

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re:	)	CONSENT
Deep S. Acharya, M.D.	)	AGREEMENT
Complaint No. CR12-177	)	

This document is a Consent Agreement, effective when signed by all parties, regarding discipline imposed upon the license to practice as a physician in the State of Maine held by Deep S. Acharya, M.D.. The parties to the Consent Agreement are: Deep S. Acharya, M.D. (“Dr. Acharya”), the State of Maine Board of Licensure in Medicine (“the Board”) and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. The Board first issued Dr. Acharya a license to practice as a physician in the State of Maine on September 14, 2011. At all times relevant to this complaint, Dr. Acharya was licensed as a physician by the Board.

2. On September 11, 2012, the Board reviewed information regarding an investigation conducted by the Maine Department of Health and Human Services (DHHS) Licensing and Regulatory Services regarding the death of a patient who had been treated at a Maine hospital in February 2012. Following its review of this information, the Board voted to initiate a complaint against Dr. Acharya’s physician license pursuant to 32 M.R.S. § 3282-A alleging incompetence and unprofessional conduct based upon Dr. Acharya’s failure to reconcile the medications when he reviewed the patient’s chart, which included an incorrect medication and excessive dosage that was subsequently administered to the patient. The Board docketed the complaint as CR12-177 and sent it to Dr. Acharya for a written response.

3. On or about October 22, 2012, the Board received a response from Dr. Acharya to complaint CR12-177. In his response, Dr. Acharya described his care of the patient in the Emergency Department (ED) on two separate occasions. Dr. Acharya indicated that the patient was discharged from the hospital on February 7, 2012, and brought back to the ED on February 8, 2012 due to a change in mental status/decreased responsiveness. Dr. Acharya described his examination and medical decision making regarding the patient, including his presumption that the discharge medications from the hospital on February 7, 2012, were what were specifically planned for the patient. Dr. Acharya admitted that he did not pick up on the fact that an incorrect medication and excessive dosage had been prescribed for the patient upon her discharge on February 7, 2012. As a result, after performing a number of medical tests, Dr. Acharya concluded that there were no acute abnormalities that would have benefitted from re-hospitalization, and chose to discharge the patient back to the nursing home with instructions to return if the patient's symptoms worsened.

4. On December 11, 2012, the Board reviewed complaint CR12-177, and voted to further investigate it by sending Dr. Acharya additional questions to answer.

5. On January 7, 2013, the Board received a written response from Dr. Acharya to its additional questions. In his response, Dr. Acharya admitted that drugs, either prescribed medicines or any street drugs/toxins/alcohol can potentially alter a patient's mental state. Dr. Acharya admitted that the incorrect drug and excessive dosage did not strike his attention when he examined the MAR as he was not familiar with the usual doses of the drug and had presumed that the medication was in accordance with what a neurologist would have wanted. Dr. Acharya admitted that looking back he would have paid more attention to the medication reconciliation process, which would have helped him identify the abnormal drug dosing. In addition, Dr.

Acharya admitted that he should not have presumed that whatever was on the MAR was what the discharging physician intended the patient to be on.

6. On February 12, 2013, the Board reviewed complaint CR12-177, including Dr. Acharya's responses to the complaint and the relevant medical records and voted to offer Dr. Acharya this Consent Agreement in order to resolve complaint CR12-177 without further proceedings.

7. This Consent Agreement has been negotiated by legal counsel for Dr. Acharya and legal counsel for the Board in order to resolve complaint CR12-177 without further proceedings, including an adjudicatory hearing. Absent Dr. Acharya's acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before April 23, 2013, the matter will be presented to the Board for further action.

8. By signing this Consent Agreement, Dr. Acharya waives any and all objections to, and hereby consents to allow the legal counsel to the Board to present this Consent Agreement to the Board for possible ratification.

#### COVENANTS

In lieu of proceeding to an adjudicatory hearing in this matter, Dr. Acharya and the Board agree to the following :

9. Dr. Acharya admits that with regard to complaint CR12-177 the Board has sufficient evidence from which it could reasonably conclude that he failed to reconcile the MAR when the patient was brought to the ED on February 8, 2012, which included an incorrect medication and excessive dosage, which incorrect medication was subsequently administered to

the patient in the incorrect and excessive dosage. Dr. Acharya admits that such conduct constitutes unprofessional conduct and incompetence and grounds for discipline pursuant to 32 M.R.S. § 3286(2)(F) and (E).

10. As discipline for the conduct described in paragraphs 1-9 above pertaining to complaint CR12-177, Dr. Acharya agrees to accept, and the Board agrees to issue, the following discipline:

a. A REPRIMAND. In this case, by failing to perform a medication reconciliation of the medications prescribed to the patient on February 7, 2012, following the patient's return to the ED on February 8, 2012, for a change in mental status/decreased responsiveness. Had Dr. Archarya performed a medication reconciliation, he may have discovered that the medication that had been inappropriately prescribed to the patient on February 7, 2012, was at an excessive dosage and contraindicated not only because of its potential harm to the patient due to the excessive dosage, but because of its potential to adversely interact with the medications that the patient was already receiving. Although Dr. Acharya acknowledged that he should not have presumed that whatever was on the MAR was what the discharging physician meant to prescribe to the patient, the Board urges him to ensure that this type of error does not occur again.

b. A MONETARY FINE of One Thousand Dollars and Zero Cents (\$1,000.00). Dr. Acharya shall ensure that he pays the monetary penalty within thirty (30) days following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Treasurer, State of Maine," and be remitted to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

11. Violation by Dr. Acharya of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

12. Pursuant to 10 M.R.S. § 8003(5) the Board and Dr. Acharya agree that the Board has the authority to issue an order, following notice and hearing, imposing further discipline, including revocation or suspension of his license, in the event that he fails to comply with any of the terms or conditions of this Consent Agreement.

13. Dr. Acharya waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Acharya agrees that this Consent Agreement and Order is a final order resolving complaint CR12-177. This Consent Agreement is not appealable and is effective until modified or rescinded by agreement of all of the parties hereto.

14. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Acharya or any other matter relating to this Consent Agreement.

15. This Consent 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.

16. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB), the Healthcare Integrity and Protection Data Bank (HIPDB), and the Federation of State Medical Boards (FSMB).

17. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

18. The Board and Dr. Acharya agree that no further agency or legal action will be initiated against him by the Board based upon the facts described herein except or unless he fails to comply with the terms and conditions of this Consent Agreement. The Board may however consider the conduct described above as evidence of a pattern of misconduct in the event that similar true allegations are brought against Dr. Acharya in the future. The Board may also consider the fact that discipline was imposed by this Consent Agreement in determining appropriate discipline in any further complaints against Dr. Acharya's Maine physician license.

19. Dr. Acharya has been represented by Melissa Reynolds O'Dea, Esq., who has participated in the negotiation of this Consent Agreement on his behalf.

20. Dr. Acharya acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

21. For the purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

**I, DEEP S. ACHARYA, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THESE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.**

DATED:

04/08/2013

  
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DEEP S. ACHARYA, M.D.

STATE OF MAINE

KENNEBEC, S.S.

Personally appeared before me the above-named Deep S. Acharya, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: 4/8/2013

Melissa R. O'Dea #8308  
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: N/A

DATED: 4/8/2013

Melissa R. O'Dea  
MELISSA REYNOLDS O'DEA, ESQ.  
ATTORNEY FOR DR. ACHARYA

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED: 4/9/13

Gary R. Hatfield  
GARY R. HATFIELD, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED: 4/9/13

Dennis E. Smith  
DENNIS E. SMITH  
Assistant Attorney General

Effective Date: 4/9/13