



MAINE STATE BOARD OF NURSING

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In re:)
Dorothy R. Buerger, L.P.N.) **CONSENT AGREEMENT**
of Creedmoor, NC) **REGARDING PROBATIONARY**
License #P008565) **STATUS OF LICENSE**

INTRODUCTION

This document is a Consent Agreement regarding Dorothy R. Buerger's license to practice practical nursing in the State of Maine, entered into pursuant to 32 M.R.S.A. Section 2105-A(1-A)(B) and 10 M.R.S.A. Section 8003(5)(B). The parties to this Consent Agreement are: Dorothy R. Buerger, L.P.N., the Maine State Board of Nursing ("Board") and the Department of Attorney General, State of Maine.

On October 31, 1986 the parties entered into a Consent Agreement pursuant to which Ms. Buerger surrendered to the Board her license to practice practical nursing and the Board accepted the voluntary surrender. On December 15, 1992 Ms. Buerger requested reinstatement of her practical nurse license. On February 10, 1993 Ms. Buerger met with the Board, at which time the Board voted to reinstate her license to practice practical nursing with certain conditions. A Consent Agreement to do this was drafted but was never signed by the parties. On October 8, 1993 the Director of Nursing for a facility in North Carolina wrote a complaint letter concerning Ms. Buerger. Ms. Buerger responded in a letter dated November 1, 1993. The Board subsequently requested that Ms. Buerger attend an informal conference pursuant to 32 M.R.S.A. Section 2105-A(1-A). That conference was held on December 15, 1993. Ms. Buerger was present without counsel.

FINDINGS OF FACT

1. The October 1993 letter from Trudy Oberholtzer, R.N., Director of Nursing for the Brentwood Nursing and Retirement Center in Oxford, North Carolina alleges medication administration improprieties by Ms. Buerger during her employment at that facility.
2. Ms. Buerger denies any improprieties and any implication of diversion of medications.
3. Ms. Buerger initially practiced without a license in Maine and diverted during that time period.

4. In 1985 Ms. Buerger received a license to practice practical nursing in Maine.
5. In 1986 she voluntarily surrendered her Maine license due to substance abuse problems.
6. In December of 1992 she requested reinstatement.
7. Ms. Buerger met with the Board in February of 1993 at which time she was reinstated on probation with certain restrictions, including the provision that she inform any nurse employer of the existence of the agreement and its terms.
8. The Board contemplated that the agreement would be written and signed by all parties.
9. Ms. Buerger says that she did not understand that there was to be a written Consent Agreement, and says that she never received one.
10. A written agreement was mailed by the Board to the address on file at the Board in June of 1993.
11. Ms. Buerger states that she was not at that address at that time.
12. Ms. Buerger relocated to North Carolina in September of 1993 and applied for licensure in North Carolina, but she did not inform the North Carolina Board that her Maine license was on probation.
13. Ms. Buerger told the North Carolina Board that she had never had any disciplinary action in any other state.
14. Ms. Buerger applied for employment at the Brentwood Nursing and Retirement Center in Oxford, North Carolina and did not inform that facility of the Consent Agreement concerning her Maine license.
15. The terms of the agreement reached at the February 1993 Board meeting were not complied with.

COVENANTS

The Board voted to enter in an agreement with Ms. Buerger under which her license is reinstated on probation for a period of two years from the date of the last signature on this agreement, with the following conditions:

1. Ms. Buerger will remain completely substance-free.

2. Ms. Buerger will undergo random drug screening urinalysis or blood testing a minimum of once monthly for the duration of this Consent Agreement. Ms. Buerger and the Board shall agree upon a monitoring physician or an established drug testing program and that physician or program shall on a random basis telephone or personally contact Ms. Buerger and have her appear and provide a sample within a maximum of 12 hours. All such samples shall be observed and shall be handled through legal chain of custody methods. All samples shall be analyzed by a laboratory approved by the Board. The Board may at any time request that Ms. Buerger arrange for an immediate test, and Ms. Buerger shall then appear and provide a sample within a maximum of 12 hours. Any positive test results shall be reported to the Board by the supervising physician or program by telephone within 24 hours and in writing as soon thereafter as possible. Written reports of all other (negative or inconclusive) tests shall be sent to the Board quarterly, together with a brief explanation of the tests performed and the results thereof. Ms. Buerger hereby waives all claims of confidentiality with respect to the test results.
3. Ms. Buerger will notify any nurse employer of the existence of this Consent Agreement and of its terms.
4. Ms. Buerger must arrange for quarterly reports to the Board from any nurse employer, including any employment in health care under the supervision of a nurse, such as employment as a home health aide or in a dental office. Ms. Buerger waives any claims of confidentiality and privilege which she may have with respect to these reports.
5. Ms. Buerger will not undertake to practice nursing unless she is employed by some business entity. She shall not be self-employed in nursing.
6. The Board agrees to take no further action upon these facts so long as Ms. Buerger fully complies with these conditions.
7. Ms. Buerger will bear all costs incurred in performance of the terms and conditions of this Consent Agreement. Ms. Buerger understands that she must request that the Board terminate her probation at the expiration of the minimum probationary period. Reinstatement of licensure in good standing at that point will be at the discretion of the Board, taking into account the extent to which she has complied with the Covenants in this Consent Agreement.

8. Ms. Buerger understands that this document is a Consent Agreement which affects her rights to practice nursing in Maine. Ms. Buerger understands that she does not have to execute this Consent Agreement and that she has the right to consult with an attorney before entering this Consent Agreement. Ms. Buerger affirms that she executes this Consent Agreement of her own free will.

DATED: 7 July 31 '94

Dorothy R. Buerger
DOROTHY R. BUERGER, L.P.N.

FOR THE MAINE STATE BOARD OF
NURSING:

DATED: 5/10/94

Jean C. Caron
JEAN C. CARON, R.N., M.S.
Executive Director

FOR THE DEPARTMENT OF
ATTORNEY GENERAL:

DATED: 5/12/94

Timothy W. Collier
TIMOTHY W. COLLIER
Assistant Attorney General
Counsel to the Board