

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: JESSICA I. WHITTINGTON)	CONSENT AGREEMENT
of Pittsfield, ME)	FOR VOLUNTARY
Licenses No. LPN13122)	SURRENDER OF LICENSE

INTRODUCTION

This document is a Consent Agreement ("Agreement") regarding Jessica I. Whittington's license as a licensed practical nurse ("LPN") in the State of Maine. The parties to this Agreement are Jessica I. Whittington ("Licensee" or "Ms. Whittington"), Maine State Board of Nursing ("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)(C), 10 M.R.S. §8003 (A-1) (4), 8003 (5)(B) and 8003 (5)(D). The parties reached this Agreement on the basis of a Board Notice of Complaint dated March 7, 2012, with an attached provider report from Lakewood Continuing Care Center ("Lakewood") dated March 6, 2012, and correspondence dated March 16, 2012 from Attorney James A. Billings.

FACTS

- 1. Jessica I. Whittington has been licensed as an LPN to practice in Maine since October 7, 2011; until claiming Maine residency, she utilized her multistate compact privilege from Texas [expired October 31, 2011].
- 2. Jessica I. Whittington was employed as an LPN at Lakewood from August 22, 2011 until her March 6, 2012 termination following a collaborative investigation between Lakewood and the Waterville Police Department for suspected drug diversion. In December 2011, a narcotic audit was initiated by Lakewood because Ms. Whittington was administering more than the usual number of narcotics during her 11-7 shift. These medications included a combination of prn anti-anxiety and "count medications." On February 23, 2012, Lakewood notified the Department of Health & Human Services, the Waterville Police Department and the Medical Crimes Division at the Office of the Attorney General of suspected diversion. Detective Paradis met with Ms. Whittington on February 27, 2012, at which time she admitted to the diversions and emptied her pockets of narcotics, including Morphine Sulfate, Oxycodone and Dilaudid. She stated she had previously sustained a back injury and diverted for her own personal use.
- 3. Based upon the above-stated facts, the Board summarily suspended Ms. Whittington's nursing license effective June 7, 2012. See: 5 M.R.S. §10004(3)
- 4. In connection with the above-stated facts, on June 26, 2012, in the Kennebec County Superior Court, Docket No. AUGSC-CR-2012-00323, Ms. Whittington was convicted of a misdemeanor crime of "Unlawful Possession of Scheduled Drugs" and was sentenced to 10 days in the Kennebec County Jail. Ms. Whittington also entered into a deferred disposition with the State pursuant to 17-A M.R.S. §1348, whereby she pleaded guilty to the Class C felony charge of "Stealing Drugs" with the understanding that her sentencing is deferred for 12 months, with conditions of release. Pursuant to 17-A M.R.S. §1348-A (4), "[f]or purposes of a deferred disposition, a person is deemed to have been convicted when the court imposes the sentence." In this case, if Ms. Whittington successfully completes her Agreement and Order Deferring Disposition, she will be allowed to withdraw her guilty plea and the felony charge will be dismissed. The Judgment and Commitment, Agreement of Defendant and Order Deferring Disposition, Bail Bond and Conditions of Release are attached hereto, incorporated herein and marked as Exhibit A. See: 17-A M.R.S. § 1348 et sea
- 5. Jessica I. Whittington has offered to surrender her licensed practical nursing license based upon the abovestated facts and thereby waives her right to an adjudicatory hearing.



PHONE: (207) 287-1133 FAX: (207) 287-1149

AGREEMENT

- 6. The Maine State Board of Nursing will accept Jessica I. Whittington's offer to voluntarily surrender her licensed practical nurse license. Ms. Whittington understands and agrees that should this matter go to a hearing before the Board on the above-stated facts and underlying information to support those facts, it is more likely than not they would support the Board's findings in this Agreement. Further, she understands and agrees that this document imposes discipline regarding her nursing practice in the State of Maine. The grounds for discipline are found under Title 32 M.R.S. § 2105-A(2)(A), (2)(F) and (2)(H) and Chapter 4, Sections 1(A)(1), 1(A)(6), 1(A)(8) and Chapter 4, Sections 3(F), 3(K), 3(P) and 3(Q) of the Rules and Regulations of the Maine State Board of Nursing. Specifically, the violations are:
 - a. 32 M.R.S. §2105-A (2)(A). Ms. Whittington engaged in the practice of fraud or deceit in connection with a service rendered within the scope of her license. See also: Board Rule Chapter 4, Section 1.A.1
 - b. 32 M.R.S. §2105-A (2)(F). Ms. Whittington has engaged in unprofessional conduct by violating standards of professional behavior that have been established in the practice for which she is licensed. See also: Board Rule Chapter 4, Section 1.A.6
 - c. 32 M.R.S. §2105-A (2)(H). A violation of this chapter or a rule adopted by the Board. See also: Board Rule Chapter 4, Section 1.A.8
 - d. Board Rule Chapter 4, Section 3. Unprofessional Conduct as defined by the Rules and Regulations of the Maine State Board of Nursing states that 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:
 - F. Failure to take appropriate action or follow policies and procedures in the practice situation designed to safeguard the patient.
 - K. Inaccurate recording, falsifying or altering a patient or health care provider record.
 - P. Diverting drugs, supplies or property of patients of health care provider.
 - Q. 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. Jessica L Whittington understands and agrees that her nursing license will remain on surrender status and subject to the terms of this Agreement indefinitely until and unless the Board, at her written request, votes to reinstate her license. Ms. Whittington understands and agrees that if the Board reinstates her license, it may be for a probationary period.
- 8. The State of Maine is a "Party state" that has adopted the Nurse Licensure Compact ("Compact"), which is set out in Board Rule Chapter 11. The State of Maine is Ms. Whittington's "Home state" of licensure and primary state of residence, which means that she has declared the State of Maine as her fixed permanent and principle home for legal purposes; her 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. Ms. Whittington understands this Agreement is subject to the Compact.
- 9. Jessica I. Whittington understands that she does not have to execute this Consent Agreement and has the right to consult with an attorney before entering into the Agreement.

- 10. Jessica I. Whittington 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 herself out as a licensed practical nurse or with the designation "LPN" while her nursing license is surrendered.
- 11. 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.
- 12. This Agreement is subject to the federal reporting requirements pursuant to Section 1128E of the Social Security Act and 45 CFR Part 61 and any other interstate/national reporting requirements.
- 13. Modification of this Agreement must be in writing and signed by all parties.
- 14. This Agreement is not subject to review or appeal by the Licensee, but may be enforced by an action in the Superior Court.
- 15. Jessica I: Whittington affirms that she executes this Agreement of her own free will.
- 16. This Agreement becomes effective upon the date of the last necessary signature below.

I, JESSICA I. WHITTINGTON, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THE EFFECT IT WILL HAVE ON MY NURSING 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: 8-15-12

DATED: <u>8/27//</u>2

JESSICA I. WHITTINGTON

JAMES A. BILLINGS, ESQ

Attorney for Jessica I. Whittington

FOR THE MAINE STATE BOARD OF NURSING

DATED: 8/29/12

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

Executive Director

DATED: <u>V</u>ZV

FOR THE OFFICE OF THE ATTORNEY GENERAL

JOHN-HARICHARDS
Assistant Attorney General