



STATE OF MAINE
 BOARD OF NURSING
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 04333-0158

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

IN RE: WALTER M. ALBERS)
 of Eliot, Maine)
 License #R054317)

**CONSENT AGREEMENT
 FOR SUSPENSION
 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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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
WALTER M. ALBERS

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

FOR THE MAINE STATE
BOARD OF NURSING

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

FOR THE OFFICE
OF THE ATTORNEY GENERAL

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