

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT AGREEMENT FOR
Joel A. Hendler, M.D.)	SURRENDER OF LICENSE
CR11-317)	

This document is a Consent Agreement, effective when signed by all parties, regarding an adverse licensing action against the license to practice as a physician in the State of Maine held by Joel A. Hendler, M.D. The parties to the Consent Agreement are: Joel A. Hendler, M.D. ("Dr. Hendler"), the State of Maine Board of Licensure in Medicine ("the Board"), and the State of Maine Office of the Attorney General ("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. At all times relevant to the complaint, Dr. Hendler was a licensee of the Board. The Board first issued Dr. Hendler a medical license on March 9, 2011. Dr. Hendler specializes in Internal Medicine and Gastroenterology.

2. On March 30, 2011, the Board received information from Long Creek Youth Development Center (LCYDC), which is located in South Portland, Maine. According to that information, Dr. Hendler prescribed what appeared to be a "significant amount of Oxycodone" to a female juvenile resident prior to her commitment at that facility. LCYDC asked the Board to investigate the matter. The Board staff obtained a prescribing profile from the Prescription Monitoring Program (PMP) regarding Dr. Hendler's prescribing of narcotics to the female juvenile resident. According to the PMP, Dr. Hendler prescribed 368

tablets of narcotics to the female juvenile resident between May 2010 and October 2010.

3. On May 10, 2011, the Board reviewed the information from LCYDC and the PMP, and voted to investigate the matter further by obtaining a copy of Dr. Hendler's medical records regarding the female juvenile resident (patient X). The Board staff subsequently obtained a copy of Dr. Hendler's medical records regarding patient X.

4. On July 12, 2011, the Board reviewed the information from LCYDC, the PMP, and Dr. Hendler's medical records regarding the female juvenile resident (patient X), and voted to initiate a complaint against Dr. Hendler's Maine medical license. The Board docketed the complaint as Complaint No. CR11-317 and sent it to Dr. Hendler for a response. In particular, the Board noted in the complaint that patient X was admitted to LCYDC as a result of drug-related offenses, had a significant substance abuse problem, and was prescribed a significant amount of narcotics by Dr. Hendler prior to her commitment to LCYDC.

5. On September 6, 2011, the Board received a response from Dr. Hendler to Complaint No. CR11-317. In his response, Dr. Hendler explained his treatment of patient X, including the medical rationale for his prescribing narcotics. Dr. Hendler admitted that he did not have a written pain contract for patient X, and that in hindsight patient X displayed some drug seeking tendencies but that he chose to believe her reports of pain.

6. On October 11, 2011, the Board reviewed Complaint No. CR11-317, including Dr. Hendler's response and all investigative information. During its review, the Board noted that patient X's medical records indicated that only limited examinations appeared to be performed, there were frequent refills for narcotic medications, there was no narcotic contract, there appeared to be no review of the PMP (which would have shown multiple prescribers). Following its review, the Board voted to further investigate the matter. More specifically, the Board voted to request an additional four (4) patient medical records from Dr. Hendler for review of his prescribing and medical record keeping practices. The Board staff subsequently obtained an additional four (4) patient records of Dr. Hendler for review by the Board.

7. On December 13, 2011, the Board reviewed Complaint No. CR11-317, including Dr. Hendler's response and all investigative information. During its review, the Board noted that the following concerns regarding the additional four medical records: lack of "universal precautions" taken besides pain contracts; some of the records had no written pain contracts; lack of referrals to physical therapy or pain clinics; the medical records appeared minimal. Following its review, the Board voted to schedule Dr. Hendler for an informal conference to discuss these issues. In addition, the Board suggested that Dr. Hendler complete a course in chronic pain treatment prior to the informal conference and ask him to describe how, if it all, it has changed his medical practice.

8. On May 15, 2012, the Board sent Dr. Hendler a notice of informal conference to be held at the Board office on June 12, 2012, regarding Complaint No. CR11-317.

9. On June 12, 2012, the Board received a facsimile letter from Dr. Hendler's wife, who indicated that Dr. Hendler was unable to attend the informal conference because he was suffering from early Alzheimer's Disease and dementia and was residing at an assisted living facility in California. In addition, Mrs. Hendler requested that the Board accept the surrender of his Maine medical license. Following its review of this information, the Board voted to accept the surrender of Dr. Hendler's Maine medical license pursuant to a consent agreement conditioned upon its receipt of medical information that corroborated the fact that Dr. Hendler was, in fact, suffering from dementia and early Alzheimer's disease.

10. On November 2, 2012, the Board received a copy of a facsimile letter dated November 2, 2012, from a California physician regarding Dr. Hendler's medical status. According to that letter, the physician saw Dr. Hendler on one occasion on November 21, 2011, during which time the physician concluded that Dr. Hendler was suffering from cognitive impairment, especially in the performance of complex memory and construction tasks. Although Dr. Hendler declined formal testing, the physician concluded that Dr. Hendler is suffering from Cognitive Impairment, NOS, which may represent the onset of Alzheimer Dementia, Vascular Dementia or a combination which likely

had been developing insidiously over time and may have contributed to his performance as a physician in Maine.

11. This Consent Agreement has been negotiated by and between Holly E. Russell, Esq., legal counsel for Dr. Hendler, and legal counsel for the Board in order to resolve this matter without further proceedings. Absent Dr. Hendler's acceptance of this Consent Agreement by signing it, dating it, having it notarized, and returning it to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before December 14, 2012, the Board will conduct further investigations and proceedings.

12. Legal counsel for Dr. Hendler waives any and all objections to, and hereby consents to allow the Board's legal counsel to present this proposed Consent Agreement to the Board for possible ratification on November 13, 2012.

COVENANTS

In lieu of further investigations and proceedings in this matter, Dr. Hendler agrees to the following:

13. The Board makes no findings regarding Dr. Hendler's medical care and record keeping regarding Complaint No. CR11-317. Dr. Hendler admits that sufficient evidence has surfaced during the Board's investigation of Complaint No. CR11-317 for the Board to find that he currently has a "professional diagnosis of a mental or physical condition" that may result in his performing medical services in a manner that endangers the health or safety of patients pursuant to 32 M.R.S. § 3282-A(2)(C).

14. As a result of the admission in paragraph 13 above, Dr. Hendler agrees to the IMMEDIATE SURRENDER of his Maine medical license effective upon the execution of this Consent Agreement.

15. Dr. Hendler waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Hendler agrees that this Consent Agreement is a final order resolving pending Complaint No. CR11-317. This Consent Agreement is not appealable and is effective until or unless modified or rescinded in writing by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General.

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

17. 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. The purpose of this Consent Agreement is not to impose discipline upon Dr. Hendler regarding his medical care and treatment regarding Complaint No. CR11-317. However, this Consent Agreement constitutes adverse licensing action that must be reported to the Federation of State Medical Boards (FSMB), the National Practitioner Data Bank (NPDB), and the Healthcare Integrity and Protection Data Bank (HIPDB).

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

19. Dr. Hendler 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 she agrees to abide by all terms and conditions set forth herein.

20. For the purposes of this Consent Agreement, "execution" means the date on which the final signature is affixed to this Consent Agreement.

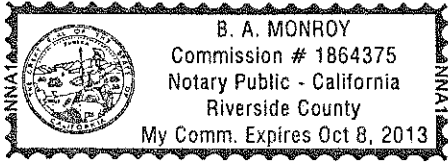
I, JOEL A. HENDLER, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT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

DATED: November 8, 2012 Rowman Hendler for Joel A. Hendler, M.D.
JOEL A. HENDLER, M.D. or (POA)
Legal Guardian/Authorized Representative

STATE OF California
RIVERSIDE COUNTY
_____, S.S.


Personally appeared before me the above-named Joel A. Hendler, M.D. or his Legal Guardian/Authorized Representative 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: NOVEMBER 08, 2012 BA Monroy
NOTARY PUBLIC/ATTORNEY



MY COMMISSION ENDS: OCTOBER 08, 2013

DATED: 11/13/2012



HOLLY E. RUSSELL, ESQ.
Attorney for Dr. Hendler

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE


DATED: 11/13/2012



GARY R. HATFIELD, M.D., Chairman

STATE OF MAINE OFFICE
OF THE ATTORNEY GENERAL

DATED: 11/13/12



DENNIS E. SMITH
Assistant Attorney General

Effective Date: 11/13/12