



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: BENJAMIN H. SAWYER, RN  
of Gray, ME  
License No. RN59199

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CONSENT AGREEMENT  
FOR  
VOLUNTARY SURRENDER

Complaint No. 2013-79

**INTRODUCTION**

This document is a Consent Agreement ("Agreement") regarding Benjamin H. Sawyer's license as a Registered Professional Nurse ("RN") in the State of Maine. The parties to this Agreement are Benjamin H. Sawyer ("Licensee" or "Mr. Sawyer"), the Maine State Board of Nursing ("the Board"), and the Office of the Attorney General, State of Maine. The parties enter into this Agreement pursuant to 32 M.R.S. §2105-A (1-A) (B), 10 M.R.S. §§8003 (5) (A-1) (4) and 8003 (5) (B) in order to resolve Complaint No. 2013-79.

**FACTS**

1. Benjamin H. Sawyer has been licensed to practice in Maine as an RN since June 10, 2011.
2. On April 16, 2013, the Board received a Provider Report from Stephens Memorial Hospital ("Stephens") notifying the Board of the resignation of employee Benjamin H. Sawyer during an in-house investigation regarding possible drug diversion [Fentanyl, Morphine Sulphate, and Dilaudid] involving several patients who had been under the nursing care of Mr. Sawyer. Violations included removing medications from the Pyxis machine without a physician's order or before the order was written; missing and inconsistent documentation; administration of medications inconsistent with physician orders; and inconsistent wasting of medications. On the basis of this information, the Board initiated Complaint 2013-79 and sent it to Mr. Sawyer for response.
3. On April 30, 2013, during a telephone interview with the Board's Investigator, Mr. Sawyer admitted to removing Fentanyl from the Pyxis machine and injecting himself with the medication in the facility's bathroom. He stated that he was not clear how many times he had done this, but felt it may have been two or three times. Mr. Sawyer stated that his patients did not go without their medication; he would pull the medications from the Pyxis, document it as wasted, and take it for his own personal use.
4. By letter dated June 13, 2013, Mr. Sawyer stated that he is an addict. He was prescribed narcotics in 2011 following cervical spine surgery and was under the care of pain management specialists. He stated that since his resignation from Stephens, he has begun steps to recovery. The Board has confirmed that Mr. Sawyer contacted the Medical Professionals Health Program ("MPHP"), a monitoring and advocacy program for medical professionals struggling with addiction and/or mental health challenges, on



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May 6, 2013 and has undergone psychological assessment and evaluation. Mr. Sawyer signed a five-year monitoring contract with MPHP on June 20, 2013, but cancelled it on June 27, 2013 as he states he is not sure he will return to nursing. MPHP is willing to work with Benjamin Sawyer should he wish to participate in its program. He currently sees a counselor weekly, attends weekly Caduceus meetings, participates in daily AA/NA meetings, has claimed a home group, is seeking a sponsor, and is working the 12-Step Program. In addition, Mr. Sawyer has reached out to his primary care physician and pain management specialist to make sure he is treated appropriately.

5. This Agreement has been negotiated by Licensee and the legal counsel for the Board in order to resolve Complaint No. 2013-79 without further proceedings. Absent Licensee's acceptance of this Agreement by signing it, dating it, and returning it to the Maine State Board of Nursing, 158 State House Station, Augusta, Maine 04333-0158 on or before October 9, 2013, the Board will take further action. In the absence of an Agreement on Complaint No. 2013-79 the Board could impose, subsequent to adjudicatory proceedings, greater adverse action on this matter including fines, suspension or revocation of Licensee's license.

#### AGREEMENT

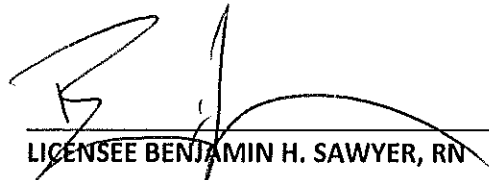
6. Benjamin H. Sawyer admits to the Facts as stated above and admits that such conduct constitutes grounds for the Board to impose discipline against him as follows:
  - a) Pursuant to 32 M.R.S. §2105-A (2) (A) for engaging in the practice of fraud or deceit in connection with service rendered within the scope of the license issued. See also: Board Rule Chapter 4, §1.A.1.
  - b) Pursuant to 32 M.R.S. §2105-A (2)(B) for habitual substance abuse that has resulted or is foreseeably likely to result in Mr. Sawyer's performing services in a manner that endangers the health or safety of patients. See also: Board Rule Chapter 4, §1.A.2.
  - c) Pursuant to 32 M.R.S. §2105-A (2) (F) for engaging in unprofessional conduct that violates a standard of professional behavior that has been established in the practice for which he is licensed. See also: Board Rule Chapter 4, §1.A.6.
  - d) Pursuant to 32 M.R.S. §2105-A (2)(H) for engaging in unprofessional conduct as specified in Board Rule Ch. 4, §3(F) by failing to take appropriate action or follow policies and procedures in the practice situation designed to safeguard the patient.
  - e) Pursuant to 32 M.R.S. §2105-A (2) (H) for engaging in unprofessional conduct as specified in Board Rules Ch. 4, §3(K) by inaccurately recording, falsifying, or altering a patient or health care provider record.
  - f) Pursuant to 32 M.R.S. §2105-A (2) (H) for engaging in unprofessional conduct as specified in Board Rules Ch. 4, §3(P) by diverting drugs, supplies, or property of a patient or health care provider.

- g) Pursuant to 32 M.R.S. §2105-A (2)(H) for engaging in unprofessional conduct as specified in Board Rule Ch. 4, §3(Q) by possessing, obtaining, furnishing or administering prescription drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs.
7. As discipline for the conduct admitted in Paragraph No. 6 above, Mr. Sawyer agrees to **SURRENDER** his Maine RN license, effective on the date of the final execution of this Agreement. Mr. Sawyer understands and agrees that as a result of surrendering his license, he no longer has a license and is subject to the terms of this Agreement until and unless the Board, at his written request, votes to reinstate his license. Mr. Sawyer understands and agrees that, upon receiving a request from him to reinstate his Maine RN license, the Board shall have the sole discretion to grant or deny such a request or to grant him a license with probation and conditions as it determines appropriate to protect the public.
8. Licensee waives his right to a 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 No. 2013-79. This Agreement is not appealable and is effective until modified or rescinded by the parties to this Agreement. 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 Attorney General. Licensee may file a written request, together with any supporting documentation, to modify the terms and conditions of this Agreement. The Board retains the sole discretion to: (a) deny Licensee's request; (b) grant Licensee's request; and/or (c) grant Licensee's request in part as it deems appropriate to ensure the protection of the public. Any decision by the Board as a result of Licensee's request to modify this Agreement need not be made pursuant to a hearing and is not appealable to any court.
9. 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.
10. The State of Maine is a "party state" that has adopted the Nurse Licensure Compact ("the Compact"), which is set out in Chapter 11 of the Rules of the Maine State Board of Nursing. The State of Maine is Mr. Sawyer's "home state" of licensure and primary state of residence, which means that he has declared the State of Maine as his fixed permanent and principal 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. Sawyer understands this Agreement is subject to the Compact.
11. Mr. Sawyer shall not work or volunteer in any capacity for a health care provider as defined by Title 24 M.R.S. §2502(2) or in any position holding himself out as a registered professional nurse or with the designation "RN" while he does not hold a nursing license. He shall not seek any employment where the handling or dispensing of drugs is part of the job responsibility.
12. This Agreement constitutes adverse action and is reportable to the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).

13. Nothing in this Agreement shall be construed to affect any right or interest of any person not a party hereto.
14. For the purposes of this Agreement, the term "execution" means that date on which the final signature is affixed to this Agreement.
15. Licensee understands that he does not have to execute this Agreement and has the right to consult with an attorney before entering into the Agreement.
16. Licensee acknowledges by his signature hereto that he has read this Agreement, that he has had an opportunity to consult with an attorney before executing this Agreement, that he has executed this Agreement of his own free will and that he agrees to abide by all the terms and conditions set forth in this Agreement.
17. Licensee understands that this Agreement is not effective until ratified by the Board.


**By signing this Agreement, Mr. Sawyer waives any and all objections to, and hereby consents to the presentation of this proposed Agreement to the Board by its legal counsel, Assistant Attorney General Ronald O. Guay, for possible ratification.**

DATED: 10/5/2013

  
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LICENSEE BENJAMIN H. SAWYER, RN

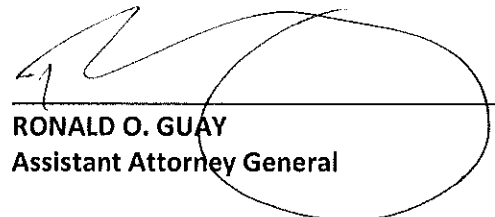
FOR THE MAINE STATE BOARD OF NURSING

DATED: 10/8/13

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

FOR THE OFFICE OF THE ATTORNEY GENERAL

DATED: 10/9/13

  
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RONALD O. GUAY  
Assistant Attorney General

Effective Date: 10/9/13