. § 2105-A (2) (F). Unprofessional Conduct. Mr. Albers engaged in unprofessional conduct because he violated a standard of professional behavior that has been established in the practice for which he is licensed. (See also Rule Chapter 4, Section 1.A.6.)
 - d. 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.)
 - e. Rule Chapter 4, Section 3. *Unprofessional conduct* is defined as *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:*
 - 1) Chapter 4, Section 3(K). Mr. Albers inaccurately recorded or altered a health care provider record.
 - 2) Chapter 4, Section 3(P). Mr. Albers diverted drugs from patient(s) and a health care provider.
 - 3) Chapter 4, Section Q. Mr. Albers possessed, obtained and administered prescription drugs to himself, except as directed by a person authorized by law to prescribe drugs.
8. Walter M. Albers may petition the Board for reinstatement in December, 2009; however, he understands and agrees that his license will remain on inactive status and subject to the terms of this Consent Agreement indefinitely until and unless the Board, at Mr. Albers's written request, votes to reinstate his license. When considering whether to reinstate his nursing license, the Board will consider the extent to which Mr. Albers has complied with the provisions of this Agreement. Mr. Albers also understands and agrees that if the Board reinstates his license, it will be for a probationary period.
9. Upon the effective date of this Agreement, Mr. Albers's license will be placed on inactive status. Mr. Albers understands and agrees that while his license is on inactive status, he will be subject to the following conditions:

- a. Mr. Albers will abstain completely from the use of alcohol or drugs, with the exception of substances used in accordance with a valid prescription from a physician who is aware of his substance abuse history.
 - b. Mr. Albers shall fully cooperate with the representatives of the Board in its monitoring and investigation of the Licensee's compliance with this Agreement. He shall inform the Board in writing within 15 days of any address change.
 - c. Mr. Albers will continue in his treatment program to such an extent and for as long as his treatment providers recommend and he will arrange for and ensure the submission of quarterly reports to the Board by his treatment providers, and such reports shall continue during his inactive status. If Mr. Albers's treatment is terminated during the term of this Agreement, he shall notify the Board and provide written documentation.
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. Albers's "home state" of licensure and primary state of residence, which means he has declared the State of Maine as his fixed permanent and principle home for legal purposes; his 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. Mr. Albers understands this document is an Agreement that affects his rights to practice nursing in the State of Maine and any remote party state in the Nurse Licensure Compact.
 11. Mr. Albers understands 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 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. Walter M. Albers 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; during the term of this Agreement. In addition, Mr. Albers is not to seek employment where the handling or dispensing of drugs is part of the job responsibility.
 14. Modification of this Agreement must be in writing and signed by all parties.
 15. This Agreement is not subject to review or appeal by Mr. Albers, but may be enforced by an action in the Superior Court.
 16. Walter M. Albers affirms that he executes this Agreement of his own free will.
 17. This Agreement becomes effective upon the date of the last necessary signature below.

I, WALTER M. ALBERS, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. 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.

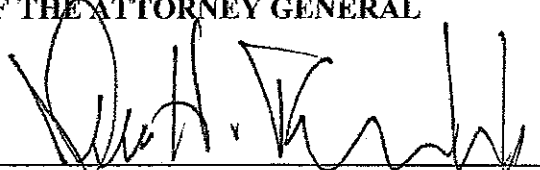
DATED: 9/9/09 
WALTER M. ALBERS

DATED: 9/11/09 
RONALD W. SCHNEIDER, JR., ESQ.
Attorney for Walter M. Albers

FOR THE MAINE STATE
BOARD OF NURSING

DATED: 9/17/09 
MYRAA. BROADWAY J.D., M.S., R.N.
Executive Director

FOR THE OFFICE
OF THE ATTORNEY GENERAL

DATED: 9/21/09 
JOHN H. RICHARDS
Assistant Attorney General