

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION OF
NURSING HOME ADMINISTRATORS

IN THE MATTER OF)
Robert D. Whitkin, NHA)
License No. NH1673)
License Expiration Date 6/30/12)
_____)

DOCKET NO. NHA-2011-006

CONSENT AGREEMENT FOR LICENSE SUSPENSION

The Massachusetts Board of Registration of Nursing Home Administrators ("the Board") and Robert D. Whitkin ("the Licensee"), a Nursing Home Administrator licensed by the Board ("Administrator" or "NHA"), License No. NH1673, do hereby stipulate and agree that the information in this Consent Agreement for License Suspension ("Consent Agreement" or "Agreement") shall be entered into and become a permanent part of the Licensee's records maintained by the Board. For purposes of this Agreement, the word "license" shall mean a license to practice as a Nursing Home Administrator in Massachusetts and any right to renew such license.

The Board and the Licensee agree to enter into this Consent Agreement to resolve the complaint identified as Docket No. NHA-2011-006 ("the Complaint") without resort to a formal adjudication of such Complaint. The Licensee acknowledges the truth of the allegations contained in the Complaint, which are as follows:

1. The Board issued to the Licensee a license to practice as a Nursing Home Administrator, License No. NH1673. The Licensee's license status is current with an expiration date of June 30, 2012.
2. The Licensee is also licensed as a Nursing Home Administrator in New Jersey (#2582) and Rhode Island (#NHA01027).
3. The Licensee's address of record with the Board is redacted
redacted
4. The Licensee was employed as Interim Administrator by FPS Healthcare Corporation, d/b/a/ Continuing Care Center at Hopedale, located at 325 South Main Street, Hopedale, Massachusetts 01747 ("Hopedale" or "the facility"), from mid-August 2010 to September 20, 2010.
5. The Massachusetts Department of Public Health, Division of Health Care Quality ("DPH") had conducted an Annual Recertification Survey at Hopedale that resulted in a

Statement of Deficiencies ("SOD") dated May 19, 2010, which identified areas in which the facility was out of compliance with regulatory requirements.

6. At the time that the Licensee was hired as Hopedale's Interim Administrator, the facility remained out of compliance with regulatory requirements and had been charged with submitting a Plan of Correction ("POC") acceptable to DPH.
7. At the time the Licensee was hired as Hopedale's Interim Administrator, the Licensee had not yet visited the facility; he was told that he had been hired to prepare the facility for a Joint Commission accreditation survey and would not be working on the facility's POC; and was informed by the facility's owners that the facility needed a licensed Nursing Home Administrator so that such Administrator's license "could hang on the wall for the state surveyors to see."
8. Despite misgivings about his role at Hopedale and facility operations, the Licensee remained as Interim Administrator at Hopedale and, when either asked to sign a facility POC completed by one of the facility owners or to sign a blank POC subsequently completed by the facility owners, he did so.
9. On September 13, and 14, 2010, DPH conducted a second follow-up survey to the Annual Recertification Survey, determined that conditions at Hopedale constituted Immediate Jeopardy to resident health and safety, and imposed a limitation on all admissions to the facility effective immediately.
10. The Licensee did not complete the continuing education required under Board regulations for the license renewal periods 2006-2008 and 2008-2010. In renewing his license for both license renewal periods, he attested under oath on the license renewal applications that he had completed all continuing education required for license renewal.
11. The Licensee agrees that the information contained in Paragraphs 1-10, above, establish grounds for the Board to take disciplinary action against his license to practice as a Nursing Home Administrator pursuant to M.G.L. c. 112, § 109(b) (good moral character); M.G.L. c. 112, § 115; M.G.L. c. 112, § 61; and Board regulations at 245 CMR 2.15.
12. The Licensee further acknowledges that his conduct as set forth in Paragraphs 4-10, above, undermines the public confidence in the integrity of the profession. *See Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 342 (1996); *Raymond v. Board of Registration in Medicine*, 387 Mass. 798, 713 (1982) (boards have authority to protect image of profession and discipline a licensee for conduct that undermines public's confidence in integrity of profession, as reasonably related to promotion of public health, welfare, and safety).
13. In full resolution of the Complaint, the Board and the Licensee agree to enter into this CONSENT AGREEMENT FOR LICENSE SUSPENSION, which suspension shall be for a minimum of ONE (1) YEAR ("suspension period") from the effective date of this Agreement, set forth below ("Effective Date").

14. During the suspension period the Licensee agrees to:
 - (a) successfully complete the continuing education required for the 2006-2008 and 2008-2010 license renewal periods and to provide documentation satisfactory to the Board of such completion no later than one (1) year from the Effective Date of this Agreement;
 - (b) complete, and obtain the continuing education credit for, the Nursing Home Administrator Refresher Course offered online by the National Association of Long-Term Care Administrator Boards ("NAB Refresher Course"), which continuing education credit shall not be counted towards the continuing education requirements for any license renewal; and
 - (c) within ten (10) business days of the Licensee's obtaining the continuing education credit for successful completion of the NAB Refresher Course, he shall provide to the Board official documentation satisfactory to the Board of such continuing education credit. In the event that the Licensee fails to complete, and obtain the continuing education credit for, the NAB Refresher Course, he may retake the NAB Refresher Course provided that the Board receives the documentation of his receipt of the continuing education credit for such course no later than one (1) year from the Effective Date of this Agreement. If the Licensee does not complete, and obtain the continuing education credit for, the NAB course within one (1) year from the Effective Date of this Agreement, he shall be non-compliant with the Agreement and the Board may take action in accordance with Paragraph 21, below.
15. In addition to the requirements stated in Paragraph 14, above, during the suspension period the Licensee agrees that he shall:
 - (a) not engage in practice as a licensed Nursing Home Administrator in Massachusetts from the Effective Date of this Agreement until such time as he receives written notice from the Board terminating the suspension period and authorizing him to resume practice as a licensed Nursing Home Administrator; and
 - (b) notify the Board in writing within ten (10) days of each change in the Licensee's address of record with the Board.
16. The Licensee agrees that if his NHA license expires at any time before the Board terminates the suspension period, the Licensee's right to renew his license shall be suspended until such time as the Board terminates such suspension pursuant to this Agreement.
17. The Licensee may submit a written request to the Board for termination of the license suspension ("suspension termination") within 30 days of the conclusion of the minimum one-year suspension period. The Board shall terminate the license suspension where it determines that the Licensee has been compliant with each requirement of this

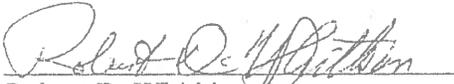
Agreement and where such suspension termination is otherwise in the best interests of the public health, safety, and welfare. At the time of any suspension termination, the Licensee shall be in compliance with Board regulations then in effect.

18. Any termination of the suspension period by the Board after the Effective Date of this Agreement as provided in Paragraph 17, above, may be conditioned upon the Licensee entering into a consent agreement for the PROBATION of his Nursing Home Administrator license. Any such probationary period shall be for a duration, and include requirements, that the Board shall determine at the time of any suspension termination are reasonably necessary in the best interests of the public health, safety and welfare.
19. The Licensee agrees to return to the Board, either by hand or certified mail, two (2) duplicate originals of this Consent Agreement signed, witnessed and dated, within fifteen (15) days of his receipt of the unsigned, proposed Consent Agreement from the Board.
20. The Licensee agrees to return to the Board any license(s) issued to him by the Board, whether current or expired, with the two (2) duplicate originals of this Consent Agreement as specified in Paragraph 19, above.
21. If the Licensee does not comply with each requirement of this Consent Agreement, the Board may continue the suspension period indefinitely or until such time as the Licensee demonstrates to the satisfaction of the Board that he is suitable and fit to resume practice as a licensed Nursing Home Administrator.
22. In consideration of the Licensee's execution of this Consent Agreement, the Board agrees not to prosecute any action before itself based upon the allegations set forth in Paragraphs 1-10 of this Agreement, or any other allegations contained in the Complaint.
23. The Licensee acknowledges that his decision to enter into this Consent Agreement is a final act and is not subject to reconsideration or judicial review.
24. The Licensee states that he has used legal counsel in connection with his decision to enter into this Consent Agreement or, if he has not used legal counsel, that the decision not to do so has been one taken of his own free will.
25. The Licensee understands that, after its Effective Date, this Consent Agreement constitutes a "public record" within the meaning of M.G.L. c. 4, s. 7 subject to public disclosure and that the Board may forward a copy of this Agreement to other licensing boards or law enforcement entities, or both, as well as to any other individual or entity as required by law.
26. The Licensee certifies that he has read this document entitled "Consent Agreement." He understands that he has a right to formal adjudication concerning the allegations against him and that during said adjudication he would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to

contest the allegations, to present oral argument, to appeal to the courts, and all other rights as set forth in the Massachusetts Administrative Procedures Act, M.G.L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 *et seq.* The Licensee further states that he understands that in executing this document entitled "Consent Agreement for License Suspension," he is knowingly and voluntarily waiving his right to formal adjudication and to all of the related rights listed above.

BY THE LICENSEE:

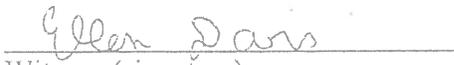
ON BEHALF OF THE BOARD:


Robert D. Whitkin
Nursing Home Administrator


Sally Graham, Executive Director

6/5/2012
Date

6/21/2012
Date (Effective Date)


Witness (signature)

ELLEN DAVIS
Witness (print name)