

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re:	)	CONSENT
William Ortiz, MD	)	AGREEMENT
Complaint No. CR13-67	)	

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 William Ortiz, M.D. The parties to the Consent Agreement are: William Ortiz, M.D. (“Dr. Ortiz”), 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. Ortiz was licensed as a physician in the State of Maine. The Board first issued a license to practice medicine on February 29, 2012. Dr. Ortiz specializes in Internal Medicine.

2. On or about April 9, 2013, the Board reviewed information received from the Maine Medical Marijuana Program (MMMP) alleging that: (a) Dr. Ortiz held a “medical seminar” in Orono, Maine at the University Inn for the purpose of issuing medical marijuana certificates from 0800 hours on March 20, 2013 to 0300 hours on March 21, 2013; and from 0800 hours on March 21, 2013 to 1700 hours on March 21, 2013 – at which time the owner/manager of the hotel asked Dr. Ortiz to cease these activities; (b) Dr. Ortiz saw many people between March 20-21, 2013, who came from all over the State in order to obtain a marijuana certificate from him; (c) Dr. Ortiz charged each person \$200 cash and provided medical marijuana certificates for a three (3) month period. After the three (3) month period, a follow-up visit costing \$175 cash would be required to obtain a medical marijuana certificate for

a one (1) year period. Following its review, the Board initiated a complaint against Dr. Ortiz's Maine medical license alleging unprofessional conduct. The Board subsequently docketed the complaint as Complaint 14-44, and sent it to Dr. Ortiz for a response.

3. On or about May 17, 2013, the Board received a written response from Dr. Ortiz to Complaint CR13-67. In his response, Dr. Ortiz indicated that, in his professional judgment, he did not believe that a single patient visit provided him with enough history with a patient to justify a one-year certification. Dr. Ortiz described his own personal experience with medical marijuana, and how it relieved his own chronic pain. In addition, Dr. Ortiz indicated that he consulted with the Maine Medical Association regarding medical marijuana practice, and understood the importance of establishing a bona fide doctor-patient relationship. Dr. Ortiz admitted that he saw existing and new patients on March 20-21, 2013 at the University Motor Inn in Orono, Maine. According to Dr. Ortiz, he rented a conference room at the University Motor Inn for that purpose, and was assisted by his family members, including his wife and daughter. According to Dr. Ortiz, Judy Bunn – an individual who owned a business<sup>1</sup> in Old Town, Maine where Dr. Ortiz had seen patients - “double-booked” patients on March 20-21, 2013 at the University Motor Inn. As a result, Dr. Ortiz saw 33 patients on March 20<sup>th</sup> (from 8:00 am to 3:00 am) and 11 patients on March 21<sup>st</sup> at the University Motor Inn. In addition, Dr. Ortiz indicated that he saw an additional 15 patients on March 21<sup>st</sup> at the Black Bear Inn. According to Dr. Ortiz, of the 59 patients that he saw on March 20-21, 40 of them were “new” patients and “almost all of them have already had follow-up visits” with him. In addition, Dr. Ortiz indicated that he reviews the prescription monitoring program (PMP) records for each new patient to ensure that they are not diverting or abusing prescription medications. According to

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<sup>1</sup> Investigation revealed that the business was called “The Captains Joint.”

Dr. Ortiz, he “gave live lectures to four or five patients at a time, each of which lasted forty<sup>2</sup> minutes to an hour.” In addition, Dr. Ortiz stated that the “individual visit with each patient was between forty<sup>3</sup> minutes to an hour, and was consistent from patient to patient.”

4. On or about May 24, 2013, the Board received a supplemental response from Dr. Ortiz in response to questions from the Board’s investigator regarding the alleged amount of time that Dr. Ortiz spent giving “live lectures” and in “individual patient visits.” According to Dr. Ortiz, he “meant to state that the live lectures last for approximately 20 minutes” and that he gave them at 9:00 am, 12:00 pm, and 3:00 pm on March 20<sup>th</sup> and 21<sup>st</sup>. In addition, Dr. Ortiz indicated that he may also have given a lecture at 6:00 pm on March 20<sup>th</sup>, but could not recall. As a further clarification, Dr. Ortiz stated that “only new patients are required to attend [his] live lectures” and that only saw 15 new patients on March 20<sup>th</sup> and 18 new patients on March 21<sup>st</sup>. In addition, Dr. Ortiz indicated that “[u]pon further reflection, it’s more likely that the patient examinations for new patients... lasted 30 to 40 minutes” and that his follow-up examinations for existing patients were “typically around 20 minutes in duration.”

5. On June 18, 2013, the Board issued a subpoena to Dr. Ortiz to produce the “complete medical records” including prescription monitoring program (PMP) printouts for the 59 patients that Dr. Ortiz saw on March 20-21, 2013 at the University Motor Inn or the Black Bear Inn in Orono, Maine.

6. On or about July 17, 2013, the Board received from Dr. Ortiz a copy of the records that he created for the 59 patients he saw on March 20-21, 2013 in Orono, Maine. A review of those records revealed that: (a) The records of 7 new patients seen on March 20<sup>th</sup> did

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<sup>2</sup> Thus, at a minimum, on March 20<sup>th</sup> Dr. Ortiz would have had 6 lecture sessions for a total of 240 minutes. This equates to 4 hours.

<sup>3</sup> Thus, at a minimum, Dr. Ortiz would have spent 1,320 minutes with the 33 patients he saw on March 20<sup>th</sup>. This equates to 22 hours.

not include any documentation demonstrating that an examination was performed on March 20th; (b) The records of 12 existing patients seen on March 20<sup>th</sup> did not include any documentation that an examination was performed on March 20<sup>th</sup>; (c) The records of 21 new patients seen on March 21<sup>st</sup> did not include any documentation demonstrating that an examination was performed on March 21<sup>st</sup>; (d) The records of 4 existing patients seen on March 21<sup>st</sup> did not include any documentation that an examination was performed on March 21<sup>st</sup>. In addition, those same records contained sparse information regarding Dr. Ortiz's medical decision making, and failed to include a treatment plan. In sum, Dr. Ortiz's medical documentation failed to include the following elements for treating chronic pain in accordance with Board Rule, Chapter 21, Section III, "Principles of Proper Pain Management:"

- a. Appropriate documentation of medical history and physical examination, including the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases, the effect of the pain on physical and psychological functioning, and history of substance abuse.
- b. Appropriate documentation of a treatment plan that states objectives to be used to determine treatment success, and should indicate whether any other diagnostic evaluations or treatments are planned.

7. Section 3.1.2.1 of the Rules Governing the Maine Medical Use of Marijuana Program requires that a "physician must follow 2-373 or 2-383, Code of Maine Rules (C.M.R.), Chapter 21, *Use of Controlled Substances for Treatment of Pain* when certifying a patient for the medical use of marijuana.

8. On July 8, 2014, the Board reviewed the Complaint No. CR13-67, Dr. Ortiz's response, and the investigative information, and voted to schedule the matter for an adjudicatory hearing. In addition, the Board voted to offer Dr. Ortiz this Consent Agreement to resolve Complaint No. CR13-67 without further proceedings.

9. This Consent Agreement has been negotiated by Dr. Ortiz and legal counsel for the Board in order to resolve Complaint No. CR13-67 without further proceedings, including an adjudicatory hearing. Absent Dr. Ortiz'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 September 8, 2014, the matter will be scheduled for an adjudicatory hearing.

10. By signing this Consent Agreement, Dr. Ortiz 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

11. Dr. Ortiz admits that the Board has sufficient evidence from which it could conclude that he engaged in unprofessional conduct pursuant to 32 M.R.S. § 3282-A(2)(F) based upon: (a) The manner and location of the medical marijuana clinics on March 20-21, 2013; and (b) Failing to create and maintain adequate medical records for the patient encounters on March 20-21, 2013. Dr. Ortiz admits that such conduct constitutes grounds for discipline of his Maine medical license.

12. As discipline for the conduct described in paragraphs 1-11 above, Dr. Ortiz agrees to:

- a. Accept a REPRIMAND. As a licensed physician and medical professional Dr. Ortiz is responsible for being aware of and following the Board's rules with regard to appropriate medical record documentation. In addition, by conducting these clinics at local hotels, through all hours, and with too numerous

a patient load, Dr. Ortiz created a negative impression of his activities that reflects badly upon the medical profession. Dr. Ortiz shall not again engage in this type of conduct.

b. Pay a MONETARY FINE of Two Thousand Dollars and Zero Cents (\$2,000.00). Dr. Ortiz 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 the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

c. Reimburse the Board One Thousand Four Hundred Eleven Dollars and Seventy-Six Cents (\$1,411.76) as the actual costs of the investigation of this matter. Dr. Ortiz shall ensure that he makes full payment of reimbursement to the Board within thirty (30) days following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Maine Board of Licensure in Medicine" or any other method of payment acceptable to the Board and be remitted to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

13. Following the execution of this Consent Agreement and the Board's receipt of Dr. Ortiz's payments of the fine and actual costs, the Board agrees to renew Dr. Ortiz's Maine medical license, which has been pended during the investigation of this complaint.

14. Dr. Ortiz waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Ortiz agrees that this Consent Agreement is a final, non-appealable action resolving the Complaint No. CR13-67. 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.

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

16. 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.

17. This Consent Agreement constitutes adverse licensing and disciplinary action that is reportable to the National Practitioner Data Bank (“NPDB”) and the Federation of State Medical Boards (“FSMB”).

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

19. The Board and Dr. Ortiz agree that no further agency or legal action will be initiated against him by the Board based upon complaint CR13-67.

20. Dr. Ortiz has not been represented by an attorney and has participated in the negotiation of this Consent Agreement.

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

22. Dr. Ortiz 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

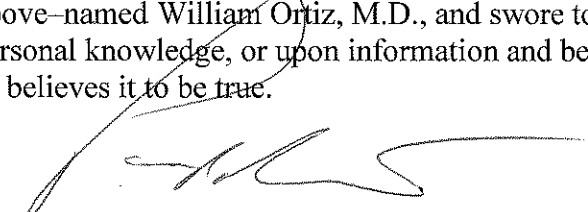
Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

**I, WILLIAM ORTIZ, 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: 8/18/14   
WILLIAM ORTIZ, M.D.

STATE OF MAINE  
ARROSTOCK, County

Personally appeared before me the above-named William Ortiz, 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: 8-18-2014   
NOTARY PUBLIC/ATTORNEY  
MY COMMISSION ENDS: \_\_\_\_\_  
PATRICK R. BENNET,  
Notary Public, Maine  
My Commission Expires  
March 4, 2019

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED: 9/9/14   
MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE OFFICE  
OF THE ATTORNEY GENERAL

DATED: 9/9/14   
DENNIS E. SMITH  
Assistant Attorney General

Effective Date: 9/9/14