



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: DENISE P. EVANS-HEBERT, RN
of Melbourne, FL
License No. RN47356

)
)
)

CONSENT AGREEMENT
FOR
SURRENDER

Complaint 2012-62

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 Denise Evans-Hebert's license as a registered professional nurse ("RN") in the State of Maine. The parties to this Agreement are Denise Evans-Hebert ("Licensee"), 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 via conference call on October 10, 2013. The parties enter into this Agreement pursuant to 32 M.R.S. §2105-A (1-A)(C), 10 M.R.S. §§8003 (5)(D)(4) and 8003(5)(B) in order to resolve Complaint 2012-62.

FACTS

1. Licensee has been licensed to practice as an RN in Maine since June 12, 2002.
2. On March 27, 2012, the Board received notification from the Dorothea Dix Psychiatric Center ("DIX") that the Licensee had resigned her employment pending an investigation by the hospital on allegations of sleeping and being inattentive while on duty. Additional documentation requested by the Board was provided by the facility and received on April 4, 2012. 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 2012-62.
3. On April 4, 2012, the Board issued a Notice of Complaint to Licensee relating to Complaint 2012-62.
4. On May 11, 2012, the Board received the Licensee's written response to the Notice of Complaint in which she stated that she has a medical condition which has affected her work performance.
5. On October 10, 2013, the subcommittee of the Board held an informal conference with the Licensee regarding Complaint 2012-62 to review whether she had violated the following statutes:

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:

- (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.



PRINTED ON RECYCLED PAPER

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

PHONE: (207) 287-1133

FAX: (207) 287-1149

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 investigation conducted by DIX, as well as the Licensee's explanation of the events.
7. The following evidence of physical condition based incompetence was considered by the Board:
 - a) Licensee suffers from a chronic illness which is being medically treated.
 - b) Licensee's medical treatment includes the regular use of prescription medications.
 - c) Licensee's medications, at times, have impaired her mental status while at work.
 - d) Licensee's mental status impairment has, on occasion, produced a level of sedation which rendered her unable to safely perform her job duties.
 - e) Licensee has relocated out of the State of Maine and does not plan to practice nursing in the state.
 - f) Licensee does not admit to all the facts as described by DIX, but does recognize that her medical condition may be preventing her in the safe continuation of her previously blemish free nursing practice.
8. During the informal conference, the subcommittee discussed with the Licensee the option of license surrender since she has relocated and does not plan to practice nursing in Maine. The Board voted to offer the Licensee a Consent Agreement for a voluntary surrender.
9. Absent Licensee's acceptance of this Agreement by signing and returning it to the Maine State Board of Nursing, 158 State House Station, Augusta, Maine 04333-0158 **on or before January 27, 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 costs of a hearing, 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:

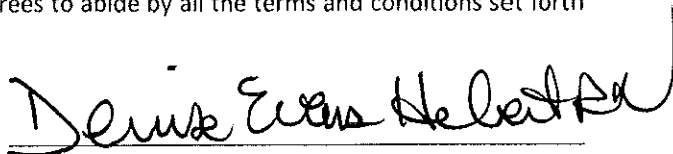
32 M.R.S. §2105-A (2)(E). A licensee is considered incompetent in the practice for which she is licensed if the licensee has:

(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.

11. As discipline for the conduct cited in Paragraph No. 10 above, Licensee agrees to **SURRENDER** her Maine RN license, effective on the date of the final execution of this Agreement. Licensee understands and agrees that as a result of surrendering her license, she no longer has a nursing license and is subject to the terms of this Agreement until and unless the Board, at her written request, votes to reinstate her license. Licensee understands and agrees that upon receiving a request from her to reinstate her Maine RN license, the Board shall have the sole discretion to grant or deny such a request or to grant her a license with probation and conditions as it determines appropriate to protect the public.

12. This Agreement is not appealable. 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. Any decision by the Board as a result of Licensee's request to modify this Agreement need not be made pursuant to a hearing.
13. 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.
14. This Agreement constitutes adverse action and is reportable to the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).
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.

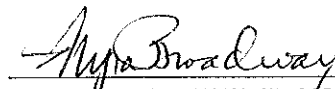
DATED: 1/26/14



LICENSEE DENISE EVANS-HEBERT, RN

FOR THE MAINE STATE BOARD OF NURSING


DATED: 2/10/14



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

FOR THE OFFICE OF THE ATTORNEY GENERAL

DATED: 2/24/14



RONALD O. GUAY
Assistant Attorney General

Effective Date: 2/24/14