

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
Sergio R. Riffel, M.D.)	AGREEMENT
Complaint No. CR07-113/CR08-100)		

This document is a Consent Agreement, effective when signed by all parties, regarding a disciplinary and re-licensure action concerning and conditions imposed upon the license to practice medicine in the State of Maine held by Sergio R. Riffel, M.D. The parties to the Consent Agreement are:

Sergio R. Riffel, M.D. ("Dr. Riffel"), 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. Dr. Riffel has held a license to practice medicine in the State of Maine since July 14, 2005. Dr. Riffel specializes in Internal Medicine.
2. On or about April 10, 2007, the Board received information from Parkview Adventist Medical Center (PAMC) indicating that its executive committee suspended Dr. Riffel's privileges on February 7, 2007, due to concerns about Dr. Riffel's medical care. Following its review of this information, the Board, pursuant to Title 32 M.R.S. § 3282-A, voted to initiate a complaint against Dr. Riffel's Maine medical license. The Board docketed the complaint as CR07-113. In addition, the Board directed that Dr. Riffel take the Special Purpose Examination (SPEX) administered by the Federation of State Medical Boards (FSMB) in order to evaluate his current medical competency.

3. On or about July 23, 2007, the Board received information from PAMC indicating that the Board of Directors had modified the recommendation¹ of the Appellate Review Committee, and terminated Dr. Riffel's staff privileges effective June 26, 2007.

4. On or about October 30, 2007, the Board received an on-line application from Dr. Riffel to renew his Maine medical license. In accordance with Board policy, the Board staff did not renew Dr. Riffel's Maine medical license due to the open and pending complaint. In accordance with Title 5 M.R.S. § 10002, Dr. Riffel's Maine medical license does not expire until the Board takes final action on his renewal application.

5. On or about November 13, 2007, the Board reviewed the results of the SPEX taken by Dr. Riffel on July 27, 2007. Dr. Riffel's SPEX score was 72, which was not a passing score. In addition, the "SPEX Performance Profile" identified areas of "lower performance" in Dr. Riffel's medical competency as a result of the SPEX. Following its review of this information, the Board voted to investigate further by obtaining an expert review of Dr. Riffel's medical care of twelve patients at PAMC.

6. On or about March 11, 2008, the Board reviewed the results of the expert review of the medical care provided by Dr. Riffel to twelve patients at PAMC. The expert review identified certain deficiencies in Dr. Riffel's medical care, including: (a) failure to properly interpret ECG and hemodynamic

¹ The Appellate Review Committee had apparently recommended terms of probation for Dr. Riffel in order to retain his staff privileges at PAMC.

parameters; (b) failure to properly diagnose and treat hypernatremia and hyperglycemia; (c) failure to properly manage volume status; and (d) failure to properly document history and physical examinations and discharge summaries. Following its review, the Board voted to schedule complaint CR07-113 for an adjudicatory hearing. In addition, the Board voted to preliminarily deny Dr. Riffel's application to renew his Maine medical license, and docketed that matter as CR08-100.

7. Between on or about June 13, 2008 and June 25, 2008, legal counsel for Dr. Riffel provided legal counsel to the Board with information regarding Dr. Riffel in an effort to resolve the pending complaint and preliminary license denial with a consent agreement. Legal counsel for Dr. Riffel authorized legal counsel to the Board to present this information to the Board for its review and consideration.

8. On or about July 8, 2008, the Board reviewed the materials provided by legal counsel for Dr. Riffel, including: (a) documentation of successful passage of the SPEX on May 6, 2008, with a score of 75; (b) the "SPEX Performance Profile;" (c) documentation of continuing medical education through Harvard Medical School and the University of Colorado School of Medicine; (d) an offer of employment at Mid-Maine Internal Medicine, P.A.; (e) letters of reference; and (e) documentation of temporary privileges as a Hospitalist at Maine General Medical Center. Following its review of these materials, the Board voted to reset the matter for an adjudicatory hearing and

authorized its legal counsel to negotiate a consent agreement resolving Complaint CR07-113 and the pending application for re-licensure, CR08-100.

9. This Consent Agreement has been negotiated by counsel for Dr. Riffel and counsel for the Board in order to resolve complaint CR07-113 and the re-licensure matter CR08-100 without an adjudicatory hearing. Absent the Board's acceptance of this Consent Agreement by ratifying it on September 9, 2008, the matter will proceed to an adjudicatory hearing.

10. By signing this Consent Agreement, Dr. Riffel and his legal counsel waive any and all objections to, and hereby consent to the presentation of this Consent Agreement to the Board for possible ratification. Dr. Riffel and his legal counsel also forever waive any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

COVENANTS

In lieu of proceeding to an adjudicatory hearing in these matters, Dr. Riffel agrees to the following:

11. Dr. Riffel contends that he has complied with the standard of care in all instances but admits that with regard to complaint CR07-113 and re-licensure matter CR08-100 the Board has sufficient evidence from which it believes it could reasonably conclude that he provided medical care below the standard of care to three patients at PAMC, and believes that his medical documentation of history and physicals and discharge summaries fell below the standard of care. Dr. Riffel contends that his conduct complied with the

Board's standards but admits that the Board believes it has sufficient evidence from which it could conclude that such conduct constitutes incompetence and grounds for discipline of his Maine medical license and/or the denial of his application for the renewal of his Maine medical license pursuant to 32 M.R.S. § 3282-A(2). Rather than proceed to an adjudicatory hearing, the parties have agreed to resolve complaint CR07-113 and the re-licensure matter CR08-100 by entering into this Consent Agreement.

12. For the conduct described in paragraph 11 above, Dr. Riffel agrees to accept, and the Board agrees to issue, the following discipline:

a. a LICENSE PROBATION for two (2) years following the execution² of this Consent Agreement. During the period of probation, Dr. Riffel shall comply with the following conditions:

(i) Dr. Riffel's medical practice will be monitored by a physician approved by the Board. The monitoring physician shall be an agent of the Board pursuant to Title 24 M.R.S. § 2511. In complying with this provision, Dr. Riffel shall, within thirty (30) days of the execution of this Consent Agreement submit for Board approval the name of a licensed Maine physician who shall monitor his practice of medicine. The Board shall have the sole discretion, without hearing, to approve or disapprove any physician monitor proposed by Dr. Riffel. The monitoring physician must be in direct contact with Dr. Riffel and observe him within his medical practice at least once a week;

² For purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

(ii) Dr. Riffel shall ensure that the duties of his monitoring physician include: on-going, regular supervision; a review of twenty-five (25) percent of his patient charts; a review of the efficacy of diagnosis, treatment, and any prescribed medications; and consultation with other physicians or medical providers involved in the care rendered to patients by Dr. Riffel. In complying with this requirement, Dr. Riffel shall permit his monitoring physician full access to all patient information;

(iii) If Dr. Riffel's monitoring physician identifies any concerns regarding any aspect of Dr. Riffel's medical practice, he/she shall immediately notify the Board in writing about such concerns;

(iv) Dr. Riffel shall ensure that his Board-approved monitoring physician provides the Board with quarterly reports concerning Dr. Riffel's medical practice;

(v) Dr. Riffel shall permit the Board or its agent(s) complete access to his medical practice, including but not limited to all patient records. In complying with this condition, Dr. Riffel shall provide the Board with copies of any medical records requested by the Board or its agent(s);

(vi) Dr. Riffel shall permit the Board or its agent(s) to conduct random, unannounced or announced inspections of his medical practice. Dr. Riffel shall bear the cost of any such inspection(s) by the Board or its agent(s);

(vii) Dr. Riffel shall complete the following continuing medical education EACH year:

- (a) A Board-approved course in cardiovascular disease;
- (b) A Board-approved course in critical care;
- (c) A Board-approved course in medical case management; and
- (d) The Medical Knowledge Self-Assessment Program (MKSAP).

(viii) Dr. Riffel shall, pursuant to 10 M.R.S. § 8003(5), bear all costs incurred in complying with the conditions of probation.

13. Dr. Riffel waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Riffel agrees that this Consent Agreement is a final order resolving Complaint CR07-113 and the license renewal matter CR08-100. This Consent Agreement is not appealable. 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. Requests for amendments by Dr. Riffel shall be made in writing and submitted to the Board. Dr. Riffel may, at reasonable intervals, petition the Board for amendment of the terms and conditions of this Consent Agreement. Upon making such a petition, Dr. Riffel shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the sole discretion to: (a) deny Dr. Riffel's petition; (b) grant Dr. Riffel's petition; and/or (c) grant Dr. Riffel's

petition in part as it deems appropriate to ensure the protection of the public. Any decision by the Board on this issue need not be made pursuant to a hearing and is not appealable.

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

15. Dr. Riffel acknowledges that, pursuant to Title 10 M.R.S. § 8003(5)(B), his failure to comply with any of the terms or conditions of this Consent Agreement or of his probation shall constitute grounds for additional disciplinary action against his Maine medical license, including but not limited to an order, after hearing, modifying, suspending, or revoking his license.

16. This Consent Agreement is a public record within the meaning of 1 M.R.S.A. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S.A. § 408.

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. Riffel 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 in the event that similar true allegations are brought against Dr. Riffel 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. Riffel's license.

19. The term of this Consent Agreement is TWO (2) YEARS from the date of execution, and remains in full force and effect until it is modified in writing by agreement of the parties.

20. Dr. Riffel shall provide a copy of this Consent Agreement to: (i) his monitoring physician; (ii) any employer; (iii) the Chief Executive Officer (CEO) of any hospital where he holds or seeks privileges to practice medicine; and (iv) the licensing authority of any jurisdiction where he holds or seeks a medical license.

21. Dr. Riffel shall, pursuant to 32 M.R.S. § 3282-A(1), notify all patients whom he treats of this probation and the conditions under which he is practicing medicine.

22. Dr. Riffel 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.

23. Dr. Riffel has been represented by Michael A. Duddy, Esq., who has participated in the negotiation of the terms of this Consent Agreement.

I, SERGIO R. RIFFEL, 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: 9-03-2008

Sergio R. Riffel
SERGIO R. RIFFEL, M.D.

STATE OF Maine,

CUMBERLAND, S.S.

Personally appeared before me the above-named Sergio R. Riffel, 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: 09/03/2008

Jennifer E. Melcher
NOTARY PUBLIC/ATTORNEY
MY COMMISSION ENDS: 07/27/2009

JENNIFER E. MELCHER
Notary Public, Maine
My Commission Expires July 27, 2009

DATED: 9-11-08

Michael A. Duddy
MICHAEL A. DUDDY, ESQ.
ATTORNEY FOR DR. RIFFEL

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

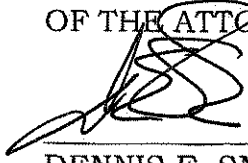
DATED: 9/18/08

Sheridan R. Oldham MD
SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

9/22/08



DENNIS E. SMITH
Assistant Attorney General

Effective Date: